

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 23rd August 2018

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: I observe that there is no quorum. Ring the Quorum Bell.

(The Quorum Bell was rung)

You may stop the bell now. Let us start.

COMMUNICATION FROM THE CHAIR

PRESENCE OF DELEGATION FROM PARLIAMENT OF MOZAMBIQUE IN THE SPEAKER'S ROW

Hon. Members, I wish to introduce to you a delegation from the Parliament of Mozambique. The delegation, seated at the Speaker's Row, comprises of Members of the Mozambique Parliamentary Consultation Forum. They are:

- (1) Hon. Armando Ramiro Artur – Head of delegation and Co-Chair of Mozambique Parliamentary Consultation Forum; and
- (2) Hon. Alfredo Magumisse – Co-Chair, Mozambique Parliamentary Consultation Forum.

The delegation is accompanied by Ms. Susan Lylis, Vice-President, International Conservation Caucus Foundation (ICCF); Mr. Momade Mucanheia, ICCF Country Director - Mozambique; Ms. Agnes Keshine, ICCF Country Director - Kenya; and Ms. Jill Barasa, Programme Officer - Africa.

The delegation is in the country as part of an exchange programme with the Parliamentary Conservation Caucus-Kenya (PCC-K).

On my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements during their stay in the country as they engage with Hon. Chachu Ganya, who is the convenor in Kenya.

(Applause)

PRESENCE OF DELEGATION FROM THE
UNITED STATES OF AMERICA IN THE SPEAKER'S ROW

Hon. Members, I wish to further introduce to you a delegation from the United States of America. The delegation, seated at the Speaker's Row, comprises of Senator Dan Quick, Senator for the State of Nebraska, United States; accompanied by, among others, Mr. Dave Taylor, President-Grand Island Area Economic Development Corporation.

The delegation is in the country following an invitation from the Member for Githunguri, Hon. Gabriel Kago, in relation to coffee farming.

On my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements during their stay in the country.

(Applause)

GUIDANCE ON APPROVAL OF NOMINEES
FOR APPOINTMENT TO PUBLIC OFFICES

Hon. Members, this further communication is by way of guidance on the methodology of approving nominees for appointment to public offices.

Hon. Members will recall that on Wednesday 22nd August 2018, during debate on the Special Motion for Approval of Nominees for Appointment as Chairperson and Members of the Independent Policing Oversight Authority (IPOA), the Member for Rarieda Constituency, Hon. Otiende Amollo, rose on a point of order under Standing Order No.45 seeking clarification as to whether the approval of the eight nominees would be undertaken collectively or individually. In his submission, Hon. Amollo stated that it would be wrong for Members to oppose an entire Motion on account of one or two nominees that they may not approve of, or similarly support an entire Motion despite having issues with some of the nominees.

You may further recall that several Members made their contributions on the matter, including the Leader of the Minority Party, Hon. John Mbadi, who premised that any given nominee is appointed to public office as an individual and not as a collective appointee. He further observed that the fact that one nominee qualifies for appointment does not necessarily make other nominees qualify for the same appointment. On their part, however, the Member for Kibwezi West, Hon. Patrick Musimba and the Member for Samburu County, Hon. Maison Leshoomo, were of the view that all nominees vetted and approved by Committees of the House ought to be approved together and not separately.

In view of the clarification sought by the Hon. Member for Rarieda Constituency, the Chair undertook to guide the House on the matter before the Question on the Special Motion is put. This august House has witnessed instances where Questions for approval of nominees to public offices have been put separately for each nominee, particularly in appointments involving commissioners of constitutional commissions, cabinet secretaries, high commissioners and ambassadors. You will also recall that on 14th December 2017, during the initial consideration of the nominees to the Parliamentary Service Commission, the Hon. Speaker guided the House that Members would vote for the proposed commissioners separately, and not collectively. However, when the Motion was finally considered by the House on 22nd February 2018, the House resolved to dispense with the Motion as a whole.

I wish to remind the Hon. Members that:

(i) Every Motion that comes before the House is brought so that the House can express itself in one way or another – in support of or in opposition and thereafter, the House makes a decision or resolution. Such decision, however, should be a true and accurate reflection of the wishes of the House or of the wishes of the majority present and voting in the House and should thus not in any way be constrained or hamstrung by the methodology used to execute the Motion, be it a collective methodology or a singular/individual methodology; and,

(ii) Section 9 of the Public Appointments (Parliamentary Approval) Act, 2011, requires Parliament to either approve or reject nomination of a candidate and if Parliament does make a decision on a nominee, the candidate shall be deemed to have been approved.

Hon. Members, in consideration of the aforementioned, I wish to guide the House as follows:

(i) THAT, any given nominee is appointed to public office as an individual and not as a collective appointee;

(ii) THAT, any decision or resolution of the House ought to be a true and accurate reflection of the wishes of the House irrespective of the methodology used to execute any given Motion;

(iii) THAT, the procedural and technical aspects of a Motion should not overshadow or take pre-eminence over the true will of Members by this august House;

(iv) THAT, in line with the Commonwealth tenet propositioned by Speaker William Lenthall on 4th January 1642 when he declared that “I have neither eyes to see, nor tongue to speak in this place, but as the house is pleased to direct me, whose servant I am here”, the Speaker does not impose upon Members the methodology through which to execute a Motion, but grants them leeway in determining the most appropriate approach;

(v) THAT, the Members of this august House are at liberty, on a case by case basis, through a Procedural Motion, to determine the most appropriate methodology of executing Special Motions; that is, the option of collective approval of all nominees or singular/separate approval of each nominee with the sole objective of obtaining a true and accurate reflection of the will of the Members of this House;

(vi) THAT, the only limitation that Members have in consideration of Special Motions is that no additional name or names may be proposed to be added to a Special Motion, but proposals to delete a particular name or names from a Special Motion are tenable/admissible but Members need to be cautious as to whether a deletion of a particular name is equivalent to rejection; and,

(vii) On this particular Special Motion, therefore, and arising from the concerns of Members, I will proceed to put the Question on each individual nominee separately. The House is, therefore, accordingly guided.

Let us move to the next Order.

PAPERS LAID

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

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2017 and the certificates therein:

- (a) Egerton University Investment Company Limited;
- (b) Kenya Post Office Savings Bank;
- (c) Kenya National Trading Corporation;
- (d) Revenue Accountability Statement of Kenya Revenue Authority;
- (e) Postal Corporation of Kenya; and,
- (f) National Social Security Fund.

The Reports of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30th June 2017 and the certificates therein:

- (a) Kipkelion West Constituency;
- (b) Ijara Constituency;
- (c) Dadaab Constituency;
- (d) Baringo Central Constituency;
- (e) Naivasha Constituency; and,
- (f) Nakuru Town East Constituency.

Hon. Speaker: Committee on Delegated Legislation.

Hon. (Ms.) Gladys Boss Shollei (Uasin Gishu CWR, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Report on the Consideration of the Excise Duty Act (Adjustment of Rates for Inflation) Schedule, 2018;

Report on the Consideration of the Air Passenger Service Charge Act (Apportionment) Order, 2018;

Report on the Consideration of the Public Finance Management (Tourism Promotion Fund) Regulations, 2018; and

Report on the Consideration of the Tax Procedures (Tax Agents) Regulations, 2018.

Hon. Speaker: Chair of the Committee on Implementation.

Hon. Richard ole Kenta (Narok North, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Training on strengthening oversight using monitoring and evaluation tools held at the United Nations Institute for Training and Research (UNITAR), Geneva Switzerland from 19th to 21st June 2018;

(a) Implementation Status of the Scrap Metal Act No. 1 of 2015;

(b) Implementation Status of the following:

- (i) Report of the Departmental Committee on Health on the allegation of sexual assault, breakdown of equipment, surgical mix-up and general operations of the Kenyatta National Hospital;
- (ii) Resolution on establishment of a national health referral hospital in Mombasa County;
- (iii) Resolution on declaration of cancer as a national disaster and establishment of a cancer fund;
- (iv) Inspection visit regarding land issues in Taita Taveta County;

The Third Annual ICPAK Chapter Seminar held in Johannesburg South Africa from 8th to 12th May 2018.

Training on monitoring and evaluation held on 24th to 28th April 2018 at Tamarind Hotel in Mombasa County.

The Executive Seminar on Livestock Insurance Fund held on 16th to 18th April in Mombasa.

Submission from stakeholders regarding the implementation status of legislations, petitions and solutions passed by the House.

Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

NOTICES OF MOTIONS

REPORT ON THE TAX PROCEDURES (TAX AGENTS) REGULATIONS

(Hon. Caleb Kositany consulted with Hon. (Ms.) Gladys Boss Shollei)

Hon. (Ms.) Gladys Boss Shollei (Uasin Gishu CWR, JP): Sorry, Hon. Speaker, I am being confused by the MP for Soy Constituency.

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

THAT, this House adopts the Report of the Committee on Delegated Legislation on The Tax Procedures (Tax Agents) Regulations, 2018 laid on the Table of the House on Thursday, 23rd August 2018 and pursuant to the provisions of section 15 (1) of the Statutory Instruments Act and Standing Order 210 (4) (b) annuls in entirety the said Regulation.

REPORT ON THE EXCISE DUTY ACT

(ADJUSTMENT OF RATES FOR INFLATION) SCHEDULE

Hon. (Ms.) Gladys Boss Shollei (Uasin Gishu CWR, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on The Excise Duty Act (Adjustment of Rates for Inflation) Schedule, 2018 laid on the Table of the House on Thursday, 23rd August 2018 and pursuant to the provisions of section 15 (1) of the Statutory Instruments Act and Standing Order 210 (4) (b) annuls in entirety the said Regulation.

REPORT OF ON THE AIR PASSENGER SERVICE CHARGE ACT

(APPORTIONMENT) ORDER

Hon. (Ms.) Gladys Boss Shollei (Uasin Gishu CWR, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on The Air Passenger Service Charge Act (Apportionment) Order, 2018 laid on the Table of the House on Thursday, 23rd August 2018 and pursuant to the provisions of section 15 (1) of the Statutory Instruments Act and Standing Order 210 (4) (b) annuls in entirety the said Regulation.

REPORT ON THE PUBLIC FINANCE MANAGEMENT

(TOURISM PROMOTION FUND) REGULATIONS

Hon. (Ms.) Gladys Boss Shollei (Uasin Gishu CWR, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on The Public Finance Management (Tourism Promotion Fund) Regulations, 2018 laid on the Table of the House on Thursday, 23rd August, 2018 and pursuant to the provisions of section 15 (1) of the Statutory Instruments Act and Standing Order 210 (4) (b) annuls in entirety the said Regulation.

Thank you, Hon. Speaker.

Hon. Speaker: Before we proceed, allow me to recognise and introduce students and pupils from the following institutions in the Public Gallery: Kianjahi Primary School, Githunguri Constituency, Kiambu County; Legacy Schools, Kiminini Constituency, Trans Nzoia County; Gitundu Primary School, Mathira Constituency, Nyeri County; Chemutia Primary School, Tinderet Constituency, Nandi County and St Marys Secondary School, Kapenguria Constituency, West Pokot County. They are all welcome to observe proceedings in the National Assembly this afternoon.

Next Order.

STATEMENTS

ELECTION OF SPEAKER AS CHAIRPERSON OF EXECUTIVE COMMITTEE - CPA AFRICA REGION

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Speaker,

Pursuant to Standing Order 43, I wish to make a general Statement regarding the just-concluded CPA Africa Region Conference and the election of our Speaker as Chairperson, Executive Committee-Commonwealth Parliamentary Association (CPA) Africa Region.

The 49th CPA Africa Region Conference took place in Gaborone, Botswana from Monday 13th to Wednesday 22nd August 2018. This is a conference of the CPA Africa Region bringing together all Commonwealth countries in Africa. Commonwealth Parliamentary Association, Africa Region, comprises of 18 national parliaments and regional legislatures from South Africa, Nigeria and Zanzibar.

Kenya was represented at the conference by members mainly drawn from the CPA Branch Executive Committee, who include:

1. Hon. Makali Mulu, MP
2. Hon. Muriuki Njagagua, MP
3. Hon. Janet Sitienei, MP
4. Hon. Aramat Lemanken, MP
5. Sen. Petronila Were Lokorio, MP
6. Sen. Beatrice Kwamboka, MP and
7. Sen. Johnes Mwaruma, MP

During the Conference, fruitful discussions were made on matters relating to:

Gender: A Parliamentary Agenda for Combating Human Trafficking and Modern-Day Slavery in Africa and the Promotion of Human Rights.

Political: A Legislative Framework for the Regulation of Vigilante Groups, Private Security and Military Companies in Africa: Country Experiences.

Economic: Food Security and Sustainable Growth: the Role of Agricultural Revolution in Triggering Economic Development in Africa.

In addition, Kenya seconded Ghana on Social, Health, Education and Environment: Understanding the nexus between climate change and the incidence of farmers/herdsmen conflicts in Africa, where the CWP Chairperson, Hon. Janet Sitienei, MP, did an exemplary job.

Alongside the workshop were other crucial meetings where Kenya participated, including the Executive Committee (EXCO) where I sit as a regional representative and Hon. Muriuki Njagagua sits as a member. The Commonwealth Women Parliamentarians (CWP) also held meetings where our Members participated fully.

At the Annual General Meeting (AGM) held on Tuesday, 21st August 2018, our Speaker was unanimously elected as the Chairperson, CPA-Africa Region Executive Committee for a period of three years.

(Applause)

In the same conference, the Clerk of the National Assembly, Mr. Michael Sialai, who is also the Branch Secretary, was elected as the Vice-Chairperson of the Steering Committee of the Society of Clerks-at-Table (SOCATT)

(Applause)

The election of the Speaker to the position of Chairperson is a great honour to our country. The Speaker is now eligible to sit at the EXCO of the CPA-International where major issues touching on the region are discussed and determined.

In congratulating the Speaker for a well-deserved position, I also note with appreciation that the fete has raised the status of our nation in the community of nations.

Congratulations, Hon. Speaker. Thank you very much.

(Applause)

Hon. Speaker: Leader of the Majority Party.

BUSINESS FOR THE WEEK COMMENCING 28TH TO 30TH AUGUST 2018

Hon. Aden Duale (Garissa Township, JP): Congratulations, Hon. Speaker, and your colleagues, for representing us at the CPA-Africa Region meeting.

Hon. Speaker, pursuant to the provisions of Standing Order 44(2), I rise to give the weekly Statement on behalf of the House Business Committee (HBC) that met on Wednesday this week at the rise of the House in order to prioritise business for consideration.

Next Tuesday, a Procedural Motion on a resolution to hold a sitting on Thursday morning has been scheduled. On that day, in priority of debate are reports of the Committee on Delegated Legislation on four sets of regulations which have been tabled this afternoon.

The following Bills are scheduled for Second Reading debate next week:

- (a) The Urban Areas and Cities (Amendment) Bill (Senate Bill No. 4 of 2017);
- (b) The Health Laws (Amendment) Bill, 2018;
- (c) The Warehouse Receipt System Bill, 2017; and
- (d) The County Governments (Amendment) Bill (Senate Bill No. 11 of 2017);

We shall also consider the Statute Law (Miscellaneous Amendments) Bill in the Committee of the whole House. We also hope to conclude the Finance Bill, 2018 at all stages before proceeding to the scheduled recess as the Bill has timelines that this House must fulfil.

As Members are aware, the three CSs that were scheduled to appear before committees this week on Tuesday were unable due to the fact that it was a public holiday. I am also informed that next Tuesday, 28th August 2018, there will be a Cabinet meeting in the morning. In this regard, I am sure if we pass the changes to the Standing Orders this afternoon, then we will begin the new format of Question Time when we resume from the long recess. I am sure next Thursday we will have an opportunity, if this report on the new format of asking Questions, is adopted. Cabinet Secretaries need to answer Questions before committees.

Finally, the HBC will reconvene on Tuesday, 28th August 2018, at the rise of the House, to consider business for the coming week.

Thank you.

(Hon. Moses Cheboi spoke off record)

Hon. Speaker: Did I see the Deputy Speaker or it is a different matter?

Okay. Hon. Maore.

STATUS OF DISBURSEMENT OF NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND

Hon. Maoka Maore (Igembe North, JP): Thank you, Hon. Speaker. I wish to do a quick update via a Statement on the issue of disbursement of NG-CDF and note that in the 1st June 2018 Executive Order, the Government decided to put NG-CDF under the State Department of Devolution. The Committee has been disturbed by that development since we all know that we are safer when domiciled at the State Department of Planning so that we are under the CS for National Treasury, for the sole purpose of disbursing the funds that have nothing to do with devolution. It is a national project.

The issue that has been pending and is still pending is the various arrears, starting from the Financial Year 2011/2012/, 2013/2014 to 2014/2015, amounting to Kshs4,976,750,005. The Committee had an initial engagement with the CS for the National Treasury to provide for the arrears during the Financial Year 2018/2019. What has been put forward as the money meant for the 2018/2019 Financial Year happens to have been mixed up with the arrears. That is a matter of concern; that is why I chose to update the House. In this financial year, we are entitled to Ksh35,758,596,000, which will amount to about Kshs120 million per constituency. If we go by that provision, the Ministry of Devolution has forwarded to us Kshs30,958,596,000, which amounts to about Kshs103 million per constituency. During the deliberations of pushing back and forth, we are in consultation with the CS for the National Treasury and, through the Leader of the Majority Party, the Head of Public Service to bring forward the NG-CDF funds to the State Department for Planning so that we do not have any problem when the money is being disbursed, because the issues that we need to raise from time to time can only be addressed through the National Treasury.

That is the status as of now. That is why we are on the seventh week of the new financial year and yet there are no figures which we can deal with in our constituencies when it comes to raising budgets or project proposals. So, for now, Members need to bear with us, but the average

amount they should work within their project proposals is about Kshs120 million per constituency as of now. We will have those issues clarified in due course.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, let me further take this opportunity to welcome research officers and committee clerks from the Parliament of the United Republic of Tanzania, who are in the Speaker's Gallery. The staffers are here on a one-week attachment. I welcome them and wish them a fruitful engagement.

Thank you.

(Applause)

Next Order.

Hon. Kangogo Bowen (Marakwet East, JP): On a point of order.

Hon. Speaker: Hon. Kangogo, what is your point of order?

Hon. Kangogo Bowen (Marakwet East, JP): Thank you, Hon. Speaker. I heard from the Chairman of the NG-CDF. I thank him and the Leader of the Majority Party for the efforts they have put in ensuring that there is money in the kitty. However, what are we going to do during recess? We would like the Chairman to table his Motion here before we go for recess. That way, we would be in a position to budget on the basis of the proposals.

Secondly, there has been an issue with our employees at the constituencies. They go for months without salaries. We have said this before. We want the Chairman of NG-CDF together with the Parliamentary Service Commission (PSC) to pay them on a monthly basis. Some of them have school-going children and they need to pay school fees. Remember, schools are opening on Monday.

(Applause)

Hon. Speaker: Obviously, even if they did not have children, let alone school-going ones, as employees they are entitled to their respective dues, whether they have children or not. It is their right, having been engaged. Hon. Members, on the issues raised by the Chairman of the Committee, the best thing to be done is for the Clerk to invite the Cabinet Secretary. On the issue of composition of the NG-CDF Board, that is a matter that falls squarely within the docket of devolution. The CS for Devolution should move with speed and ensure that the full board is constituted. He should bring the names here for approval. The board is not fully constituted and that is why we are getting all these complications: decisions are not being made because on occasions they do not have quorum. Currently, most of the people on the board are civil servants and that explains the reason there are some of these delays.

On the issue of funding, that is a matter that the Committee should invite the CS for National Treasury on a day suitable to yourselves, say, next week so that he can appear and explain to the Committee those issues. He can explain so that you know what the difficulty in getting these funds released to the various National Government Constituencies Development Committees is. The Chairman of Finance and National Planning, do you want to wade into the same?

Hon. Joseph Limo (Kipkelion East, JP): Hon. Speaker, the issue of the NG-CDF squarely falls in my docket in terms of budgeting. I wish to bring to the attention of the House that the confusion between the arrears and the new allocation should not arise. When we sat in

the Committee, we were very clear that the current national budget... The NG-CDF law requires that at least 2.5 per cent must be allocated to NG-CDF. In the current situation, when it was computed, it was very clear that the minimum NG-CDF would get is Kshs 34.5 billion because the budget is over Kshs3 trillion.

When we received the first allocation from National Treasury, they had allocated around Kshs30 billion plus another Ksh1 billion for the arrears. So, our Committee discussed, passed and presented to the Budget and Appropriations Committee (BAC) an increment of Kshs4 billion to bring it to the minimum legal status which was Kshs34.5 for the current financial year and Kshs1 billion for the arrears totalling to Kshs35.5 billion. So, the current confusion where there is an allegation that the total allocation is inclusive of around Kshs4 billion for the arrears should not arise. This is a deliberate move to confuse us. The NG-CDF Committee should urgently call for a meeting. In fact, if it is required that we have a joint meeting, the matter should be resolved as soon as possible and the tabling of the Motion on the amount of money should be done here latest Wednesday before we leave for recess.

Hon. Speaker, my Committee is seized of the matter. The Budget and Appropriations Committee chaired by Hon. Ichung'wah approved it and there is no confusion whatsoever for record purposes.

(Applause)

Hon. Speaker: You should appear alongside the CS because you might become a useful witness in the NG-CDF Committee. I am not talking about truthfulness or otherwise. Given what he has said, he would be very useful to the Committee appearing alongside the CS. So that if the CS is trying to mislead the NG-CDF Committee then Hon. Limo would be there to make the necessary clarifications as he has done to the House. We should not be talking to ourselves. It is important. I agree with you that the Committee chaired by Hon. Maore should invite the CS on Wednesday next week.

(Hon. Maore Maore spoke off record)

Which date is suitable to you?

Hon. Maoka Maore (Igembe North, JP): I did consult with the CS, National Treasury and he said he would be travelling with the President to the USA and will be back on Wednesday morning. So, he has proposed that we set a meeting with him on Thursday then we can table a Report by the afternoon.

Hon. Speaker: So, you will invite him to appear here on Thursday morning.

Hon. Maoka Maore (Igembe North, JP): Yes, and in the afternoon we will table the figures that we are looking for.

Hon. Speaker: Very well. Thursday next week. But I would encourage Hon. Limo to also be available as a special guest. I do not like this term of "friends of committees" because it is gaining some other meaning. These friends are becoming too many. We do not want too many friends of committees.

(Hon. John Mbadi spoke off record)

Yes, I agree with Hon. Mbadi that they could easily turn out to be enemies of the Committee if they become too many.

Next Order.

SPECIAL MOTION

APPROVAL OF NOMINEES FOR APPOINTMENT AS THE CHAIRPERSON AND MEMBERS OF THE INDEPENDENT POLICING OVERSIGHT AUTHORITY

THAT, taking into consideration the findings of the Departmental Committee on Administration and National Security in the Report on the Vetting of the Nominees for appointment as Chairperson and Members of the Independent Policing Oversight Authority, laid on the Table of the House on Wednesday, 22nd August 2018, and pursuant to the provisions of Article 250(2)(b) of the Constitution and Section 11(6) of the Independent Policing Oversight Authority Act, this House approves the appointment of the following persons to the Independent Policing Oversight Authority:

- (i) Ms. Anne Wacheke Makori - Chairperson
- (ii) Ms. Doreen Nkatha Muthaura - Member
- (iii) Ms. Fatuma Mohamud Mohamed - Member
- (iv) Dr. Walter Owen Owour Ogony - Member
- (v) Mr. Jonathan Ltipalei Lodompui - Member
- (vi) Hon. Waiganjo John Muriithi - Member
- (vii) Ms. Praxedes Chepkoech Tororey - Member
- (viii) Dr. Jimmy Mutuku Mwithi - Member

Hon. Speaker: Hon. Members, I am informed that debate on this Motion was concluded even though, as it has been pointed out in my earlier Communication, there had been issues raised. Following that Communication on the issues raised by Members, the Questions are going to be put with regard to the approval of each nominee, one after the other.

*(Question, that Ms. Anne Wacheke Makori
be approved, put and agreed to)*

Is there anybody claiming for a division?

*(Question, that Ms. Doreen Nkatha Muthaura
be approved, put and agreed to)*

*(Question, that Ms. Fatuma Mohamud Mohamed
be approved, put and agreed to)*

*(Question, that Dr. Walter Owen Owour Ogony
be approved, put and agreed to)*

(Loud consultations)

Hon. Members, order! Silence, Hon. Members!

*(Question, that Mr. Jonathan Ltipalei Lodompui
be approved, put and agreed to)*

*(Question, that Hon. Waiganjo John Muriithi
be approved, put and agreed to)*

*(Question, that Ms. Praxedes Chepkoech Tororey
be approved, put and agreed to)*

Is there anybody claiming for a division? Nobody is claiming for a division.

*(Question, that Dr. Jimmy Mutuku Mwithi
be approved, put and agreed to)*

Hon. Speaker: Therefore, Hon. Members, the Motion is carried. Yes, Hon. Baya Yaa.

Hon. Owen Baya (Kilifi North, ODM): Hon. Speaker, I know my voice will not change anything but I raise my voice for one thing. I do not think that this list meets the threshold of the Constitution in many ways. My community has...

Hon. Speaker: What are you discussing?

Hon. Owen Baya (Kilifi North, ODM): I would like to...

Hon. Speaker: You are out of order.

Hon. Owen Baya (Kilifi North, ODM): Hon. Speaker, hear me out.

Hon. Speaker: We are a House of rules. The House cannot make a decision and then another one starts... You cannot. It is never done that way. Maybe you can do it in a *baraza*.
Next Order!

MOTION

REPORT ON AMENDMENTS TO STANDING ORDERS

(Loud consultations)

Hon. Speaker: Hon. Members, I think it is important that you listen to what the Deputy Speaker has to say because you have to make some serious decision on the issues at hand.

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Speaker, before I move this particular Motion, let me record my congratulations for the elections that you won unopposed back in Botswana. I was telling Members that when you become the Chair, automatically I become the deputy chair in your absence, of course. They did not believe it but those are facts that are on the table.

(Laughter)

Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Second Report of the Procedure and House Rules Committee on the consideration of the amendments to the Standing Orders, laid on the Table of the House on Thursday, 5th July 2018, and pursuant to the provisions of Standing Order 265 (2), further resolves that the amendments agreed to in the Committee of the Whole House and approved by the House take effect from 30th August 2018.

Hon. Speaker, this Motion is very critical both to the Members individually and to the House at large. As Members are aware, under the new Constitution, which introduced a presidential system of governance, the Cabinet Secretaries no longer sit in the House as they are not Members of Parliament. This new dispensation effectively brought the Question Time to an abrupt end. In trying to address this gap, the 11th Parliament substituted it with statements directed to committee chairpersons. Whereas the statements have been very useful, for those Members who have been in this House long enough... I was checking records of the House today and discovered that probably Hon. Maoka Maore is the oldest sitting Member of this House in terms of the experience. He was here in 1992 and probably earlier than the grandfather of the House, Hon. Jimmy Nuru Angwenyi. The difference between the two of them is that Hon. Angwenyi has served more terms including the half which he came somewhere in 1995. He has served four terms and he is going to his fifth one whereas Hon. Maoka Maore, who is the older one because he came here in 1992 under the Democratic Party (DP), a very small party, has lost quite a number of elections. In fact, he lost two in a row.

Those Members who managed to enjoy the Question Time that existed prior to this Constitution when our Constitution was what could be referred to as a mongrel constitution then because it combined both the parliamentary and presidential systems, will tell you that Question Time was, first, the most popular time of the House. Secondly, it gave the Members publicity. I will give you an example. The Member for Kuresoi as a whole then once brought a question which dealt with pyrethrum. Seated back there, he came with a pyrethrum stem to the House. It went on record and in many subsequent elections that he was elected, that Member for Kuresoi North, who is yours truly, has been elected on the basis of what the constituents saw as a constructive way of trying to improve the prices of pyrethrum then. What I am just trying to say, Hon. Members, is when this Question Time is modified in a manner that conforms to the current Constitution, it is going to be very useful to the membership of the House. This will particularly have an effect in the issue of making Members have an opportunity to show their participation in front of cameras for the constituents to see so that the constituents will be represented and also feel represented.

Subsequently to this development, the CSs have been appearing before the departmental committee, that is...

(Hon. Ndindi Nyoro walked into the Chamber)

Hon. Ndindi Nyoro (Kiharu, JP): *Ni story gani leo?*

Hon. Speaker: Hon. Deputy Speaker, just a second. The Member for Kiharu, you cannot walk here this late and start asking: "*Ni story gani leo?*" This is not a public *baraza*. The youth whom you claim to represent had better now begin reading the Standing Orders properly. We are dealing with a proposed amendment to the Standing Orders. This is the problem we have. You came the other day and you do not even want to listen and learn. It is like you are walking into a public rally.

Member for Kiharu, relax.

Hon. Moses Cheboi (Kuresoi, JP) Hon. Speaker, indeed, you have just pointed out what Question Time will cure. Members will not be coming late. I can guarantee you that. The Member for Kiharu will be here 10 minutes prior to the commencement of the business of the House. It is not only an interesting bit of the National Assembly but it is also a very useful mode through which Members can communicate with their constituents. This will effectively cure the issue of Members trying to know “*story gani*” after arriving 30 minutes late.

As I was saying, when the Cabinet Secretaries started appearing before departmental committees to respond to questions sometimes, and most importantly the statements that were created in the 11th Parliament to close the gap that existed, there was reduced visibility, late replies and inadequate control of the process by committees. This has been cited as part of the reason there has been a decline of interest in statements and even in the questions that were done before. During a meeting held on 4th June 2018, the HBC deliberated on the need to allow the return of Question Time in the House to address the decline of Members’ interest in the current format of questions. Consequently, the Committee recommended that the Procedure and House Rules Committee considers the proposed appropriate amendments to the Standing Orders to re-introduce Question Time in the House in order to, among other things, make Question Time more pronounced, make more use of the plenary in comparison to the current process and give effect to the provisions of Section 95(2) of the Constitution, which requires the House to deliberate issues that concern the people.

The Procedure and House Rules Committee sat and deliberated on this matter. The first thing that we wanted to make sure is that this does not violate the Constitution. Secondly, this is not a re-introduction of parliamentary system through the backdoor. Many of the CSs find this to be a very useful tool for espousing what they do in the course of their work. So, it is advantageous to Members, CSs and constituents. Standing Order No.208 mandates the Procedure and House Rules Committee to, among other things, consider and report on all matters relating to the Standing Orders.

Additionally, Standing Order No.262 provides that the Procedure and House Rules Committee may at any time propose amendments to the Standing Orders. That is the choice that we took. There are many ways through which we can introduce changes to the Standing Orders. Hon. Members can do it. After listening to the HBC, the Procedure and House Rules Committee felt that the best way was to proceed and propose changes. That is what we have done.

Following the resolutions of the HBC with regard to re-introduction of Question Time in the House, this Committee deliberated comprehensively on the matter. We observed that under the previous Constitution, where Cabinet Ministers were Members of Parliament, Question Time generated enthusiasm and expectations among hon. Members, who would be seen on television and heard on radio asking questions on issues affecting their constituents. The Ministers provided direct answers to the questions. Supplementary questions were asked in the House. The answers were exhaustive. The Ministers at the time had direct access to the Executive dockets that were responsible for matters raised during Question Time.

The Procedure and House Rules Committee further observed that Members’ diminishing interest in the current format of questions raised in the departmental committees was going hand in hand with an increase in the number of petitions being brought to the House. When Members were not able to develop good interest in Question Time as constituted now, they decided to focus on petitions, which they present in the House, on behalf of the public. They also prefer issuing personal statements. This is seen as a direct result of lack of visibility of the current

process, notwithstanding the fact that response to questions is often faster than response to petition.

In a nutshell, the Committee wants to re-introduce Question Time in a manner that will interest Members and increase their visibility. Constituents will also follow the proceedings of this House during Question Time. I know Hon. Duale, who is the Leader of the Majority Party, came to Parliament for the first time during the 10th Parliament – towards the tail-end of the Question Time. The Kenya Broadcasting Corporation (KBC) used to have programme called *Leo Katika Bunge*, which was very popular with our constituents. I believe Hon. Jimmy Angwenyi, who is the second oldest Member in the House, agrees with me that this particular programme was watched by Members more than the news. It was broadcast late at night.

Members may ask the tangible changes which the new procedure will bring. Firstly, there will be more visibility, which is key for Members. Secondly, the new procedure will result in more Members being present at commencement of business of the House. Currently, it is very difficult for us to have the requisite quorum on Wednesday morning. We have problems raising quorum in the afternoon, including this afternoon. The Quorum Bell was rung for Members to come into the Chamber. That will not happen when there are questions before the House.

Thirdly, the new procedure will greatly contribute to predictable management of committee time and schedules. Consultation between the Leader of the Majority Party and a chairperson whose committee a question is referred to shall save time and align plans of the Committee and the affected CS, with regard to the time and day on which they will be appearing to answer questions. Fourthly, the new procedure will ensure that questions and responses given are a record of the House. Questions will be recorded verbatim in the HANSARD. The responses will be recorded in periodic reports made to the House by relevant committees. This will ensure that issues raised by the people are resolved. An undertaking is made by the Executive to reply to questions. Matters will properly be referred to the Committee on Implementation for it to follow up. This will also reduce the work of the Committee on Implementation because the Executive will respond many times positively and act on specific questions raised by Members.

I urge the House to adopt these amendments as contained in the Second Report of the Procedure and House Rules Committee. It is my considered opinion that in operationalising these amendments, the House and its committees will need to strike a fair balance with regard to appearance in person of CSs to answer questions in committees. I understand that CSs and Principal Secretaries (PSs) can be very busy. Between PS and CS, the CS can respond to questions. Anybody who is above the rank of PS can appear to answer questions. For example, if the Chief Administrative Secretaries (CASs) are above the rank of PS, they can respond to questions.

Hon. Junet Nuh (Suna East, ODM): On a point of order, Hon. Speaker.

Hon. Moses Cheboi (Kuresoi, JP): I would have said that you are out of order. However, I have realised that I am not in that seat. I enjoyed it for the last one week. I would have dealt with Hon. Junet very strictly.

Hon. Speaker: Are you on a point of order, Hon. Junet?

Hon. Junet Nuh (Suna East, ODM): Hon. Speaker, I do not mean to interrupt the Deputy Speaker. He is moving the Motion very well. However, right now, he is speaking as the Chair of a Committee and Member for Kuresoi. Hon. Speaker is on the Chair. Is he in order to mislead the House by saying that CASs can answer parliamentary questions? They are not recognised in the Constitution and the existing statutes.

Hon. Moses Cheboi (Kuresoi, JP): That is not what I said, Hon. Speaker. Where I come from, English is not our mother tongue. So, when I said CS, I might have prolonged it to sound like CAS. I meant the CS.

(Laughter)

I also understand that Hon Junet is personally displaced noting where he comes from and the area he represents. I am sure he also has a problem of hearing good English.

Hon. Speaker, anybody above the rank of a PS, whoever it is. If you recognise the CS, I am very happy with that. But if there is any other position which I am not so sure about, well, I am not the one who creates those positions.

Probably, we also need to tackle at this point friends of Committees. This is relevant to Question Time. We would want a situation whereby when Members go to particular committees and questions are being answered, the Chairs of those Committees can control the Members so that we do not get Members who decide to be lazy and not ask questions themselves taking advantage of the questions that have been asked by their colleagues and interrupt the businesses of committees. Friends of committees will be key.

With those few remarks, I beg to move that the House adopts the Report on the proposed amendments to the Standing Orders of the National Assembly and pursuant to the provisions of Standing Order 265(2), the House resolves that the changes to the Standing Orders take effect from 30th August 2018. I call upon a Member who enjoyed Question Time, Hon. Duale, the Leader of the Majority Party to second the Report.

Thank you.

Hon Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to second the Report of the Procedure and House Rules Committee. This Report seeks to amend the Standing Orders to provide for Question Time. Hon. Speaker, the House Business Committee which you chair, deliberated on the need to allow restoration of Question Time in the House to address the decline of Members' interest in the current format of questions.

The Deputy Speaker has said it all. Hon. Junet, for you information, sometimes the Deputy Speaker mixes his English with his native language. At one time, I went to Kabartonjo and they could not spell my name Duale. They were calling me Tuale. So, I asked the person who was seated next to me to pronounce Dar es Salaam, and he said Tar es Saalam. I then realised where the problem was. So, when it comes to CS and CAS, it is always a problem with the Deputy Speaker. So, Hon. Junet's point of order was frivolous.

Hon. John Mbadi, Hon. Millie Odhiambo, Hon. Cecily Mbarire and Hon, Jimmy Angwenyi will agree with me that the Backbenchers used to enjoy Question Time. Some of us who served as assistant ministers, our business in Government was to answer questions. The late, Hon. Ojode *Sirkal* used to be on his toes every Tuesday, Wednesday and Thursday afternoons. It used to be very interesting. One of the moments I remember in Question Time was when the then Attorney-General, Githu Muigai was answering a question from a Backbencher who later became a party leader of the Chama cha Mashinani. When the Attorney-General answered the supplementary question, Hon. Isaac Ruto said: "Mr. Speaker, this is the most incompetent Attorney-General in the Commonwealth." Hon. Githu Muigai took it very personal until the end of that Parliament.

We are introducing Question Time for Members to ask questions. As of now, we say the following Members will appear before Committee. This system will give an opportunity for a Member to ask the question on the Floor of the House. When we were doing the Constitution in the 10th Parliament, some of us proposed that ministers should be nominated from Members of Parliament. But some people opposed us, including one who is not in the House, Hon. Amos Kimunya. All these people lost in the 2013 General Election. They all went home. There are countries like France where half of the cabinet sits in the Assembly. Going forward, as part of the handshake and as part of the 14 member team, we should propose an amendment to bring some ministers back to Parliament.

Hon. Members: All of them.

Hon Aden Duale (Garissa Township, JP): Hon. Speaker, the work of a Member of Parliament is easier when his colleague minister is a Member of Parliament. He understands you better. You can even find him at the lounge, in the office or at the bar and raise pertinent issues concerning your constituency. The three arms of Government are so delinked that a CS will wonder whether what you are saying is possible or whether it can happen in your constituency. We used to ask questions concerning misconduct of even an Officer Commanding Station (OCS) in our constituencies. We used to ask questions of stalled projects.

One time, Hon. Zakayo Cheruiyot asked a question to the then Minister of Public Works, Hon. Chris Obure over a project that his technical teams had said was 60 per cent complete. When he brought the answer here, Hon. Cheruiyot said that he had come from his constituency and that there was no project of that kind there. The Speaker, Hon. Marende ordered the Minister and the Member of Parliament to drive the following day to that constituency. Hon. Chris Obure was shocked that what he was told by his technical team was contrary to what was on the ground. The delinking should not be there.

The Procedure and House Rules Committee, House Business Committee and the House leadership have agreed that, at least, there are people who sent us here to represent them and articulate their issues and problems. For a start, they will know the Hon. Member from his constituency has asked a question on the Floor of the House. These amendments also enable a minister to provide a written statement or written answer. The Member can then pick the written answer and even post it on his social media platform for his constituents to see that he has represented them. Asking the question and providing the written answer and if the Member is satisfied, there are many ways of reaching your voters. You can post the answer from Government on your social media platform and people will read it. For now, there is a complete breakdown between the voters and Members of Parliament.

We have also introduced Private Members' Questions. There used to be Ordinary Questions and Private Members' Questions. There are questions that cannot wait for more than 48 hours. They are very urgent to the Member and to the constituency. Maybe it could be the killing of some constituents. We have introduced questions called Private Members' Questions which will be dealt with within 48 hours.

This will be very good and the afternoon sittings will be very lively. But there is another bit because this cuts across. If you have filed a question and you have asked it on the Floor of the House and you do not appear before the Committee, then the Chair will drop the question and it cannot be asked again until six months are over. If you are not there, as it was done in the old system, you can write to the Speaker seeking to be represented by a colleague with whom you share a county.

Finally, the other thing that we have introduced is the so-called friends of committees. Hon. Speaker, while you were away, the Departmental Committee on Lands was also invaded by friends of committees, and this time it was worse than the Joint Select Committee on Sugar Inquiry. On the matter of Tatu City last Friday, it was chaotic. It is shameful that it involved over seven Members. We are going to name them. Some of them have conflict of interest. If you are a Member of this House and your wife or partner is a lawyer for a company that is under investigation in Parliament, you cannot purport to be a friend of that committee. You cannot!

After the sugar issue, all of us must protect the integrity of this House. Some of the Members who went to that committee as friends were asking leading questions. I have met some of them and I told them that we are going to expose them. I am sending a warning that in this amendment, we have brought a provision that if you want to be a friend of a committee, you must first write to the Chair of that committee and give reasons why you want to be a friend. You cannot just walk in and out. I do not think that as the Leader of the Majority Party I would want to be a friend of the Public Accounts Committee (PAC) unless I have an interest. We do not want a situation where people will go to a committee as friends to pursue certain interests. For you to walk to a committee which you are not a member, you must have a valid reason. We are asking you to share that valid reason with the Chair of that committee so that you are given an opportunity to ask pertinent questions. All of us must protect the integrity of Parliament so that the committees and the chairpersons do diligent work on the investigations they carry.

Hon. Speaker, while you were away, and I am sure you will be given the HANSARD, the Departmental Committee on Lands met somewhere in County Hall and from the information we got, it was very bad. I am sure those Members know themselves. I have shared with the Chair of that Committee.

Question Time is important. Members will have an opportunity to ask very good questions. We want their voices to be heard by their constituents and the Government Ministries. We are not introducing Question Time through the back door. There are people who will say that we are trying to alter the structure of the legislature. We are not! We are only giving an opportunity to a Member of this House to ask, on live camera in the plenary, his question and be told to appear before a relevant committee. Some of the Members will ask for written answers. You can even say you do not want to appear because you want written answers that you can give to your constituents. Of course, you can ask other matters of national importance not necessarily touching on your constituency. You can even ask a question that concerns the people of Kenya which is a national issue.

I beg to support and ask the House to support this so that we go to the Committee of the whole House and do the amendments as provided.

I beg to second.

(Question proposed)

Hon. Speaker: Leader of the Minority Party, Hon. John Mbadi.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. I rise to support this Motion. I was to remind ourselves that Standing Orders are meant for us to review at any time when we feel that we want to review them to serve our interests. Regarding the specific amendments on how to ask questions in Parliament, I want to start by looking at the three roles of a Member of Parliament. One is to legislate; two is to oversee; and three, is to represent.

In terms of legislation, we have been doing very well because we are looking at the Bills and Motions, making amendments and passing them. In terms of oversight, our committees have been functioning very well – we have various oversight committees in place. In terms of representation, this is where Question Time was very useful because you are deemed to be representing your people when they have issues of concern.

This is to enhance accountability because the issues that we raise on behalf of our constituents are not just supposed to be known by us, we are accountable to the electorate. Our electorate needs to see that we are actually accountable for the role that they gave us. There is no better way that can be demonstrated more than having a time when the electorate are able to see their representatives asking questions on their behalf.

I know the Deputy Speaker did not want to praise the 10th Parliament because he missed that Parliament, but I would tell you if there is any Parliament where we enjoyed the publicity he was talking about, it is the 10th Parliament. That is the first time in this country that live coverage of Parliament began. Many Members made names, including myself, during that period because of questions.

The late Orwa Ojode, who the Leader of the Majority Party spoke about, earned the name *Sirkal* because of answering questions. He was only able to do what Government could do. He would stand and tell you: “I will give you five additional police vehicles,” and he would do it, or at least the Ministry would do it. That was a time when everyone wanted to watch Parliament live.

This takes me to the fundamental question of the system of governance in this country. Whether we run away from this fact or not, as a country, we will have to engage at one point whether presidential system of government is accountable enough or whether it is the best system of government for this country. We all know that the initial Bomas Draft Constitution had leaned more towards a parliamentary system. Parliamentary system of government, in my view, is more accountable. That is why we are grappling with the idea of bringing Cabinet Secretaries back to Parliament. I want my colleagues to support the idea that when Cabinet Secretaries are in Parliament, they are more responsive to our needs because we represent the electorate. Therefore, we understand the needs of the electorate. I do not know where this perception of the technocrats came from. Technocrats should be in the office. We have the Principals Secretaries. Those can be technocrats but Cabinet Secretaries need to be people who understand the needs of the electorate. They should be in a position to quickly respond to issues of concern to the people.

When ministers were sitting in this Parliament, it was very easy to interact with them. One time a lady from my constituency; an education officer, had a problem because she was being victimised for a mistake that was not really hers. I simply walked across to the late Hon. Mutula Kilonzo, who was the Minister for Education then and within minutes, my issue was addressed. I think that is something we should look into seriously.

Through Question Time, you can have a project done in your constituency. I remember the road from Rodi Kopany to Sori had a lot of potholes. It was in bad state. Because Ojode, being an assistant minister, could not ask questions, he asked me to ask a question on that road on his behalf. Based on that question, the road was re-carpeted. That road is now in motorable condition courtesy of Question Time. This is something we need to support. We should allow Members to raise questions on the Floor of the House so that their constituents can follow. They can even ask him what he has done so far about a question asked on our behalf.

Finally, I want to talk fundamentally on the issue of our Standing Orders. We need to look at them and where there are weaknesses to address them holistically. I have been in this

Parliament; this is my 11th year. I will tell you that the behavior of Members of Parliament in this 12th Parliament is a bit worrying.

Hon. Duale talked about friends of committees. I also want to agree that the reason we allow Members to attend committee meetings - even if one is not a member – it is assumed that being a representative of the people, you may have an interest that affects your people. Not that which affects you individually or where you have personal gain. Our Standing Orders are clear. If you have a personal interest, you need to declare it. There is nothing wrong with having personal interests so long as you declare it. We are human beings. Do not go and pretend that you are a friend of a committee, but representing some other interests which will not help in promoting the work of the committee.

What bothers me in this Parliament is the issue of respect amongst ourselves. We are supposed to come to this House and debate. You may agree with me or disagree with me. There is no crime in that. But, when we disagree or you lose out to my argument and then you take it and make it a funeral matter and scandalise others, it becomes really worrying. Then, you do not know how to behave. You do not know how to contribute to Parliament. Are we free to debate in this Parliament?

Hon. Speaker, you were very tough in the last Parliament. I do not know whether this handshake has made you relax. I see sometimes a behavior that you used not to tolerate in the 11th Parliament. I am not urging you to be a dictator, but I think you need to apply the rules, especially where a Member just wildly makes allegations against another Member. It is scandalous, as it destroys that Member. Unless someone has proof and evidence on the character of a Member, it is not right. In fact, it is disorderly to make allegations against another Member without substantiation. These people have now made it a habit; you just wake up one morning and say, “Hon. Duale is this and that” and nothing happens to you; you do not substantiate. Then you just repeat it again and nothing happens. Without being dictatorial, we need to bring back order in this House. We need to bring back ethics. Sometimes people who have no fairness... I do not know whether it is about ability to debate in this House or what. Sometimes I ask myself whether it is a crime to be eloquent.

(Laughter)

Is it a crime to be eloquent so that, if I am eloquent than you, then you find funerals where you talk in your mother tongue or Kiswahili? By the way, Kiswahili is allowed here. If you cannot present yourself coherently in English, please do it in Kiswahili, instead of scandalising those of us who can contribute to the debate in these languages. Some Members even contribute and they do not understand procedures.

As I conclude, people do not even know what a Special Committee Report is. We have different types of reports. A Special Committee Report is supposed to target a specific special issue to be addressed. You cannot make it an omnibus report then when people who understand procedures reject it, you go everywhere; you are in vernacular radio stations and funerals saying “Mbadi this, Mbadi that”. Do you think you will intimidate Mbadi? I stand firm on what I believe. For those who do not want to make contributions here, please, forgive us. Leave us. Give us space. We will talk what we believe. That will be it.

I just want to ask you: please rein in on the membership of this House. Do not gag them. Let them say things that they know and prove it with facts. For me, I am not for protecting the image of Parliament. If it is bad, let us expose it; expose truth. Do not scandalise people just

because you want to satisfy your constituency elsewhere. We also have constituencies. But, even if there is no constituency, we have families. Do not just talk about us without any substantiation.

Thank you, Hon. Speaker. I support.

Hon. Speaker: Very well. Hon. Members, there will be a communication before we go for recess. Now we must rein in on Members. Members should take care of matters which are either before a committee or this House. Any Member seen debating those matters in other fora other than the House or before the committee will better start making themselves familiar with the provisions of Standing Orders between 107 and 113. We cannot continue this way. It is only that some of the allegations that Hon. John Mbadī is referring to as having been made are sometimes in a forum where the Speaker has no authority, save to watch in some other medium.

Hon. Hon. Ichung’wah.

Hon. Kimani Ichung’wah (Kikuyu, JP): Thank you, Hon. Speaker. I beg to support. More so, as two or three previous speakers, including the Deputy Speaker have said, this will indeed create order in the House. As much as the Hon. Speaker is always calling us to order, it is not repeating myself to say that indeed, in the recent past, we have as Members been quite disorderly especially on what the Leader of the Minority Party has spoken about. Members go out not just to speak to the media, but to also speak outside here at the Media Centre. They do so accusing their colleagues of things they cannot substantiate, either out there or even in this Chamber.

Therefore, I beg to support this Motion, especially on Members we are calling friends of committees. It is good that we will now allow Chairperson of a Committee to have the prerogative to either admit or not admit a Member to a committee sitting. It is good also to give notice to the Chairperson, or through the Chairperson of the committee on the substantive issues that a Member wishes to raise. It is very important for the sake of creating order. What we have seen is, indeed, what has become common practice that these “friends of committees” know that after about 40 or 45 minutes the substantive Members of that committee may opt to leave committee meetings. They then take over the deliberations of committee meetings knowing that they do not even form part of the quorum. It is very easy for the friends of committees to take over committee sittings. We have said it in the past, not just on the Sugar Report. The Leader of the Minority Party has just alluded to what happened last week in the Departmental Committee on Lands and many other committees, including the two watchdog committees of Public Investments Committee (PIC) and Public Accounts Committee (PAC). We have seen friends of committees do it. It is usually people who have very peculiar interests in matters that are being deliberated in those committees who will purport to appear before those committees.

Friends of committees are usually people with peculiar interest in matters that are being deliberated in committees. These friends purport to appear before committees to defend other courses other than those of justice and getting what will be helping the committees in the deliberations before it. Therefore, I support the issue of Members giving a 24-hour notice to the chairperson stating what issues they want to raise before the committee. This is so that the chairpersons can establish if there are issues that are outside the purview of that committee or outside the purview of what is being deliberated in the committee.

Hon. Junet sits there on behalf of the Speaker. Therefore, the chairperson can decide that those issues that you have put in writing 24 hours before do not warrant to be raised before that committee sitting and therefore not allow them. This will also give the chairpersons of committees the prerogative to exclude any friend of the committee from the deliberations of the committees. There are very many pertinent issues that are usually handled by committees, but as

honourable Members, we have special interest because maybe they represent issues that either touch on their constituents or people that they know or people who purport to be our friends. Therefore, when we misuse our privileged position of having to sit in those committees and to interfere with the work of that committee, then we are defeating the very essence of why those questions are being asked.

The second thing I find very good is the fact that, I can raise or any Member can raise a supplementary question before a matter is sent to the committee and the committee deliberates on it. This gives Members an opportunity to raise supplementary questions on issues that are of concern to the constituents that probably another Member had raised. A supplementary question would also come in to help the committee to deliberate on such issues or have a Cabinet Secretary answering two questions at the same time under the main question.

I beg Members to support this. I have heard a few of us being disgruntled by the issue of friends of committees not being allowed into committees without prior notice. It is all in the sake of creating order. Therefore, I want to beg Hon. Members for the sake of the integrity of this House, to support this point. We are not saying that with these new changes we will exclude Members from sitting in committees. You are still a Member of Parliament and you can still sit in any committee you desire to sit in, the only new change is that, before you appear before that committee, you need to communicate why you want to appear and what issues you want to raise. This will ensure that you are also giving precedence to Members of the Committee. The chairpersons have a prerogative to only give precedence to substantive Members of a committee before inviting friends of committees. We are not saying that we exclude anybody from committee sittings, we will still be able to appear before committees but with the knowledge by the membership of that committee on what issues the friend is coming to raise and also give you an opportunity to interact better with the Members of the committee.

With those few remarks, I beg to support.

Hon. Speaker: Hon. Junet.

Hon. Junet Nuh (Suna East, ODM): Thank you, Hon. Speaker for giving me this opportunity. I rise to support this Motion. The matter being canvassed through this Motion is very important for this House.

This House deliberates and looks into issues that are of concern to the people of this country. These matters can only be done through representation. If you do not ask questions on issues that are happening in your constituents or in different parts of the country, then representation will not come out as envisaged in the Constitution. The only way people of this Republic understand representation, is by Members of Parliament coming to the House and asking questions on issues that affect them in their areas. The way we have been handling business in this country courtesy of the new Constitution of 2010 has not been received very well by the people we represent. Many of us ask questions through committees. Chairs of committees answer those questions yet they are Members of Parliament just like the Member who is asking the question.

If you ask a supplementary question, the chair will tell you, "I have given you the answer I have been given and if you want to ask more questions, go and look for the Cabinet Secretary." This will give Members an opportunity to ask relevant questions and questions that are of grave importance to the person who is asking and the general public because some of the questions are cross-cutting. Some of the questions might be issues that are happening in one county and are replicated in another.

The most important thing that I have seen in this Motion is the issue of friends of committees. A friend of the court is supposed to be that guy who appears at the court and claims to be a friend of the court. They call him *amicus curiae*. I learnt it in the first petition of 2013, when the then Attorney-General went to the court and said that he was *amicus curiae*. I asked who had sent the man, but I came to learn that these are people who are supposed to appear in court as friends because they have specialised skills or knowledge that they want to give. But when you appear as a friend and you are heckler...I am sorry to say so. You are just making the committee to lose dignity, integrity and decorum. I have seen in the Order Paper that there is an amendment that you should write to the Chair 24 hours before the sitting of the committee so that you can be given permission to attend as a friend of the committee. I want us to go a step further. Chairs of committees are Members of Parliament. When you want to become a friend of the committee you have to understand that the matter that you want to canvas as a friend of the committee, does not end at the committee level, it will end up coming here at the plenary where all of us are Members. If you want to deal with party matter, you have to understand there are people from your party in that committee, why are you belittling them by thinking that you are the only one who can do things they are supposed to do? I want us to amend it further and say that the permission should be sought from the Speaker and not from the chair of the committee. You should write to the Speaker 24 hours before the sitting of the committee and explain to the Speaker what special skills you have that you think you want to attend that committee sitting to inform them how things should be done. For example, if we have issues in Public Accounts Committee that relate to health matters, if Dr. Nyikal writes to the Speaker that he wants to attend the PAC meeting because there is an issue that touches on health, that is acceptable. But if Hon. Mbadi wants to come to the committee for health matters and we know he is an accountant, he only knows how to count coins, shillings and balance books of small enterprises not huge ones; he does not need to appear as a friend of the committee.

(Loud consultations)

That issue of friends of the committee... I am informed that he was the Chief Accountant of the University of Nairobi.

Hon. Speaker: What is your point of order, Hon. Mbadi?

Hon. John Mbadi (Suba South, ODM): I am sure Hon. Kimunya attracted your attention; you did not hear the allegations made by Suna East about me, concerning what I will be able to account for. He was saying I can only account coins in small enterprises, yet Hon. Junet knows very well that I am a certified public accountant of repute in this country with membership No. 6101. Many people say they are accountants but after being asked for their number, they do not mention. Besides that, I have been a finance director of an international Non-Governmental Organisation (NGO). That cannot be a small enterprise.

I hope Hon. Junet can withdraw that statement and apologise to me. There are people who believe I am a good accountant but he is now making them think twice.

Hon. Junet Nuh (Suna East, ODM): Hon. Speaker, I withdraw and apologise to my leader. I have come to discover today that he was a chief accountant of a very huge NGO. I did not have that information. With that kind of information, I apologise to my leader. He can act against me outside the House.

To conclude my contribution, the issue of friends of a committee has been an embarrassment to this House. There is a lot of indiscipline in the House. Having served in this

House when you were the Speaker in the 11th Parliament, some of us behave well now because of the way we were trained in the last Parliament. When we came here as junior Members, we had decorum and dignity. Now the House looks like people do not follow procedure and traditions. At one time, when I stood up without your permission, you told me: “Can you sit down? I do not know how you arrived here. You think this is Suna market? Sit down!” From that day, I never stood up again without being given permission. That is the kind of training we underwent.

Now, the Member for Kiharu walks in, after taking lunch of ugali and *nyama choma*, and says: “*Leo iko stori gani hapa?*” in the Parliament of the Republic of Kenya. You said this Floor is sacred. Again, he is on phone. Look at that. The Member I am talking about is on phone. He is demeaning the status of this House. We are not going to allow this kind of behaviour to destroy the image of this House.

Lastly, CSs must know that they are accountable to the people of Kenya, through this House. They should not feel threatened or disturbed when they are required to appear before this House to attend to issues of importance to the people of Kenya. This is where matters of concern to Kenyans are discussed. Not in the Executive or the Judiciary. The amendment we are doing today will go a long way in making sure that the people of Kenya have given this House the mandate to make sure that public officers are accountable for public finances and all kinds of things that they do.

Lastly, I suggest that this amendment should lead to a constitutional change. It is high time we stopped living in denial. Cabinet Secretaries must come back to this House. That constitutional amendment and the referendum that my leader speaks about all the time must happen. We do not need to hide behind parties. Constitutions are made for the people. It is not the people that are made for the Constitution.

Hon. Speaker: Hon. Katoo ole Metito.

Hon. Katoo ole Metito (Kajiado South, JP): Thank you, Hon. Speaker. I rise to support this Motion. I want to associate myself with the comments made by those who spoke before me on the importance of Question Time. It is probably one of the best way through which the Executive engages with the electorates, through their representatives in this House. It is actually one of the best ways through which the Executive can get information on what happens at the constituency level.

I answered Questions for seven straight years: two years in the 9th Parliament as an Assistant Minister and five years in the 10th Parliament, both as an Assistant Minister and as a full Cabinet Minister. At times, the Executive is not fully aware of what happens on the ground. I remember Members used to ask simple questions like, “Can the Minister for Water tell this House the number of boreholes the ministry has sank in my constituency?” When the answer comes to this House, the minister would bring a long list of, say, 20 boreholes said to be in one constituency and maybe he got the information from officials of the ministry on the ground. To the surprise of the House, you may find that none of the listed boreholes is in the constituency of the Member asking the question.

Why I also subscribe to the idea of CSs being elected people is that when we had ministers being Members of Parliament, before you even come and read answers here, you would share with the Member who had asked the question and, to avoid embarrassment, when you realised that the answer was wrong, you would seek permission from the Speaker to give you more time to go and get correct information. When you were given time for supplementary questions, it was time for the minister to expound Government policies and programmes. It is at

that time that even the Member asking the question would have more information on Government programmes in that constituency and the minister would be able to interact and give more information. Therefore, even in this proposed amendment, the inclusion of supplementary questions, in accordance to the proposed Standing Order 42C(4), would be a good time for the Government to explain the policies and programmes they have for the electorates.

I am happy with the proposed Standing Order 42C(5), where when a Member is not present to ask his question it is dropped. Previously, even if your question was dropped, Members would find ways of talking to the Speaker and explaining why they were not in the House and the Speaker would have sympathy and the question would be reinstated the following day. If this proposed amendment goes through, it will ensure punctuality. There is no room for the Speaker to bring back a question. Even with the sympathy of the Speaker, once a question is dropped, it will not be brought again during that session. Therefore, Members will find it very difficult to get it back.

Still on the proposed Standing Order 42C(6), the issue of who answers a question, recently, you made a communication that some of us thought would make CSs not to appear before committees. I fully agree with the Mover of this Motion; that, it should be the PS and anyone else above the rank of the PS. I think that is the way to go. It is only the CS and the PS and, if need be, if the position of Chief Administrative Secretary is in between the two positions, then we should not leave it open to any Government official to answer questions or even appear before committees. We need officials who are in positions of authority – in positions to make decisions – so that whatever they say is with finality. That will give the Committee on Implementation a chance to follow up matters for implementation.

With regard to the proposal on written replies to questions, under proposed Standing Order 42D, I remember that when we used to have Question Time in this House, questions were in two categories. There were ordinary questions which would take a long time in the queue and there were Private Members' Questions which were supposed to be answered within the next 24 hours. We should also have a way to prioritise this. My concern is about the time taken in these proposed amendments for the Cabinet Secretary to answer questions. Once a question is referred to the Committee according to this proposal, it is the Hon. Speaker to decide its urgency.

Hon. Speaker in Clause 42E (i) states thus:

“Subject to paragraph (2), a Cabinet Secretary shall reply to a Question within thirty days of referral of a Question to a Committee.”

Having been here for four terms courtesy of the people of Kajiado South, I think 30 days for a question to be answered is such a long time. In my view, by the time that question is answered, it could have been overtaken by events. I would plead with the House that when we go to the Committee Stage, this period of 30 days be reduced to 14 days. Those we call Private Members Questions be answered within three days.

On 42F, the Sub title “Report on Questions” is not clear. The proposed 42 F states thus:

“The Chairperson of a Committee shall submit a progress report to the House on Questions—

- (a) referred to the Committee
- (b) replied to;
- (c) which the Committee has directed a Cabinet Secretary to provide additional information or further reply; and
- (d) pending before the Committee.”

I was asking myself: Submit a report to the House in which way, through which avenue and what next after the report has been submitted? Will there be debate or will you be given time as a chairperson time to explain what has transpired?

Finally because of time, this proposal on friends of the Committee... In some countries they are not referred to as friends of the committee, they are referred as observers. In other jurisdictions, if you are not a member of that committee, you just attend, you do not vote or make contributions but just listen. You will have an opportunity when the report is brought to the House for you to express your interests. So, I fully agree with the way it has been proposed so as to give order to the committee. It will also create relevance. In our Standing Orders,...

Hon. Speaker: Hon. Otiende Amollo.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. I rise to support this Motion. I want to confirm that I have looked at it carefully and with the benefit of having been in the team that drafted the presidential system that we are now in, I am happy to confirm that in my view, these amendments are largely constitutional. They are also in keeping with the presidential system that we operate under.

It would interest Members to know especially those who have spoken in favour of the parliamentary system that indeed the Committee of Experts (CoE) collected views from Kenya and the majority of Kenyans were in favour of a parliamentary system. It is only the Members who came before our time meeting in Naivasha, who in their wisdom, decided to change the wishes of Kenyans and indicated that many Kenyans in their view preferred a presidential system. That is how we have landed here.

However, I also wish to confirm that these amendments also help us achieve a very fundamental purpose that sometimes is overlooked in terms of Article 95 (2) which makes it an obligation of the National Assembly to receive and resolve issues of concern to citizens. Through this parliamentary Question Time, we are able to raise issues not just of concern to our own constituents but to the country at large.

I am particularly happy with the amendments relating to friends of the committee. For the one year we have been here, I have attended committee meetings. Before that, I attended committee meetings mostly on the other side of the bar. I can confirm in my observations that a lot of time, those who have appeared as friends of committees have appeared to sabotage the work of the committee either on account of some ethnic consideration or some other caucusing on various considerations. I agree that, that needs to be tamed. I think these amendments are timely and I hope we will have occasion to do many more fundamental amendments.

There are at least two more areas we will need to look at. Only last week, we were with some of the Members of the Speaker's Panel and we were looking at the oversight committees of Parliament and we came to the collective conclusion that our Standing Orders are lagging behind the Constitution. We need to amend our Standing Orders to give teeth to the committees and this House in terms of oversight. When that time comes, I hope we will also revisit the time allocated to the leadership of this House. In any one debate or Motion and I have counted, the first two hours are always taken in between the leadership and the rest of us, the 345 of us sometimes have barely an hour to contribute. I do not know whether that collectively adds us value.

Having said that, there is only one minor matter that concerns me as I said and this relates to Article 108 of the Constitution. Article 108 in keeping with Article 1 and Article 4 of the Constitution that recognises Kenya as a multiparty democracy, recognises that at any one time in Parliament there will be the majority and the minority. Therefore, in Article 108, it recognises the party leaders. Article 108 (1) states thus:

- “(1) There shall be a leader of the majority party and a leader of the minority party.
- (2) The leader of the majority party shall be the person who is the leader in the National Assembly of the largest party or coalition of parties.
- (3) The leader of the minority party shall be the person who is the leader in the National Assembly of the second largest party or coalition of parties.
- (4) The following order of precedence shall be observed in the National Assembly—
- (a) the Speaker of the National Assembly;
 - (b) the leader of the majority party; and
 - (c) the leader of the minority party.”

The Hon. Speaker and the Hon. Deputy Speaker are leaders of the entire House. On this side of the House, there is the Hon. Leader of the Majority Party and the Hon. Leader of the Minority Party. With tremendous respect therefore, the Hon. Aden Duale is not my leader on this side of the House. To that extent, the amendment in 42A (5) that requires that once the question is put, it is the Hon. Leader of the Majority Party to determine the appointed date when that matter will be dealt with and in the subsequent one, in (6) it is the Hon. Leader of the Majority Party in consultation with the CS to determine the urgency and to consult the chairperson, it subjugates the minority to the majority.

In that respect, for now it may not look so fundamental with the benefit of the handshake but I want us to look back before the handshake and wonder whether Hon. Aden Duale would be smiling with me the way he is smiling right now. My worry therefore is, if we do that, it is a subjugation that might be challenged. It does not detract from the totality of the amendments. That is why, Hon. Speaker, I would wish to invoke Standing Order No. 52, which allows you, in exceptional circumstances, to allow an amendment if it is necessary any time before the debate on the Motion is finalised. To that extent, I crave your leave so that wherever the words “Leader of the Majority Party” appear in Standing Order Nos 42A (5) and (6), it should read “Leader of the Majority Party in consultation with the Leader of the Minority Party.” That way, we do not stand the danger of subjugating the minority to the majority or of contravening the Constitution.

However, overall, I support these amendments.

Hon. Speaker: Hon. Otiende Amollo, given the nature of this Motion, you are liberty to propose the amendments that you intend to only that you must then do it in writing. This is because we are going into Committee. The nature of this Motion is such that what you are saying is permissible because we are dealing with our own rules of procedure. It is not like any other Motion. It is really ourselves who want to decide how we want to transact business. So, you will be perfectly within your right to propose the amendment just that we need to see the text of your proposed amendment so that we can approve it before we go into Committee, which we are about to.

Next is Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Speaker. From the outset, I rise to support this Motion and quickly add that this is a straight forward Motion that I would request Members to support. For those who may think otherwise, I want to quickly say that from the experience I have had in this House – just like my colleague, Hon. Katoo ole Metito said that he had four straight terms – I also want to declare here and now that I have had three straight terms courtesy of the people of Mumias. From that experience, I could easily tell Members who could be thinking otherwise. Whenever the Procedure and House Rules Committee comes up with amendments like the ones we have seen, it is out of experience. From the experience we

have had, I think it is important that we quickly agree with them so that we can benefit maximum from the sittings of this House.

I thank the Mover because while moving, he commented that this will increase the participation of this House. However, from the whip's desk, I thank Members of this House for being proactive and sensitive. Whenever we had an issue with quorum and I went out there to whip them, I confirm to you, Hon. Speaker, that they have always been willing to come in and participate in the proceedings of this House. Therefore, I take this opportunity to thank Members. Even though the threshold was increased from 30 to 50 Members, that has not been a problem for us because we have always had the relevant quorum to transact the business of this House.

On the issue of question time, I was in this House with my boss, Hon. Duale. The Question Time was the most popular session of the House and many Members would ask questions and walk out because they had already done their business. What I want to add is that the opportunity of Members asking questions will reduce the number of petitions that Members bring in this House. The opportunity of Members asking questions will reduce the number of statements that Members come with. This is because petitions take time and they are also equally very expensive. Once a petition comes to the Floor of the House, it is referred to the relevant committee which now then goes ahead to seek for evidence, call witness and all that. It may take as much as 60 days, but when the opportunity of asking questions will come, what we receive here as petitions may be cleared in 14 days. This is because they will come in form of questions and the CS will respond and the supplementary questions asked will be answered.

I am sure if this opportunity of asking questions would have been there, the issue of sugar would not have gone where it reached because we did not have the opportunity to ask questions. We let matters build and stay and they had to get to the levels that they reached and that is why the issue of sugar has taken the dimension it has taken. To me, the question of CSs being too busy to attend to questions is neither here nor there because with the introduction of the Chief Administrative Secretaries, when CSs are busy dealing with other issues of development, the CASs can stand in for them so that the aspect of answering questions is not deferred.

I have been looking at these amendments and, maybe, as we go to the Committee of the whole House, I may propose some amendments. They are not really serious amendments. For example, we are meant to delete the words "and participate in" but again in Clause 4, we are again reintroducing participation through the back door. So, it is up to the House to decide whether they want to remove the participation or not.

Hon. Speaker, allow me to raise something that, as a House, we may find a problem in future. This Parliament subscribes to the Commonwealth Parliamentary Association (CPA) procedures and the position of a whip is one that is recognised by the CPA. Therefore, this House, through the Standing Orders, must come out with clear clauses on how we establish the office of whip. This is because as it is, the way we have referred to the whip in the Standing Orders is just some roles. How we establish the office of the whip is not clearly spelt out. That is why, maybe, someone went on radio and was even imagining that they can remove me as a chief whip. Maybe, in the Standing Orders it is not clearly spelt out how you establish the office of the whip and how you even remove a whip in case there is some conflict. Therefore, going into the future, we request the chairman who is here listening keenly that the Procedure and House Rules and Committee must find a way of establishing that. This is because the office of a whip is very important in this House because of the role we play and among other roles, it is us who report to you the decision of the parties on who has been identified as the leadership for both the majority and minority.

Therefore, the office of the whip is very important. We need to establish it in the Standing Orders, so that we do not hang in the air. My counterpart on the other side is even imagining that we can easily amend the Constitution to include the office of the whip. Going forward, we may also consider that. Otherwise, these are good amendments. I support them and urge my colleagues to support this Motion.

Thank you, Hon. Speaker.

Hon. Speaker: You are at liberty to propose the proper text on the establishment and clothing of the offices of whips. I believe that you will also do well to look at a report that was made to the House in the 9th Parliament on the functioning and establishment of those offices. Ask Hon. Deputy Speaker because he has institutional memory about that particular Report.

Hon. Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Speaker. I rise to support this Motion. Question Time is important. It is a very important link between Parliament and the Executive. It indicates the deficiency that we all feel in the presidential system. It is a small element, but there are big elements that we will look at when we amend the Constitution.

Absence of Question Time denies Members the opportunity to address issues of development and other issues in their constituencies. When I was the Permanent Secretary, I had the opportunity to participate in the preparation of answers. It is an extremely important function. It gives great impetus for the Executive to work properly and ensure that projects are implemented right from the Cabinet Secretary, Principal Secretary, and the heads of directorates and departments. Once a question is presented and time is allocated, in a proper working ministry, the CS sits down and brings it to the attention of the PS. When the PSs are preparing the answers, they will sometimes go to the field to find out if the answers that are required are on the ground. I am surprised that ministers came with fictitious answers in some cases. This is what is taken seriously. If there is an indication that a matter will be raised in Parliament during Question Time, the ministry becomes alert. This is something which we should bring back.

When I was a PS in the 10th Parliament, we were glued on the television to watch how the minister was answering the questions. When there was good working relationship between the minister and the assistant minister, we called the assistant minister to give him supplementary answers. When we were seated in the office, we could see the answers which the minister needed. It involved a lot of research because you anticipated what other questions the Members would raise regarding the project or the issue that was being discussed. The minister had a rough time. The whole ministry was involved. There would be a departmental meeting to discuss how projects were implemented. It was a driving force for ministries to perform. Therefore, this is something that should be brought back, particularly the supplementary questions.

I have looked at the amendments. I like amendment 42B which puts restrictions on the kind of questions which can be answered. They are not issues from the newspapers, speculations and questions that need general answers but specific ones. I like that amendment very much because it limits it to what is necessary and important to the people.

Amendment 42C talks about disposing of the question. It takes us back to where we were at the beginning of the last Parliament. We were keen to get the CSs in the House in one way or another. Preparations were made as to where they would sit within the House but not as Members of the House. There was a great day which we were expecting them to come and start, but we all know what happened. This amendment will not bring that back. The CS will still go back to the committee. It is something that is deficient. After we amend the Constitution, it will be possible. That will still be missing.

I agree with the issue of the friends of the committee. As much as we are limiting it, it is a useful idea that was abused. Some people may have information at times that the committee requires or bring an element or angle that may be important. I know that it has been used relatively for parochial or selfish issues. Therefore, we need to re-organise it.

I like the structures which we are putting in place. We are amending Standing Order No.195. We are saying that we remove participation in one part but as we go further, we are accepting participation. Those are areas which we will look at. We will have to look at further amendment. We can allow participation as long as you have put the restrictions on how the Member will present and what he will say. The chair should look at that before, so that when you get there and you are irrelevant, you can be told what you wanted to raise cannot be raised. That information that is useful and was considered before is brought before the committee.

With those few remarks, I support these amendments.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the amendments which were brought through some rigorous debate in the various committees that are involved. I do not want to say much because most of it has been said.

First of all, the Leader of the Majority Party mentioned that I was opposed to CSs being in the House. I was a minister for 10 years in this House. There is no way I can oppose a system that I was used to. There are people who are opposed to that but mainly that comes from the Back Bench. They asked how comes it is only a few people who are appointed to the Front Bench. It is better for everyone to come from outside. We have all seen the downside of that.

The other thing I wanted to mention is that we debated this issue extensively. Hon. Junet was not in the meeting at that point. There is this issue of participation by the friends of the committee and why you need them to consult the chair rather than the Speaker. The committees are led by the chairs. The prior approval of a friend of the committee by the chair of a committee is important because the chair has the information on the committee and the nitty-gritty of what is happening. That is the only person who can make a decision in terms of whether the friend of the committee will add value or end up disrupting the committee.

If we were to ask the Speaker to decide, he would not be party to the deliberations in the committee. So, we will end up with clearance from the Speaker in good faith because he cannot deny a Member but the chairman will have no idea what the Member told the Speaker to get the clearance. Hence it is very important that we let the chair be the one to approve in the first instance for a Member to participate or not to participate in committee proceedings rather than have a Member coming and claiming that he has been cleared by the Speaker. That is why we wanted to insulate the chairs. At the end of the day, it is the chair of the committee who will be left to handle the friends who have come on the authority of the Speaker to ask questions. That could disrupt the whole committee meeting. So, it is on that basis that we deliberated and decided to give the chair authority in the first instance. When it becomes troublesome, it can be escalated to the Speaker through an appeal.

Question Time is very good. I assure Hon. Amollo that, indeed, you can only have one person you can hold responsible for deciding on when a question will be answered. It does not matter whether the Leader of the Majority Party is in Government at that point. We could even have a situation where the Leader of the Minority Party, in a presidential system, has more Members in Parliament than the President. Even in that situation, whoever the Leader of the Majority Party is, he will carry out the business of the House and that is the person you should hold responsible for ensuring that a question has been answered by the Government of the day. We do not need to debate a lot on that. We are still experimenting with this system. I hope at

some point we will get a way of getting through it. It is premature to start making amendments. I would rather we move on as they are and make progress. As we grow, because these are our internal rules, we will see how best to address those issues, including matters on the way forward. But we do not need to start thinking of a situation where consultation or agreement between the Leader of the Majority Party and Leader of the Minority Party has to be done. In the age of the handshake, it is very good. But assuming there is a tussle, and a Member has asked a question and we have to rely on goodwill or on agreement between the Leader of the Majority Party and the Leader of the Minority Party to have a Member's question answered, it could be delayed for a long time. In fact, a mischievous Leader of the Majority Party could use it against Members by saying that he has not consulted the Leader of the Minority Party, and your question cannot be answered. Let us hold one person responsible without agreement with another one.

It is from that basis that I wanted to contribute on those three items and urge that we pass the amendments as they are and see how their implementation gets on. It will obviously be good to see the questions. For 10 years, I stood on the other side answering questions from Members, and I agree with what Hon. Nyikal said; that, we prepared thoroughly because we knew the whole nation was watching us. We were to be held responsible for what we said in Parliament. It was also articulating Government policy in Parliament. Question Time will add value to Members' *bonga points*. When people see a Member asking a question, they will be keen to come to the committee and hear how it will be answered. We will also know what, for example, the Member for Kiambu or Kisumu asked and in which Committee the Question will be answered. It will be of concern to each one of us.

I welcome back Question Time. I also welcome the control of Members appearing as friends of the committee to cause chaos. We have rules to ensure that there is fair play ground for everyone.

With those remarks, I beg to support and appeal that we do not make any further amendments at this point so that we make progress and come back, should the need arise, to approve these amendments.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, out of the discussions that arose, there are some issues the workshop agreed to. Those issues are contained in a proposed amendment, which the Leader of the Majority Party is supposed to move so that the Motion can be debated with or without the amendment.

Having listened to Hon. Otiende Amollo, one of the members of the Committee of Experts, and Article 125 of the Constitution on issues Members have raised here on numerous occasions, the proposed amendment by Hon. Duale, to me, seems to address that aspect in a progressive way. Let us allow the Leader of the Majority Party to move his amendment then we see what becomes of it.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move that the Motion be amended by inserting the following words immediately after the words "July, 05 2018" "pursuant to insertion of the following recommendation:

(h) The Procedure and House Rules Committee takes further steps to fully operationalise Questions Time and tables its report expeditiously."

This is to make sure that at any given time in the future in the 12th Parliament, the Procedure and House Rules Committee can bring further amendments on how to make sure Question Time is improved and enriched. This is not the end of the game. So, we might, as Hon. Junet said, slowly contemplate amending the Constitution. This is just to make it open.

I ask the Deputy Speaker to second the amendment.

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Speaker, I beg to second.

(Hon. Wilson Sossion and Hon. Omboko Milemba consulted loudly)

Hon. Speaker: Hon. Members, the two Hon. Members are of the same profession and represent some interesting constituency.

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

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

(Question of the Motion as amended proposed)

Hon. Speaker: Hon. Members, there is something that we must know. These are your own rules. I have seen some agitation that every business that comes here, each of the 349 Members wants to say something. It is not possible if we do that. There is a serious business shown as Order No. 11. This is of great importance. This is a matter of our own procedures. It does not mean that every one of us must contribute. The new Member for Kilifi North, Baya Yaa, say what you have to say about procedure in three minutes.

Hon. Owen Baya (Kilifi North, ODM): Thank you, Hon. Speaker. You have heard the cry of a person suffering here. The National Assembly sets the pace for the other assemblies that we have. These amendments that we have are likely to trickle down to the other assemblies. That is very important. We would like to see the same things happening in the county assemblies where County Executive Committees (CECs) also come to the assemblies to be asked questions and oversight.

Secondly, these amendments bring the aspect of oversight to another level. It makes it possible to oversee Government at a closer level where we are able to ask questions pertaining to important issues in our constituencies to the Government directly. This takes oversight to a new high level. I support these amendments.

One of the things that we are likely to see as we pass these amendments is a more efficient Government. A Government that is aware that it is going to be overseen directly by Parliament. We have heard lot in the committees. Once you call the Cabinet Secretary, he or she does not come but sends junior officers. The officers also come without answers and when you send them back, they go and try to bring information which is not correct. With an opportunity to oversee Government directly through Question Time, it is going to improve efficiency and make better teamwork within ministries and departments. Therefore, the Government is likely to become more efficient.

Lastly, service delivery will improve with the introduction of this because Cabinet Secretaries will know that they are being overseen directly. Therefore, they will ensure that

services are offered better at the lowest level. When service delivery improves, the whole country becomes happy because Parliament is putting its foot down in its oversight role.

I support the amendments. Thank you.

Hon. David Gikaria (Nakuru Town East, JP): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Gikaria, what is your point of order?

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Speaker. I really wanted to contribute on this but I rise under Standing Order 95. This is an advice to the new Members. As we contribute to this Motion, the most important aspect is for them to look at the amendments, place the amendments if you have and also attend the Committee of the whole House. That is where we make decisions. The Deputy Speaker and I normally attend and get the opportunity to express ourselves. On that, I ask that the Mover to be now called upon to reply. Thank you.

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

Hon. Moses Cheboi (Kuresoi North, JP): Thank you, Hon. Speaker. Unfortunately, under our Standing Orders, I am not able to give any Member any donation because that decision has been made.

Let me take this opportunity to thank the Members. I want them to know that what they will have done today is something that will go a long way into improving their contributions in this House. Sitting here you will listen to Members saying they do not have enough time to contribute, this is the cure. I am longing for a day when I will ask issues about my constituency to do with roads which are deplorable, hospitals, police brutality and issues to do with everything that affects my constituents.

As I finalise, I want to tell Members that some of the very good Members who did very well in this House like Hon. Shikuku, Hon. Ochola Ogur and all those other people who contributed, it is because there was Question Time. Sometimes we are underrated because people think we are not doing very well. When we have this Question Time, it will go very well in improving our stature and our contributions to our society.

I beg to reply. Thank you.

Hon. Speaker: Hon. Members, the other thing that I need to bring to the attention of the House is the fact that on a number of occasions, many Motions are debated and because everybody wants to speak, by 6.55 p.m. there are hardly 10 of you. This habit of always putting the Question at the next sitting day or hour is not a very good one because the people who will make the decision more often than not will not even be the people who will have discussed the business when the House last sat. It is something that we may have to look for a way of ensuring that Members, who contribute, contribute and stay in the House as opposed to contributing and then leaving. These are our own rules.

(Question of the Motion as amended put and agreed to)

Resolved accordingly:

THAT, this House adopts the Second Report of the Procedure and House Rules Committee on the consideration of the amendments to the Standing Orders,

laid on the Table of the House on Thursday, July 05, 2018, subject to the insertion of the following new recommendation (h) on page 13 of the Report, “that the Procedure and House Rules Committee takes further steps to fully operationalise Question Time and tables its report expeditiously” and pursuant to the provisions of Standing Order 265(2), further resolves that the amendments agreed to in the Committee of the Whole House and approved by the House take effect from August 30, 2018.

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

PROPOSED AMENDMENTS TO THE NATIONAL ASSEMBLY STANDING ORDERS

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we are now in the Committee of the whole House to consider the amendments to the National Assembly Standing Orders.

Standing Order No. 40

Hon. Moses Cheboi (Kuresoi North, JP): I beg to move:

THAT, Standing Order 40(1) be amended by deleting sub-paragraph (vii) and substituting therefor the following new sub-paragraph— “(vii) Questions and Statements;”

This is to create a sequence. If you look at the sequence in the Order Paper, it includes Administration of Oath, Communication from the Chair, Messages, Petition, Papers and so forth. So, we are introducing Question Time in the Order Paper. It is just a question of sequencing.

I thank you.

(Question of the amendment proposed)

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

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

(Standing Order No.40 as amended agreed to)

Standing Order No. 195

Hon. Moses Cheboi (Kuresoi North, JP): I beg to move:

Attendance by non-members select committee

THAT, Standing Order 195 be amended by—

- (a) renumbering the existing provision as paragraph (1);
- (b) deleting the words “and participate in” appearing immediately after the word “attend”;
- (c) inserting the following new paragraphs immediately after paragraph (1)—
 - “(2) A Member who intends to participate in a meeting of a committee of the House of which he or she is not a member shall submit a written request to the Chairperson of the committee at least twenty-four hours before the meeting, or such other period the Chairperson may in exceptional circumstances allow.
 - (3) The request shall indicate any matter which the Member intends to raise at the meeting.
 - (4) Where the Chairperson allows a request for participation under paragraph (2), the Member may attend the meeting and raise any matters indicated in his or her request.
 - (5) The Chairperson shall, before allowing a non-member to participate in a matter before the committee, give priority to the Members of the Committee.
 - (6) The Chairperson may order a non-member of the committee to withdraw from a meeting for disorderly conduct.”

This is about regulation of friends of committees to increase discipline, particularly now that we are in the new dispensation of Question Time. Therefore, there will be quite a number of works that will be happening in committees. We want to have it harmonised so that Members can be disciplined.

I thank you.

(Question of the amendment proposed)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Junet was interested in this amendment. This is the one in which we were saying it regulates the friends of committees. One must give reasons to a committee. I think Hon. Junet wanted to ask the Chair to do a further amendment. I want to speak for him. I really support this one. At the end of the day, Members are in various committees. There are other Members who are not in certain committees. They might have certain valid reasons. At times, they also need to be given special considerations even in asking questions. This time, we are saying they should consult with chairpersons of the committee in question and put it in writing saying they have an interest based on this-and-that and that they want to be given priority in asking questions.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): That amendment to Standing Order No. 195 is not just one. It has several components. With regard to (a), it is just re-paragraphing. If you look at (b), it is deleting the words “and participate in”. Our Standing Orders say a Member may attend and participate in a meeting. Now, it is removing “and participate” so that it will now read

“attend”. If you go further down in the amendment to (c), it is introducing what will happen. The actual regulation says that a Member who intends to participate in a meeting of a committee of the House of which he or she is not a Member he will write to the chairman, give reasons and then he may participate. I am seeing we do not need to amend the first one because, in 195(c) (2), (3), (4) and (5), we are regulating it. So, we should not straightaway say a Member cannot participate. He can participate but the participation will be in line with the restrictions that have been put, including writing to the chair indicating what is it he wants to participate in.

I am opposed to that part (a). I support the rest.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I think it is good to give the Chair an opportunity.

Hon. Moses Cheboi (Kuresoi North, JP): I really like the contribution from Hon. (Dr.) Nyikal. He deals with things with an injection’s precision. The issue of attendance and participation are different. If you chose the direction that he is taking, it does not harm the other part. Either way, it is fine. What we decided is, since the issue of attendance should not be limited, anybody can go to any committee because they are Members, the issue of participation is what is regulated. Therefore, we created the regulations under the subsequent parts. It does no harm. What I only see from you is a real concern of a very keen Member. Otherwise, everything is taken care of in the manner you have suggested. There is no contradiction.

The Temporary Deputy Chairman (Hon. Patrick Mariru): We will give chance to a few Members to speak to it. I will come to this side. Let us have Hon. Washiali then this way.

Hon. Benjamin Washiali (Mumias East, JP): I had pointed out this during debate on the Motion. From these amendments, it appears that participation has no problem. What has a problem is who is going to allow the participation. We are amending the participation on the original Standing Order No. 195 and re-introducing as allowed through permission by the chair of a committee. Why can we not, instead of deleting and re-introducing, just talk of the authority to permit instead of deleting “participation” and re-introducing it through the back door?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Shall we get Hon. Wanga?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairman.

The only small challenge I have is the issue of the period within which one should notify a chair. Sometimes one comes from the constituency or county and realises there is a pressing matter. Members deal with many things. Even to introduce an amendment to a Bill on the Floor of this House, the notice is two hours before. Just considering how busy Members sometimes are, 24 hours is almost punitive.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is your point of order Hon. Osotsi?

Hon. Godfrey Osotsi (Nominated, ANC): I also wanted to make an observation there. This amendment seems to look at friends of committees from one perspective.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Osotsi, what is your point of order? Please do not contribute through the back door.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Chairman, I wanted to contribute to this amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): That is a different case altogether. I will give you a chance at some point. Hon. Omboko Milemba.

(Hon. Omboko Milemba raised his hand)

You must put the card. You have not put it in.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairman, I do not want to contribute through the back door. My card is in and functioning. I want to support the views raised by the preceding Member. To the Mover of the Motion, the friends of committees are sometimes important people in terms of giving knowledge about that specific thing the committee is discussing. These friends may not be Members of that Committee. Whereas these amendments have been brought to create order in the House and the committees, I think you being a ranking Member should also understand that the results of the debates in Parliament and the laws made here and every result passed is a holistic process of the whole House. We should not completely limit friends of committees to look like they are enemies of the committee.

We should not completely limit friends of the Committee to look like they are enemies of the committee *per se*, notwithstanding what we may have gone through a few days ago. I think that the 24 hours period will be extremely long and difficult for people who have knowledge about that particular issue to contribute for the holistic good of the House.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, either way we must bring a closure to this so that the House makes a decision. I will give one or two other Members.

Hon. Moses Cheboi (Kuresoi North, JP): I have heard what the Members have said and I have heard what Hon. Wanga has talked about with regard to timelines. There are Members who have said that it will gag the participation of membership. This is just about questions to committees. Remember there is nothing that goes to the committee that does not come to this House. But on the specific one which is on questions, it is particular Members who have asked specific questions. If other Members would want to contribute specifically on questions, they can also ask their own questions. It used to happen. You said I am a ranking Member. Indeed, I am and I know that even when you are asking the supplementary questions, they must be as closely related as possible. If I ask for a road in my constituency, you should not come and ask a supplementary question on a road in your constituency. It should be a policy on issue of road maintenance, for example. On this basic thing, we were not very interested in other issues, we were looking specifically at the issue of questions in committees so that we do not go to committees, bully the chair and find out whether the Cabinet Secretary can answer a question which you did not even ask in the first place.

Hon. Members, let us accept this because with what the Leader of the Majority Party has introduced, he has given us an opportunity to improve this with time. This is good for all of us. It is something which we will sit as a committee and improve on. For my friend Hon. Washiali, surely, he was in the Committee which discussed this and it is only yesterday. I was actually very surprised when he contributed negating what we agreed unanimously in the Committee. I beg you Members, this is good for all of us, let us proceed, we will improve it. This is a new thing. As I wind up, remember in the last Parliament we brought up this issue of Question Time and it was hit by waves because it was said that we are introducing parliamentary system through the back door. Allow this to move, and then we will improve on it as we go by.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well, allow us to put the Question on this one. Hon. Gikaria, I will give you one minute.

Hon. David Gikaria (Nakuru Town East, JP): Hon. Chair, I am speaking on behalf of other Members. When I was moving under Standing Order No. 95, you had been accused that this is a House where other Members are not given opportunities. Now in the Committee of the whole House you have started to...

The Temporary Deputy Chairman (Hon. Patrick Mariru): Proceed Hon. Gikaria, you have the Floor.

Hon. David Gikaria (Nakuru Town East, JP): I support.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. I have to put the Question so that we proceed.

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

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

(Standing Order No. 195 as amended agreed to)

New Standing Order No. 42A

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by inserting the following new Part immediately after Part IX—

Notice of Question

42A. (1) Pursuant to Standing Order 216(5) (j), a Member proposing to ask a Question in the House shall give notice to the Clerk.

(2) The Member shall deliver a signed copy of the proposed Question to the Clerk for submission to the Speaker for approval.

(3) Where the Speaker approves a Question and determines the Cabinet Secretary responsible for the matters to which it relates, the Clerk shall, at an appropriate time, publish the Question in the Order Paper.

(4) In scheduling a Question in the Order Paper, the Clerk shall consider the urgency of the Question as determined by the Speaker.

(5) A Member shall ask his or her Question on the day it is scheduled in the Order Paper and the Leader of Majority Party shall, at an appointed date, inform the House of the date and time when a Cabinet Secretary shall be required to appear before a Committee to reply to a Question, subject to paragraph (6).

(6) In determining the date and time when a Cabinet Secretary shall be required to appear before a Committee to reply to a Question, the Leader of Majority Party shall—

(a) Consider the urgency of the Question as determined by the Speaker;
and

(b) Consult with the Chairperson of the Committee.

This is a basic one. It is giving the process of notification and who is supposed to approve. In this case it is the Speaker. This is just a basic issue of procedure on questions. It is a basic one.

(Question of the new part proposed)

(New part read the First Time)

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

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment to that by Hon. Otiende.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Deputy Chairman. I believe the approved proposed amendment has been circulated on this side.

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is right to have all Members have a copy of your amendment.

(Hon. Aden Duale consulted loudly)

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): I am sure the Leader of the Majority Party realises that I am not one of those who are entitled to do this work in this place. Mine is only to speak.

Hon. Aden Duale (Garissa Township, JP): *(Off Record)*

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): That demonstrates the very point I am about to make, the Leader of the Majority Party. Let us wait for all the Members to get a copy.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Otiende, you may now proceed.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Hon. Temporary Deputy Chairman, I propose to make a minor amendment to this provision in so far as it proposes to avoid subjugation of the minority to the majority, by merely doing what the Constitution already does. Wherever you mention the Leader of the Majority, it comes with the word Leader of the Minority.

In this respect, I beg to move:

THAT, New Clause 42A (5) be amended after the words “Leader of the Majority Party” to say, “in consultation with the Leader of the Minority Party”.

In the same vein, when it comes to 42A (6) to also add the words, “Leader of the Majority in consultation with the Leader of the Minority Party”.

This will ensure that in determining all these things, the date of appointment, the urgency and the consultation work in tandem. I had already explained earlier before the Committee stage that this is merely to ensure that this very well meaning amendment does not face the pitfall of being unconstitutional.

It is perfectly okay for Hon. Kimunya to say there is nothing unconstitutional with that and the decision must be made by one person. In this House, the only person who makes the decision is the Speaker, it is not the Leader of the Majority Party, neither is it the Leader of Minority Party. The Leader of the Majority Party and the Leader of the Minority Party are supposed to lead in the expression of the views of either the majority or the minority. I ask Hon. Jeremiah Milemba Omboko, Member for Emuhaya to second.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is your point of order, Hon. Kangogo?

Hon. Kangogo Bowen (Marakwet East, JP): Since this is also a constitutional issue and it is provided for in our Standing Orders, anything constitutional can also be raised at any point. The Leader of the Minority is not equal to the Leader of Majority. It is constitutional. Article 108(4), it says;

“The following order of precedence shall be observed in the National Assembly-

- (a) the Speaker of the National Assembly;
- (b) The leader of the majority party;
- (c) The leader of the minority party.”

In that amendment it is the Leader of the Majority Party who is the Leader of Government Business in the House and he consults with the Cabinet Secretary. The Leader of the Majority Party cannot consult with the Leader of the Minority.

I oppose before it is seconded.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order Members. Hon. Junet!

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Chairman, I wanted to bring to your attention that the Member was not in order to mislead the House. It is very true that the Leader of the Majority Party is higher than the Leader of the Minority Party. That is not in contestation. That is what the Constitution dictates. But there is no Government in this House. The Leader of the Majority Party is the leader of the majority party in the House. The Leader of Minority is the leader of minority party in the House. The Government is outside there in the streets, in Jogoo House, in Harambee House and other buildings that are found outside there. Under the Presidential system, we have no Government here. The Government is only using the Leader of the Majority Party as a conduit to bring their Bills to the House. On that basis, consultation is very good. Let us support the amendment. It is just consulting.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Before I give the Member opportunity to second the amendment, I want to speak to what Hon. Kangogo had said. This amendment is rightly on the Floor of the House. There is nothing unconstitutional about it. But Members will have the liberty to vote either way on this amendment.

Hon. Milemba, please second.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Chairman. I beg to second that amendment. We need consultation between the Leader of the Majority Party and the Leader of the Minority Party. As I second, I must say we are not interested in challenging the authority of the Leader of the Majority Party or of the Leader of the Minority Party. These are our rules. For us to operate well, it is important that the majority consults with the minority moving forward. These are House rules.

Thank you. I beg to second.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Before I give the Chair opportunity, the Speaker had earlier recognised a delegation but they were not present physically. They are now here. Allow me to recognise a delegation from America, Nebraska State, on a State visit to partner on coffee farming. They are invited by Hon. Kago, Member for Githunguri. Among others, we have:

- (a) Dave Taylor – President, Grand Island Area Economic Development Corporation;
- (b) Sen. Dan Quick – Senator for the State of Nebraska;
- (c) Jack Henry – CEO, Global Industries; and
- (d) Walt Larson – President, Scale Advertising.

They are welcome to follow the proceedings of the House.

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Temporary Deputy Chairman, you know I am never unreasonable. On the face of it, the proposal by the Senior Counsel looks perfectly in order. Of course, I am senior than him in the profession but he is a Senior Counsel and a very serious lawyer at that.

Let us start with the basics. On many afternoons, the Leader of the Majority Party reads what would be happening the following week. He even did it this afternoon. That does not make it wrong. He does not even need to consult with anybody. He just brings programmes that are coming the following week.

We also have the HBC. I am not a member but in the absence of the Speaker, I have managed to attend about two or three of its meetings. I realised that actually the Leader of the Majority Party and the Leader of the Minority Party consult and that is how these things come to the House. We really do not need to put these things in our rules because they can bog down the issue of questions. In the first place, for the people who are supposed to come and answer questions - I got your first name today Hon. Omboko Milemba Jeremiah - it is the Leader of the Majority Party who will be pushing to see that the CSs come to answer questions. It will not be the Leader of the Minority Party. As I said before, he himself brought the amendment that is for improvement of this thing on a day-to-day basis.

I beseech Members; let us not make it difficult. Let it go through. Unless it is completely unreasonable, this is something that can be improved. You cannot amend one part, like what the Leader of the Majority Party does. For me, it does not matter who is senior and who is not. It is about us having questions answered in good time. What we will be doing is to hold the Leader of the Majority Party to account. If he delays, we hold him to account. That is the position. I really request Members, please let us proceed and finalise this matter.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Junet.

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Chairman, I am speaking on behalf of the minority, not on behalf of Nakuru people. I am totally convinced by the way the Deputy Speaker has put the matter. But we are learning from past mistakes. In a presidential system, if we were to look at it critically, as a House, all of us are members of the legislative arm of government and there is no Executive here. Some of the chairs of committees should have come from the minority side but, the other side taught us lessons that it is winner-take-all. Sometimes their minds are doctored that they are part of the Executive when some of them are just suffering Members of Parliament like me.

So if the Leader of the Majority Party stands here and promises that he is going to be impartial, he is the Leader of the Majority Party for the whole House and he is going to direct all

the questions properly. We will examine the matter for six months and we will bring amendments if he does not perform according to the expectations of both sides of the House.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I will give opportunity to a few other Members so that we close this matter. Hon. Jude Njomo.

Hon. Jude Njomo (Kiambu, JP): Hon. Temporary Deputy Chairman, thank you. I have great respect for the Senior Counsel, but I want to remind him that the word “consult” is not as innocent as it looks. If you remember during the *nusu mkate* Government, that word led us into problems. The principals were supposed to consult and it looked like there was not enough consultation. So if we bring back that consultation to this House, things are not going to move. People will start complaining of not being consulted or of things being done without consultation. However good intentions this amendment has, it can bring us into problems as a House. I wish to oppose it.

The Temporary Deputy Chairman (Hon. Patrick Mariru): One last person. Hon. Maanzo.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Chairman. I want to support this amendment for the reason that these are our rules and owing to the fact that we have already followed the Constitution up to now. I believe consultation is good and it will be between the two leaders to make business of the House better.

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

(Several Members stood in their places)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, the numbers are not there.

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

(The new part was read a Second Time)

*(Question, that the new Standing Order No. 42A
be added to the Standing Orders, put and agreed to)*

New Standing Order No. 42B

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by inserting the following new part immediately after Part IX—

General rules on Questions

42B. (1) These rules apply to Questions raised in the House and Questions referred to Committees for reply.

(2) Except as the Speaker may otherwise allow, a Member may not ask a Question which—

- (a) is in effect a speech;
- (b) is lengthy;
- (c) is limited to give information;
- (d) is framed so as to suggest its own reply or to convey a particular point of view;
- (e) includes extracts from newspapers or quotations from speeches;
- (f) contains any argument, inference, opinion, imputation or ironical or offensive expression or epithet;
- (g) seeks an expression of opinion;
- (h) repeats in substance a matter already addressed by a Committee of the House or in the course of debate in the House during the same Session;
- (i) refers to more than one subject;
- (j) includes the name of a person or a statement not strictly necessary to render the Question intelligible;
- (k) contains an allegation which the Member is not prepared to substantiate;
- (l) implies an allegation of a personal nature or which reflects upon the conduct of a person whose conduct can only be challenged through substantive Motion or upon the conduct of any other person otherwise than in that person's official or public capacity;
- (m) relates to a matter which is *sub judice* or which by any written law is secret pursuant to Standing Order 89 (*Matters sub judice or secret*);
- (n) falls within the functions and powers of county governments as contemplated under Part II of the Fourth Schedule to the Constitution;
- (o) seeks a reply that is readily available in ordinary works of reference or official publications;
- (p) refers discourteously to a friendly country, a Head of State or Government or the representative in Kenya of a friendly country; or
- (q) refers to a matter under consideration by the House or a Committee.

(3) A member shall take responsibility for accuracy of the facts upon which a Question is based.

(4) A Member may, with leave of the Speaker, ask a supplementary question to a Question raised in the House before it is referred to a Committee for reply.

(5) Where the Member scheduled to raise a Question in the House is absent without the Speaker's approval, the Question shall be dropped and no further proceedings shall be allowed on the Question during the same session.

(6) The Speaker may defer a Question to a different time or day from its scheduled time and day.

Basically, these are rules on questions: brevity, how it is framed. This had been explained very well by Dr. Nyikal. It is basically rules on how questions will be done. Thank you.

(Question of the new part proposed)

(New part read the First Time)

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

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is it, Senior Counsel Otiende?

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Hon. Temporary Deputy Chairman, I have looked around, and I am not sure we have quorum. I beg to be guided.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Ring the Quorum Bell.

(The Quorum Bell was rung)

Order Members, let us resume business now that we have quorum. I had proposed the Question on Standing Order No.42B. Let us proceed from there.

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

(The new part was read a Second Time)

*(Question, that the new Standing Order No. 42B
be added to the Standing Orders, put and agreed to)*

New Standing Order No. 42C

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by inserting the following new part immediately after Part IX—

Manner of Disposing Questions in a Committee

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42C. (1) A Cabinet Secretary shall provide physical and electronic copies of the reply to a Question at least a day before appearing before a Committee.

(2) Subject to Standing Order 42A (Notice of Question), a Committee shall dispose of a Question in the sequence it appears in its Schedule of Questions or as its Chairperson may direct.

(3) The Chairperson may allow a Member to ask a supplementary question which relates to a Question referred to a Committee.

(4) Where a Chairperson allows Members to ask supplementary questions, the Chairperson shall give first priority to the Member who asked the Question referred to a Committee for reply.

(5) Where the Member who raised a Question referred to the Committee is absent without the Chairperson's authority, the Question shall be dropped and no further proceedings shall be allowed on the Question during the same session.

(6) The Chairperson of a Committee may—

(a) defer a Question to a different time or day from its scheduled time and day; or

(b) direct a Cabinet Secretary to provide additional information or a further reply to a Question or supplementary questions raised in the Committee.

This is basically the mode of replying. The question can be dropped or transacted. It can be dropped when the Member is not there.

(Question of the new part proposed)

(New part read the First Time)

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

Question, that the new part be read a Second Time, put and agreed to)

(The new part was read a Second Time)

(Question, that the new Standing Order No. 42C be added to the Standing Orders, put and agreed to)

New Standing Order No. 42D

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by inserting the following new part immediately after Part IX—

Questions for Written Reply

42D. Where a Member prefers a written reply to his or her Question—

(a) the Speaker shall direct that a written reply be provided in respect of the Question; and,

(b) the Clerk shall forward the Question to the relevant Cabinet Secretary and, upon receipt, provide the written reply to the Member.

Hon. Temporary Deputy Chairman, basically, this is the issue of the timeline for replying and the fact that the Speaker determines – and maybe this will cure what the Members were speaking about – a question which is urgent and when the CS should respond to it.

(New part read the First Time)

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

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

(The new part was read a Second Time)

(Question, that the new Standing Order No. 42D be added to the Standing Orders, put and agreed to)

New Standing Order No. 42E

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by inserting the following new Part immediately after Part IX—

Timeline for Reply

42E. (1) Subject to paragraph (2), a Cabinet Secretary shall reply to a Question within thirty days of referral of a Question to a Committee.

(2) Where the Speaker determines a Question to be urgent, a Cabinet Secretary shall reply to the Question within three days of referral of the Question to a Committee.

Basically, this gives the timeline to the CS to reply the question within 30 days of referral to the Committee.

(New part read the First Time)

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

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairman. I seek the indulgence of the Mover if he finds love in his heart and if he loves the people of Kenya and is considerate of them, giving the CS a whopping 30 days to answer a question however urgent or not is unnecessarily too long. I request him, with the indulgence and the love for the people of Kenya that yes the urgent question can be answered in three days. Can we reduce the ordinary question to 14 days or not more than 21 days? I seek for his indulgence. I ask him to allow that amendment of 14 days. A breach is too long to cure after 30 days.

Hon. Moses Cheboi (Kuresoi North, JP): I hear my colleague and I want to confirm to him that I have a lot of love in my heart especially to my constituents and family and, number one, my God. You have actually looked at the first part only which takes 30 days. If this is an extremely urgent matter, within three days you will be able to get your answer. It will be up to the Member to choose and the Speaker to approve whether this is an extremely urgent matter just like the Ordinary Question and the Private Members' Question that we used to have. For those Members who have gone through the process, you will notice that 30 days is actually reasonable for the Ordinary Questions. In fact, it used to take more than three months those days and it would be answered. Remember that time we were fewer Members. Here we are more and we are giving 30 days. It is very reasonable but if it is a breach like you have mentioned, it can be answered within three days.

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

(The new part was read a Second Time)

(Question, that the new Standing Order No. 42E)

be added to the Standing Orders, put and agreed to)

New Standing Order No. 42F

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Standing Orders be amended by inserting the following new Part immediately after Part IX—

Report on Questions

42F. The Chairperson of a Committee shall submit a progress report to the House on Questions—

(a) referred to the Committee;

(b) replied to;

(c) which the Committee has directed a Cabinet Secretary to provide additional information or further reply; and

(d) pending before the Committee.

This is basically to give the progress report on questions so that we can track how our questions are going within the ministry.

(New part read the First Time)

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

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

(The new part was read a Second Time)

*(Question, that the new Standing Order No. 42F
be added to the Standing Orders, put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we are done with the consideration of that. Let us have the Mover.

Hon. Moses Cheboi (Kuresoi North, JP): The Leader of the Majority Party here is actually confusing me with a Press conference. He likes Press conferences including one that is in his neighbourhood.

Hon. Temporary Deputy Chairman, I beg to move that the Committee does report to the House its consideration of the National Assembly Standing Orders and their approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Deputy Speaker

(Hon. Patrick Mariru) in the Chair]

REPORT AND CONSIDERATION OF REPORT

PROPOSED AMENDMENTS TO THE STANDING ORDERS

Hon. Junet Nuh (Suna East, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is your point of order?

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Speaker, this is a House of tradition and procedure and the last time I observed, when the Committee of the whole House is done, I used to see the Speaker being escorted to the Chair. What is happening now is you are behaving like somebody who is hiding.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Junet, the Speaker was actually escorted. You did not see.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order! What is it, Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, what Hon. Junet has raised is very substantial and I am an old Member here. There are rituals. There is no way the Speaker can be the Chair and leave the Chair and go. It can only happen with the approval of the substantive Speaker because there are traditions. We used to hear "Mr. Speaker" or "Madam Speaker." The change of guard in the House should be ceremonial. It should not be the way Hon. Junet does when he is in Suna East and the moment he sees Obado coming, things change. When it is just Governor Obado coming and the other side he sees Ochillo Ayacko coming, then you cannot sit. The problem is the other Members of the panel are not here. I think in future you must read the riot act to the other people whom we have given offices, but for now I think we can forgive.

The Temporary Deputy Speaker (Hon. Patrick Mariru): That is noted. Shall we now proceed? Let us have the Chairperson.

Hon. (Dr.) Naomi Shaban (Taveta, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered amendments to the National Assembly Standing Orders and approved the same with amendments.

Hon. Moses Cheboi (Kuresoi North, JP): Hon. Temporary Deputy Speaker, I beg to move that the House does agree with the Committee in the said Report. I request the Leader of the Majority Party, Hon. Duale, to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. It is a good afternoon that those who purported to introduce consultation in the House leadership have lost. I can see they are not here. I want to go on record, having worked with Hon. Nyenze and Hon. Jakoyo. Hon. Mbadi is far much better in terms of the consultations, of course, precipitated by the famous handshake. My life now is a bit easier. I represent a party that has 175 Members in this House. So, with or without the handshake, still the Jubilee Government agenda will move but, of course, with the handshake, it is better than nothing.

I beg to second and thank all the Members, including Hon. Junet and Hon. Gladys Wanga. I know why she opposed but for the future, I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, you know the Speaker has to be completely satisfied. That is why there is a Speaker.

(Question put and agreed to)

(The New Standing Orders were accordingly approved)

Hon. Members, we have dispensed with that. Let us move on to the next Order.

BILL

Second Reading

THE FINANCE BILL

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I beg to move that the Finance Bill be now read a Second Time.

Thank you, Hon. Temporary Deputy Speaker for giving me this chance to introduce the Finance Bill. This House is aware that the Finance Bill, 2018 was published on 19th June 2018 and its First Reading done subsequently on 3rd July 2018. Further to that, you may recall that the Cabinet Secretary, the National Treasury, during this year's Budget Speech highlighted that this year's Finance Bill is geared towards raising an additional Kshs27.5 billion to finance the 2018/2019 Budget.

For avoidance of doubt and may be to bring the new Members of this House up to speed, the Budget in this country is divided into two, namely, the expenditure side as prosecuted by the Budget and Appropriations Committee and the revenue side which is prosecuted by the Departmental Committee on Finance and Planning through the Finance Bill. It implies that the

Finance Bill proposes several changes or introduces new measures which the Government is proposing to this House for approval for the purpose of raising revenue to run the country.

It is noted that the Finance Bill introduces various tax incentives which are principally meant to spur economic growth as well as funding the Government's Big Four Agenda. To that effect, this particular Big Four Agenda focuses on food, security, construction of affordable housing units, provision of universal healthcare and increasing the share of manufacturing for value addition and job creation. It is estimated that the total projected expenditure and the net lending for the 2018/2019 Estimates amounted to Kshs2.533 trillion to be financed through the ordinary revenue of Kshs1.743 trillion and A-in-A of Kshs179.95 billion. Expected external grants will, therefore, amount to Kshs47 billion bringing the total revenue to Kshs1.9 trillion. This leaves a fiscal deficit of Kshs562 billion to be financed through debt. The proportion of revenue estimates to the Gross Domestic Product (GDP) for the 2018/2019 Financial Year stands at 19.6 per cent which is approximately equivalent to that of 2017/2018 Financial Year.

The full financing of the Budget depends on the implementation of the planned tax-enhancing proposals in the Finance Bill. These include the tax administration reforms through modernisation of the Value Added Tax (VAT) systems, reducing zero-rated products through the Tax Laws (Amendment) Bill which we moved in this House somewhere in mid this year and the tax base expansion through targeting nil and non-fillers ensuring that all the national Government and county government suppliers are tax compliant. That is why the Government, through the Kenya Revenue Authority (KRA), has been campaigning a lot to ensure that all Kenyans are tax compliant, especially through promotion of self-assessment and filing of returns on time.

At a later stage on this particular Bill, we will be touching on some measures which have been put in place to ensure that the tax return process is made friendlier and flexible. It is also the intention of the Government, in this particular Bill, to reduce diversion of transit cargo through electronic cargo systems. You will realise that currently, the KRA, even when you are moving around the country, you see some trucks which are stationed strategically along the highway. Those are the trucks which ensure that all the goods which are destined for the neighbouring countries actually leave the country so that no goods are dumped in the country and, therefore, do not affect our tax collection.

There is also an effort to improve custom systems and border control. There is a planned repeal of the Income Tax Act. The Income Tax Act which is currently being used is old. There is an intention to repeal it and replace it with a more progressive new Tax Act. It is expected that this will greatly influence the collection of income taxes positively, which will enhance tax collection especially if tax waivers and exemptions are reduced as much as possible or even removed.

In processing the Bill, the Committee invited comments from the stakeholders in line with Article 118 of the Constitution which requires that for everything we do in this country, we must involve the public. I wish to confirm that during the processing, a total of 43 institutions and individuals responded through memoranda and at the same time, several of them appeared before the Committee. The Committee held public hearings between Wednesday 1st to Friday 3rd August 2018 in Taifa Hall at the Kenyatta International Convention Centre (KICC). This was particularly to ensure that the public participation meetings were accessible as much as possible to the public, including the members of the public who were walking. It was on 3rd from 11 a.m.

I confirm that this Committee opened its doors for any member of the public who was invited or willing to come. It was a walk-in between 11.00 a.m. and 4.30 p.m. I am pleased to say

that the Committee was impressed to note that the members of the public participated in a very interesting way. For the first time, there were some members of the public who came but they did not have a memorandum. They did not have anything in their hands. They came and contributed during this public participation. They were well informed. They used lay man language, but at the end of the day, they passed a message which touches on tax collection and service delivery. The Committee was impressed to see the interest which was shown by members of the public who wrote and appeared before the Committee during the hearings. I wish to state that there were particular individuals who displayed a lot of knowledge and interest on this Bill. I wish to thank all of them.

I want to mention some individuals who did very well. One of them is Mr. Ernest Muguku Muriu who is a practising accountant and an auditor. He practises in a very small way. He displayed a lot of capability. He cracked some particular topics which very big organisations of auditors in this country cannot crack. I also recognise Mr. Brian Mbugua, Mr. Henry Ongoe and Mr. Njoroge Waweru who is one of the individuals who appeared without a written memorandum. He expressed himself very well.

In summary, I wish to explain what Finance Bill touches on. It addresses very important issues. Clause 3 of the Bill touches on dividends which is reduction of income. This Bill is changing the understanding of what dividend is. The current understanding of dividends is that it is a distribution of profit by companies. There are certain situations where certain companies distribute dividends by paying expenses on behalf of the shareholders. This Bill will treat such payments as dividends, even before the dividends are declared. The Bill is also changing the way compensating tax is treated. Currently, compensating tax is paid by companies which are not taxed in the initial stage. There are companies which are not in the bracket of companies which are taxed because they enjoy certain privileges. When they pay dividends, they used to be taxed in a special way. However, the Bill proposes that they will pay a straight tax of 30 per cent which would have been paid by the company, if it was being taxed.

To try to expand the revenue collection, the Bill proposes to introduce tax on demurrage charges and insurance premiums which currently is not being paid. At the same time, there is turnover tax which is paid by the informal sector. This Bill proposes to abolish that and introduce presumptive tax which will be paid by any business entity or individual who has a turnover of less than Kshs5million. This tax will lessen the complexities of collection of taxes from small businesses. It will be pegged on acquisition of single business permits. This will lessen the long procedures of computing presumptive tax because it will be pegged on the fee which business people pay to acquire single business permit. It will be pegged at 15 per cent of what they pay. If you are paying Kshs1000, it is 15 per cent of that which is a modest fee. This will help to collect taxes from so many people. Therefore, this tax is trying to net as many people as possible.

On the Big Four Agenda, there is an incentive which is being given to all the manufacturers on electricity cost. They will be allowed another extra 30 per cent deduction on electricity cost. Currently, all manufacturers are allowed 100 per cent deduction on their profit. On top of that, there will be another extra 30 per cent deduction on the cost of electricity. This will encourage manufacturers.

Clause 8 of the Bill proposes 5 per cent capital gain on properties which are transferred by general insurance companies. They are not taxed currently. This Bill introduces 5 per cent tax on transfer of property by insurance company for general insurance business. To encourage use of solar energy, the Bill proposes an exemption of specialised solar equipment and accessories. It is modified, so that it is limited to the equipment for the development and generation of solar and

wind energy. This will encourage investments in solar and wind energy, and development of clean energy in the country.

To fight counterfeit goods which is a threat to production and development of industries in this country, this Bill proposes to give power to the Kenya Revenue Authority Commissioner General to suspend licences on account of violation of health and safety standards. Any business entity in this country which will be found to have violated the health and safety standards of any kind will risk their licence being cancelled by the Commissioner General.

To encourage inflow of foreign currency to the country, there was an amnesty which was given to Kenyans who have various investments outside. They were given an amnesty which ended in June 2018.

Hon. Temporary Deputy Speaker, the Bill proposes to extend this amnesty for a further one year between 30th June 2018 and 30th June 2019. If this is approved, it will encourage inflow of foreign currency to the country.

The Bill, aware that the Government is putting in place procedures and systems to ensure that there will be affordable housing in the country, proposes to introduce the housing mortgage business which will encourage and will be linked to the proposed National Housing Fund. To tackle that, there is a proposal to introduce the National Housing Development Fund. The Fund is equivalent to what has been done in other countries. Some of the countries that have been successful are South Africa and Singapore. This proposal elicited a lot of controversy. People asked many questions concerning how they will contribute to the Housing Fund and what the procedure of getting an allocation out of the Fund will be. Kenyans are fearful and have a history of mismanagement of funds. In the course of deliberations, we had a lot of engagement with various Government agencies including the Principal Secretary of Housing Department who is an expert in this area. He has worked outside the country and has a lot of knowledge. To clear the air on the Housing Fund, any contribution by any member of the public to the Housing Fund will not be lost. The money will be kept in an account of that individual and upon retirement, if the member has not benefitted by being allocated a House, the member will get a refund plus a return on the contribution he has made. So, a procedure will be put in place and with the use of IT system, allocation will be done randomly and whoever who will benefit will not again benefit a second time.

The cost of the housing will be lower because the designing will be done in wholesale. So the public will benefit from economies of scale. Therefore, the fears from the unions were put to rest with the explanation that it is a saving scheme and no one will lose money. You will be refunded upon retirement if you did not benefit. It is just like the National Hospital Insurance Fund (NHIF) but this one is special because you will be refunded in case you do not benefit.

Another proposal in this Bill is on Accountants Act. Currently, accountants have received a serious beating especially when there are corruption cases in the country. To tackle that, the accountants' body is proposing some amendments to the Accountants Act. Currently any accountant is an accountant. To be a member of the Institute of Certified Public Accountants, you must have completed all the sections of the accountants' course. But currently, almost every organisation has an accountant who has done CPA1, CPA2 or even elementary but call themselves accountants and when they engage in fraud, it is said they are accountants. So, the accountants' body has no control over such members. So, to beat that, they are proposing that anybody in this country who wishes to do accountancy examination must register at the institute as a member but will be treated as a student member and will be registered free of charge so that it does not prohibit students. They will be treated as student members until they complete their

examination then they will become full members. So in the event there are corruption cases touching on a particular member, the institute will discipline such a member and therefore the blame will not be on them.

Currently, lawyers have some fee published and it is official. Currently, accountants just negotiate their fee. There is no published fee. So, to make accountancy a real profession which is respected, the Bill also proposes accountants fee to be published by the Cabinet Secretary in charge of the National Treasury. It will be standard and will make accountancy a professional.

As we were deliberating on the Finance Bill, there are issues that have come up and have been discussed everywhere in the county. People have been crying that fuel cost will come up because VAT will be introduced by the Finance Bill, 2018. I want to put the record straight. The Finance Bill, 2018 has not recommended introduction of VAT on petroleum products. The Finance Bill, 2016 introduced VAT on petroleum products: petrol, diesel and kerosene. But that particular clause as passed by the 11th Parliament was not effected then but was suspended by the CS, National Treasury for three year. That three-year period is ending on 31st August 2018. If the CS does not do that on effective date of that law, it will mean that on 1st September 2018, VAT on petroleum products will be effected. So, it is not this Bill that introduced the VAT on petroleum products. I have said this so that as Members contribute, they do not attack this Bill but rather refer to the Finance Bill, 2016 and probably urge the CS to suspend it for a further period. It is always good to be on record. You know we must maintain relevance when contributing. A member may contribute to something which is not there and when challenged which clause has it, you realise it is there.

Finally, Robin Hood Tax has been controversial. It is a tax which is designed to tax the better endowed people and help the lower to get better life. As it is designed in this Bill, it proposes to introduce a charge of 0.05 per cent for every transfer of amount exceeding Kshs500,000 from one account to another. For avoidance of doubt, when you compute Kshs500,000, the percentage translates to Kshs250. That tax is ring-fenced for the purpose of providing universal healthcare for our people. So, this particular proposal, if passed, will have all the money collected channelled to provision of universal healthcare.

During the discussions we had with the stakeholders, they had a lot of observations. Our Committee, will at the Committee Stage, introduce some amendments to do exceptions. Exception means it will not make sense, for instance, to charge a tax to transfer money from your own account to your other account. If you are transferring your own money from one account to another, then it will not be a complete transaction because it is your money moving. It is like moving money from your pocket to another pocket. There must be a display that money moved from your pocket to another person's pocket. Those exceptions will be moved during the Committee Stage including money being transferred from one Government account to another, county government accounts, national Government and KRA to another KRA account.

Some of the other issues which were raised by the stakeholders are like investment account. For instance, if you are buying shares as an individual, when you transfer money to your broker, if the brokerage firm is charged for transferring money to buy you shares, then they will transfer the cost to you. Effectively, they will be exempted from that as long as they are buying shares or Treasury Bills on behalf of customers. If they are buying for their own investment, then they are charged. That is just but among the many other exceptions.

Finally, it is the elephant in the House which people have been talking about. This Finance Bill has 71 clauses. Among those 71 clauses, only one is what is called Banking Act Amendment which touches on the capping of interest rates. It is proposing to repeal Section

33(b) of the Banking Act. Effectively, what it means once repealed, is that it will release the interest rates to be determined by the market. After long deliberations and listening to the Kenyans, we were unable to support that particular amendment the way it is. The Committee discussed and considered comments from the members of the public. During the introduction of the interest capping, for avoidance of doubt, and to bring to speed anybody in this country who is not very conversant with what it is, it introduced the upper cap and the lower cap. The lower means if you have money and you want to deposit into an account, the bank is restricted to give you interest up to a certain level. If you are borrowing money, the cap means the bank has been restricted not to go beyond a certain interest rate.

A lot of interest is on the upper cap. That means the lower cap has been attacked seriously. It has been called a lot of names including draconian and all that. Our Committee, having discussed for a long time, proposed that we retain the status quo but we remove the lower cap so that the banks and the customers are left to discuss about the interest rate to be given on the savings. On the loans, we were unable to get real justification. We were also unable to see what the banks have done to build capacity of Kenyans. The reason banks are unable to give Kenyans loans freely is that there is a lot of risks involved but what are the banks doing to build capacity of Kenyans so that they become low risk? Because of that, we were unable to convince ourselves to remove it. Far from the truth, we have not removed the cap; we are proposing to remove the lower cap only.

At a later stage, if you look at our Report, there is a proposal to introduce Kenya Banks Reference Rate (KBRR) in lieu of Central Bank Rate (CBR) but we are moving a further amendment to delete that and return to CBR. That means the rate will be based on the CBR not the KBRR. We have confirmed that KBRR was not even effected, it is not operational currently. We are going to move that amendment at the Committee Stage.

I finish by appreciating the support we received from the Speaker, the Clerk of the National Assembly, the staff of the National Assembly and the Members of the Departmental Committee on Finance and National Planning who were dedicated. They did a lot. They spent a lot of time discussing this particular Bill. For this country to develop, we need to engage ourselves and talk more on predictability of our tax policy. We need to assure the investors that our country is both predictable and stable. We are not going to convince the investors to come to this country if we are not very stable and predictable. We are also of the view that we must relook at a way of enhancing our tax without necessarily increasing the number of taxes we levy but rather collect tax in small amounts from so many people.

I beg to move and invite our Vice-Chair, Hon. Waihenya Ndirangu, to second.

Thank you.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Temporary Deputy Speaker. I commend my Chair for moving this Bill adequately and sufficiently. I will just point out a few highlights because he has enumerated most of the key points in the Bill. Perhaps, what he forgot to mention is that this Bill is also introducing an export levy on copper waste and scrap metal at the rate of 20 per cent. The Scrap Metal Act of 2015 banned the exportation of scrap metal unless the exporter had obtained the necessary authorisation from the Cabinet Secretary. This provision is supposed to help the local iron mongers and iron smelters so that we can create employment and ensure that we have helped them in providing raw materials to enable them manufacture iron bars, iron sheets *et cetera*. This will help us in promotion of the manufacturing aspect in the Big Four Agenda.

Another item is Clause 8 which is providing 30 per cent subsidy on electricity consumption particularly for manufacturers. Kenyan manufacturers have been complaining, particularly in the last three years, that the cost of electricity is prohibitive. It makes our locally manufactured goods not competitive to those imported from other regions. So, this reduction of cost or subsidy will make their products cheaper.

Hon. Temporary Deputy Speaker, there is an aspect in this Bill of making sure we remove duty on items and specialised equipment for the development and generation of solar and wind energy. Contrary to what has been said in the media that we are upping the cost of kerosene, our Committee rejected that proposal of increasing the cost of kerosene. We assure Kenyans that there would not be an increase in the cost of kerosene. This morning I heard a Member of Parliament indicating that this Finance Bill contains provisions for us to levy VAT on fuel. That law was passed in the 11th Parliament and it is going to take effect on 1st September. It is not in this Finance Bill. We persuade Members of Parliament to know that, that provision is not in this Finance Bill. That is an Act of the last Parliament. It is only the CS who has power, within the regulations, to revoke it or suspend it even for a longer period.

Much has been said about the Robin Hood tax. The Government is aiming to collect this money so that it can proceed to fund universal healthcare. But, when we heard Kenyans and other organisations appearing before us for public participation, we were persuaded to accept their propositions. Therefore, we proposed eight exemptions. Amongst them is transfer where 0.05 of this tax will not be levied on transfer of taxes to or tax referred from the Kenya Revenue Authority. It will not be applicable to transfers from the KRA collection accounts at the Central Bank of Kenya. It will not be applicable to transfers by or to the national Government, county governments or the CBK neither will it be applicable to transfers relating to the purchase and sale of shares and securities at the Nairobi Stock Exchange (NSE). They will not be applicable to transfers to and from the registered Retirement Benefits Scheme. It will not appear in inter-bank transfers or banks and non-bank financial institutions or between non-bank financial institutions. It will not be applicable to transfers between accounts belonging to the same person within the same bank or financial institution. To make it more democratic, we have given the power to the CS in charge of the National Treasury to include any other category that he deems fit. So, we have tried as much as possible to ensure that the Robin Hood Tax will not be painful to the ordinary person or organisations that deal with ordinary persons or to their transactions.

With those few remarks, I second this Finance Bill and invite Members to move with us. Thank you, Hon. Temporary Deputy Speaker.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): I will be guided by the way Members have registered interests on this. Hon. Kiarie.

Hon. John Kiarie (Dagoretti South, JP): Thank you very much Hon. Temporary Deputy Speaker for giving me this opportunity. Before I say anything, I would like to register that I recognise this is going to be among the most critical matters that will come for consideration by this House in this Session. Kenyans are watching. They are keen to see how we are going to interact with this Bill and, ultimately, what we are going to pass for them.

As this debate goes on, there are going to be a lot of issues that will be raised. I know Members have a lot of interest on quite a number of issues. That is why I am going to restrict myself on just two issues that I pick up from this Bill as has been presented today.

The first thing is to do with Section 58 which is coming up for repeal as presented here. In it, the Bill proposes a repeal of Section 33. To my mind, Kenyans will be watching this House and how we interact with this proposal. There is word around town that there is a lot of pressure for the interest caps to be lifted in this country. I am happy to hear what the Chairman has reported to us about this matter, especially to do with the CBR as compared to the KBRR. Of concern to Kenyans is whether there is pressure from other forces beyond this nation and our borders for us to revisit the issue of interest caps. It should not be lost to this House that the people of Kenya, in awarding themselves a constitution, did dictate that this is a sovereign state. Beyond that, they went further to decide how governance shall be conducted in this country. One of the issues we stand by as a country is the principle of democracy; so much so that even this House as constituted is a product of democracy. Kenyans are very concerned to hear if we are receiving any pressure from institutions that are not, themselves, democratically formulated. The issue or word around town is that there is pressure from the Bretton Woods Institutions such as the International Monetary Fund on how to conduct our affairs as a country. I do not want to belabour that point. However, I would like it to be noted that Kenya cannot be receiving directions, as a democratically constituted country, from people who are not a product of a democratic process.

I would like to anticipate the discussions that will be happening when we go into the Committee of the whole House and report here and now that I shall also be introducing some amendments to this Finance Bill. Of concern, which is my second point, is Clause 31 where there is a proposal that the First Schedule to the Excise Duty Act, 2015 be amended and further, paragraph (5), says that excise duty on fees charged for money transfer services by banks, money transfer agencies and other financial service providers shall be 10 per cent of the excisable value. I would like to say that going by the reports, we are told that as we speak today, more than half of Kenya's GDP in terms of value is being transacted on mobile money transfer platforms.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Waweru Kiarie! I am afraid the House must rise because it is 7.00 p.m. Nevertheless, your time is reserved when this business comes back and you will have ten minutes to prosecute.

Hon. Members, time being 7.00 p.m., this House stands adjourned till Tuesday 28th August 2018, at 2.30 p.m.

The House rose at 7.00 p.m.