

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Thursday, 21st November, 2019

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

Hon. Speaker: Let us have the Chair of the Committee on Delegated Legislation.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Speaker, I beg to lay the following Paper on the Table of the House today, 21st November 2019:

Report of the Committee on Delegated Legislation on its consideration of the Central Bank of Kenya (Mortgage Refinance Companies) Regulations, 2019 (Legal Notice No.134 of 2019).

Hon. Speaker: Dr. Makali Mulu, there is something you are supposed to table.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Proceedings of the 50th CPA Africa Region Conference held in Zanzibar, United Republic of Tanzania, from 30th August to 5th September, 2019.

Hon. Speaker: Very well. Let us have the Chairperson of the Departmental Committee on Lands.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Lands on its consideration of the following petitions:

- (i) By the residents of Kuresoi North Constituency regarding allocation of land to the Kuresoi Divisional Headquarters;
- (ii) By Mr. Phillip Njuguna on behalf of Kandara Residents Association regarding irregular renewal of leases of land by Del Monte Kenya Limited;

- (iii) By the residents of Ikolomani Constituency regarding delayed compensation of land owners for the expansion of Sigalagala-Musoli-Bukura-Butere Road No.D260;
- (iv) By the Matisi Community regarding compensation of land owned by the community along Kitale-Endebess-Suam Road; and,
- (v) By Ms. Juliet Nyaguthii regarding public access and use of public utility plots in Nakuru East Ward in Nakuru County.

Hon. Speaker: Very well. Let us move on to the next Order.

NOTICE OF MOTION

ADOPTION OF REPORT ON THE CENTRAL BANK OF KENYA (MORTGAGE REFINANCE COMPANIES) REGULATIONS

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Speaker, I beg to give notice of the following Motion:

THAT this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Central Bank of Kenya (Mortgage Refinance Companies) Regulations, 2019 (Legal Notice No.134 of 2019), laid on the Table of the House on Thursday, November 21st 2019 and, pursuant to the provisions of Section 18 of the Statutory Instruments Act 2013 and Standing Order No.210(4)(b), annuls Regulation Nos.26(2) and 42 of the said Regulations.

Hon. Speaker: Next Order!

ORDINARY QUESTIONS

Question No.501/2019

ILLEGAL SUB-DIVISION OF KAMUTHI FARMERS' CO-OPERATIVE SOCIETY LAND

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Speaker. I ask Question No.501/2019 directed to the Cabinet Secretary (CS) for Lands and Physical Planning:

- (i) What is the status of ownership of Land Reference No.71/7 which was originally set aside for Kamuthi Farmers' Co-operative Society Ltd. in Roysambu Constituency for public purposes?
- (ii) What action is the Ministry taking to cancel the illegal sub-division and fraudulent allocations of land hived off from the said public land?
- (iii) When will the Ministry issue title deeds to the members of Kamuthi Society and for the public utility?

Hon. Speaker: The Question is to be replied to before the Departmental Committee on Lands. The next Question is by the Member for Mathira.

Question No.507/2019

DELAYED PAYMENTS IN OLDER PERSONS CASH TRANSFER PROGRAMME IN MATHIRA

Hon. Rigathi Gachagua (Mathira, JP): Thank you, Hon. Speaker. I wish to ask Question No.507/2019 to the CS for Labour and Social Protection:

- (i) Could the Cabinet Secretary provide a list of beneficiaries under the Inua Jamii Programme in Mathira West and East Sub-Counties?
- (ii) Could the Cabinet Secretary further provide the number of residents of Mathira Constituency under the Older Persons Cash Transfer Programme who are yet to receive their benefits since they were registered?
- (iii) Could the Cabinet Secretary explain why beneficiaries under the Older Persons Cash Transfer programme in Mathira Constituency have stopped receiving their payments?

Hon. Speaker: The Question is to be replied to before the Departmental Committee on Labour and Social Welfare.

The next Question is by the Member for Mombasa County, Hon. Asha Mohamed.

Question No.508/2019

FAILURE TO RELEASE KCSE CERTIFICATES IN MOMBASA COUNTY

Hon. (Ms.) Asha Hussein (Mombasa CWR, ODM): Thank you, Hon. Speaker. My Question goes to the CS for Education:

- (i) How many school leavers are yet to receive their school certificates from their former learning institutions due to fees balances in Mombasa County?
- (ii) Could the Cabinet Secretary state the action taken against secondary schools that are yet to release Kenya Certificate of Secondary Education (KCSE) certificates to all former students in Mombasa County in compliance with the Government directive of July 2014?

Hon. Speaker: Very well. The Question is to be responded to before the Departmental Committee on Education and Research.

The next Question is by the Member for Kacheliba.

Question No.509/2019

CONSTRUCTION OF KONYAO-KASEI ELECTRICITY LINE

Hon. Mark Lomunokol (Kacheliba, PDR): Thank you, Hon. Speaker. I rise to ask to Question No.509 of 2019 to the CS for Energy:

- (i) When will the construction of Konyao-Kasei Electricity Line in Kacheliba Constituency be completed, considering that it was started seven years ago?

- (ii) What plans does the Ministry have to address the frequent power outages in Kacheliba, Orolwo, Kodich, Konyao, Losam, Natemer, Kiwawa and Alale towns and other centres in Kacheliba Constituency which have affected businesses as well as damaged household electrical equipment and hospital equipment?

Hon. Speaker: The Question is to be responded to before the Departmental Committee on Energy. Finally, Question by Member for West Pokot County, Hon. Tomitom.

Question No.510/2019

ILLEGAL TRANSFER OF TEACHERS LIVING WITH DISABILITIES

Hon. (Ms.) Lilian Tomitom (West Pokot, CWR, JP): Thank you, Hon. Speaker. I will ask Question No.510 of 2019:

- (i) Could the Commission explain why Miss Martha Lorot, TSC No.369861, a teacher living with disability and a single mother teaching at Alale Primary School in Kacheliba Constituency, West Pokot County, was transferred to Trans Nzoia County about 600 kilometres away from her former school under the teachers' delocalisation policy?
- (ii) Following the delocalisation policy which clearly states that teachers living with disabilities be exempted from the transfers or delocalisation, could the Commission exempt the teachers living with disability from arbitrary transfers through the delocalisation policy?
- (iii) Could the Commission consider reversing the transfer of the said teacher, Madam Martha Lorot, taking into account her disability status?

Hon. Speaker: The Question is to be forwarded to the Teachers Service Commission for a written reply to the Questioner.

There is a request for statement by Hon. Jude Njomo.

REQUESTS FOR STATEMENTS

STALLED ACCOMMODATION WORKS AT DOD

Hon. Jude Njomo (Kiambu, JP): Thank you, Hon. Speaker. Pursuant to Standing Order No.44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Defence and Foreign Relations regarding pending bills in respect to construction of single accommodation works for the Department of Defence (DoD).

It is of concern that there have been outstanding pending bills with respect to works being undertaken by the DoD on construction of other ranks single accommodation. The project was initiated on or about 2011, covering various stations, barracks and bases.

It is against this background that I seek a statement from the Chairperson of the Departmental Committee on Defence and Foreign Relations on the following:

- (i) What is the completion status of the project's total cost and how much has been paid to date?
- (ii) What is the total amount certified for payment to contractors? How much has been paid to date and how much is pending bills?
- (iii) Could the Ministry give names of consultants appointed to provide professional services for the project and their countries of origin?
- (iv) What is the total amount invoiced by the professional consultants? How much has been paid to date and how much is pending?
- (v) What measures have been put in place by the Ministry to clear all outstanding bills related to the said projects?

Hon. Speaker: The Chair of the Departmental Committee on Defence and Foreign Relations is right in front of you. Could he give an indication as to when he can respond?

Hon. Katoo ole Metito (Kajiado South, JP): Hon. Speaker, maybe, Thursday next week.

Hon. Speaker: Yes, Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, there is a direction by the Government that all pending bills should be paid by the 30th of this month. I hope that, as the Chair brings the statement, he also brings the cheque and a copy of the payment to the Member because Thursday, next week is very close to the deadline. He can bring documentation showing that those Kenyans have been paid their money.

Hon. Speaker: Yes, Hon. Katoo.

Hon. Katoo ole Metito (Kajiado South, JP): Hon. Speaker, I am not actually disputing what the Leader of the Majority Party is saying. I want to amend my earlier commitment of Thursday, next week because I have remembered that, the whole of next week, the Departmental Committee on Defence and Foreign Relations will be in Mombasa, with your permission, together with the Departmental Committee on Justice and Legal Affairs for a seminar up to 28th November, which will be Thursday, next week. So, please, allow me to respond on Thursday after next week. According to the House Calendar, that will be 5th December; we might be adjourning.

Hon. Speaker: Well, maybe, we will be saying that the bills have already been paid.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, Hon. Katoo is picking the last day and next time. As per the Calendar, this House is going to resume somewhere in February. I want you to use your powers now and ask the Committee to give an answer before the House goes on recess, so that the House can get recourse. If he does it on 5th December, he can bring any answer then the payment will not be made.

Hon. Speaker: Hon. Katoo, are you able to give your response on Wednesday?

(Hon. Katoo spoke off-record)

Hon. Speaker: Very well. Next is a statement by Hon. Marwa, the Member for Kuria East.

REHABILITATION OF SECURITY ROADS

Hon. Marwa Kitayama (Kuria East, JP): Thank you, Hon. Speaker. Pursuant to Standing Order No. 44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing on rehabilitation of roads that are of security importance to this country.

The Ministry maintains and rehabilitates certain roads that are said to be of security importance in the country; noting their role in enhancing security and ensuring that critical Government services are provided such as immigration, revenue collection as well as managing international boundaries. Those roads include but not limited to Kababu C13 junction in Migori, Suna West Constituency that connects Isebania One-stop Border Post in Kuria West Constituency; Nyamutiro One-stop Border Post in Kuria East Constituency; Kobanga One-stop Border Post in Suna West Constituency and Loliondo C13 which is in Kilgoris Constituency and other roads in Boni Forest in Lamu County; among others.

The road in Migori County, connecting the three one-stop border posts has not been maintained since 2016. As such, the residents of Migori County, specifically Kuria East Constituency, as well as foreigners visiting Kenya through the border points, are unable to transport their produce to the markets and to take their sick relatives to hospitals because the roads are in pathetic situation. They suffer great indignity in transporting their dead through Tanzania for them to access their homes, so that they can bury their dead.

The Ministry directed the Kenya Rural Roads Authority (KeRRA) Migori Regional Manager to present estimates for rehabilitation of this road to gravel engineering standards. It was cost at Kshs350 million. It is on account of the current neglect of that key road that I seek a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing on the following:

a) Which State Department is responsible for the construction and rehabilitation of roads that are said to be of security importance in this country? I ask this because if you go to the Ministry of interior...

Hon. Speaker: You have asked the Question.

Hon. Marwa Kitayama (Kuria East, JP): (b) Within which specific timelines is the Ministry going to undertake rehabilitation of the said security road?

c) What is the status of rehabilitation and budgetary allocations of all other roads that are regarded as security roads in this country?

Thank you.

Hon. Speaker: The Chairperson who is in front of you can tell us when he wants to give a response. Hon. Pkosing.

Hon. David Pkosing (Pokot South, JP): Thank you, Hon. Speaker. I will respond in two weeks. However, there is nothing called a security road. There is no such classification. I will bring an answer in two weeks. I will give answers on the roads he has asked.

Hon. Speaker: He is a new Member. Maybe in Kuria East, there are some which are classified as such. You will give all that in your Statement.

Hon. David Pkosing (Pokot South, JP): I wanted to give him that advance notice.

Thank you.

Hon. Speaker: Very well. This is the problem with new Members who come and they do not want to learn the basics. Now you think that is debate. A Statement is not a debate.

Hon. Melly, the Chairperson of the Departmental Committee on Education and Research, you were to give a response to a request for a Statement.

STATEMENT

INTERDICTION OF TEACHERS AND WRANGLES BETWEEN TSC AND KNUT

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Speaker. On 19th September, 2019, Hon. Kaluma sought a Statement from the Teachers Service Commission (TSC) concerning a number of issues. One of it was the interdiction of teachers. He also sought a Statement on the wrangles between TSC and the Kenya National Union of Teachers (KNUT).

The TSC on 16th October, sent a Statement which, we as a Committee on Education and Research, perused through and realized that it was not answering certain pertinent issues. We returned that particular Statement and TSC, again, wrote a Statement. We looked at it and, as a Committee, we were satisfied that it has looked into a number of issues that were raised by Hon. Kaluma. So, allow me to read the Statement as it is.

The Statement gives a background to the cause of the interdiction, the particulars of the professional misconduct of the teachers, the regulations that the teacher contravened, how TSC conducted the investigations and their findings...

Hon. Speaker: Sorry, Hon. Melly. Is the Hon. Peter Opondo Kaluma in the Chamber?

Hon. Julius Melly (Tinderet, JP): Yes, he is in the Chamber.

Hon. Speaker: I was looking for him at his usual place. Very well! I think he came closer to you to get the answer. Proceed.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Speaker. On 23rd April, 2019, during the first day of the Competency-Based Curriculum (CBC) trainings, some few teachers forcefully gained entry into training venues and disrupted, incited, physically restrained, assaulted and caused chaos by forcefully and violently chasing away teachers who were peacefully undergoing the training. Other teachers who constituted head teachers, deputy head teachers, senior teachers and assistant teachers boycotted, refused and rebelliously ignored to attend the training despite invitation by TSC field officers. That is the background to the whole issue.

On the particulars of the professional misconduct, the teachers were positively identified to have conducted themselves in unprofessional manner that did not only ridicule the dignity of the teaching profession, but also violated the terms and conditions of their employment contracts in that, they disrupted the training by:

- a) Tearing training materials.
- b) Violently ordering the teachers to vacate the training centres.
- c) Physically assaulted TSC officers who were conducting the training.

- d) Used abusive words against the officers organizing the training.
- e) Violently shouted down the TSC officers conducting the training.
- f) Broke chairs and generally caused chaos disrupting the peaceful training that was taking place.
- g) Generally incited teachers to boycott the training.
- h) Refused and rebelliously failed to attend the CBC training.
- i) Insubordinated their supervisors who had invited them for training.
- j) Neglected their duties as lead educators and instructional leaders.

They have gone ahead to indicate the regulations that the teachers contravened. The regulations are:

4. Taken generally, the teachers violated the following legal provisions.
 - (a) Articles 43 and 53 of the Constitution, read together with the Children's Act which guarantee learners to the right to basic quality education;
 - (b) Section 9 of the Public Officers Conduct and Ethics Act, which requires a public officer to, among others—
 - (i) Carry out duties in a way that maintains public confidence in the integrity of his office.
 - (ii) Treat the public and his fellow public officers with courtesy and respect.
 - (iii) To the extent appropriate to this office, seek to improve the standard of performance and level of professionalism in his organisation.
 - (iv) If a member of a professional body, observe the ethical and professional requirements of that body.
 - (v) Observe official working hours and not be absent without proper authorisation or reasonable cause.
 - (vi) Discharge any professional responsibilities in a professional manner.
 - (c) Specifically, the teachers' conduct was contrary to Regulation 140B (1), (4) and (5) of the Code of Regulation for Teachers. The regulations prohibit any form of professional misconduct, including incitement, negligence of duty and insubordination.

How the TSC conducted investigations, they have indicated as follows:

5. In accordance with the provisions of the Code of Regulation for Teachers, the Commission, through its various county directors, issued show cause letters to all teachers who were positively identified to have been engaged in professional misconduct, including those in private sector who were attending the CBC training.

6. The commission conducted its own investigations on the matter, obtained witness statements and reports that confirmed that the teachers violated the provisions of the CORT.

7. Upon considering the teachers' responses to the show cause letters, the respective TSC county directors formed the opinion that the teachers had a case to answer. Accordingly, the county directors issued letters of interdiction to the affected teachers.

8. The teachers were invited for hearing before the Commission's disciplinary committee, where the individual cases were heard and decisions made based on the merits of each case, as required under the employment law.

9. All teachers in the teaching service have been made aware of the appeal process, which is enshrined in Section 46 of the TSC Act and Regulation 156 of the CORT. So far, 41 appeals have been received and are under process. The same will be concluded in due course as per the provisions of the CORT.

With me is a list of the affected teachers. They were 245. The TSC has listed how they have handled their cases. They have given the details of their names, the schools they teach in, the TSC number, the sub-county, the county, the designation, the nature of the offence and the kind of disciplinary action taken. A number of teachers were issued with show cause letters; others have their cases pending. The ones I have read, the 41 cases where there are appeals, are the 41 teachers who were dismissed. So, they appealed. TSC has indicated here that the appeals are in progress. The procedure of appeal is fairly informal. The affected teachers are required to write letters setting out their grounds of appeal. They must do so within 90 days from the date of dismissal. With me are the details of the number of teachers. They are too many. I cannot read each one. I will table this for each Member to see.

On questions (b), (c) and (d), the Commission indicated that the issues are subject to active litigation and are pending in a court of law. Therefore, they did not give a statement on them. The issues that were raised are active in court and, therefore, it will be *sub judice*.

I table the Statement, Hon. Speaker. Thank you.

Hon. Speaker: Hon. Kaluma, you have the Floor.

Hon. Peter Kaluma (Homa Bay Town, ODM): I thank you, Hon. Speaker. The Chair of the Committee did not give me a copy of the statement before he read it. This is a very serious matter. You heard when I raised the issue, he indicated that in some of them, even with the limitations of procedures under request for statements, there can be a bit of comments from the Members. I wanted to request that I be allowed, like my other colleagues, to read this statement. As I did say when I sought response, some of the teachers affected here have since died—up to about three of them, whose details I already have. I was not notified by my colleague that he was going to read the Statement. I did not imagine it would be in this manner. But he has done his part. Allow me the opportunity to read through the statement. I am a lawyer; I hope the matters being said to be *sub judice* are, indeed, *sub judice* and have been duly explained as such. Allow me when we come next, because this is a matter of concern to the public and to Parliament, if

there are issues, I raise them having duly perused the Statement. If only you would permit, Hon. Speaker. This is a very serious matter. There are constitutional issues. There are also legal issues. There are matters which directly affect a sector which is very crucial to the economy, mostly at this time.

I indicated to the Chair and members of the Committee that depending on the response coming from the TSC, other sanctions may follow if the matter is not being treated seriously. It is a matter over which we have to alert and caution that given a chance, we can then come properly to treat. If it requires merely raising, then we will do so. But the issues that will be raised in the report require other parliamentary procedures. I will equally invoke them at the right time. Allow that I do not rebut them immediately or raise any issues. I read the Statement so that I can speak from due information in the Statement.

I thank you.

Hon. Speaker: When is the next sitting of the Committee on Education, Hon. Melly?

Hon. Julius Melly (Tinderet, JP): We are meeting on Tuesday and Thursday, next week not on the issues of TSC, but on the normal parliamentary questions.

Hon. Speaker: I do not want it to be a debate. I have noticed a trend developing in the House that even where the Standing Orders say 'comments', Members have assumed that comments are equal to debate. What Hon. Kaluma is requesting is reasonable, but I want to caution that I may not be kind, if I will be in the Chair, to allow every Tom, Dick and Harry to rise in their places and start meandering. Whatever you raise must be specific to what is in the statement. It is not debate. Let us direct whatever comment... Other than Hon. Kaluma, nobody will make comments for more than two minutes because we appreciate the times we are in. I know most committees are busy dealing with the Supplementary Budget Estimates. So, we cannot afford to have too much time on the matter. Nevertheless, I grant the request. It will be on Thursday, next week.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Speaker, I wanted to request your indulgence to do so, following your guidance, on Tuesday after next week. This is because I will be out of the country on some parliamentary business from this Saturday up to around 30th November.

Hon. Speaker: That is around Tuesday, 3rd December.

Hon. Peter Kaluma (Homa Bay Town, ODM): Yes. Thank you, Hon. Speaker.

Hon. Speaker: Let us have the Leader of the Majority Party.

BUSINESS FOR THE WEEK COMMENCING 26TH TO 28TH NOVEMBER 2019

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), I rise to give the following Statement on behalf of the House Business Committee (HBC) following its meeting held on Tuesday, 19th November 2019.

On Tuesday, next week, the House will consider the Nuclear Regulatory Bill, 2018 in the Committee of the Whole House. I, therefore, wish to urge all Members who may have amendments to this Bill and have not submitted them to the Office of the Clerk to do so before Monday at noon.

Hon. Speaker, the House is also scheduled to consider the following Bills at Second Reading, if they are not concluded today:

- (i) The Gaming Bill, 2019;
- (ii) The Insurance Bill, 2019;
- (iii) The Tea Bill (Senate Bill No.36 of 2018);
- (iv) The Impeachment Procedure Bill (Senate Bill No.15 of 2018);
- (v) The County Governments (Revenue Raising Process) Bill, 2018; and,
- (vi) The Parliamentary Pensions (Amendment) (No.3) Bill, 2019.

Hon. Speaker, next week, the House is also scheduled to consider the following reports:

- (i) Report of the Committee on Delegated Legislation on the Land Registration (Electronic Land Transactions) Regulations, 2019; and,
- (ii) Report of the Committee on Implementation on the Resolution of the House regarding the approval of Ms. Mwendu Mwinzi for appointment as Ambassador.

Further, we expect the Budget and Appropriations Committee to table its Report on the 2019/2020 First Supplementary Estimates early next week to enable the House to conclude with it as soon as possible. This will pave way for publication of the Supplementary Appropriation Bill, which we hope to conclude before the House proceeds for the long recess.

Hon. Speaker, in accordance with the provisions of Standing Order 42A (5) and (6), I wish to convey that the following Cabinet Secretaries are scheduled to appear before the Departmental Committees.

1. The Cabinet Secretary for the National Treasury and Planning will appear before the Departmental Committee on Finance and National Planning on Tuesday, 26th November 2019 to answer the following questions:
 - (i) Question No.386/2019 by Hon. Elisha Ochieng' Odhiambo;
 - (ii) Question No.468/2019 by Hon. Kathuri Murungi;
 - (iii) Question No.470/2019 by Hon. Makali Mulu;
 - (iv) Question No.481/2019 by Hon. Marwa K. Maisori; and,
 - (v) Question No.38/2019 by Hon. John Kiarie.
2. The Cabinet Secretary for Labour and Social Protection will appear before the Departmental Committee on Labour and Social Welfare on Thursday, 28th November 2019 to answer the following questions:
 - (i) Question No.393/2019 by Hon. Geoffrey Makokha;
 - (ii) Question No.395/2019 by Hon. Nasri Sahal Ibrahim;
 - (iii) Question No.431/2019 by Hon. Wilson Sossion;
 - (iv) Question No.452/2019 by Hon. Alfa Ondieki; and,
 - (v) Question No.490/2019 by Hon. (Ms.) Jane J. Kiptoo.
3. The Cabinet Secretary for Public Service Youth and Gender Affairs will appear before the Departmental Committee on Labour and Social Welfare on Thursday, 28th November, 2019 to answer Question No.406/2019 by Hon. Gladys Wang'a.
4. The Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development and Public Works will appear before the Departmental Committee on Transport, Public

Works and Housing on Thursday, 28th November, 2019 to answer the following questions:

- (i) Question No.461/2019 by Hon Catherine Waruguru;
- (ii) Question No.471/2019 by Hon Benjamin Dalu Stephen Tayari;
- (iii) Question No. 472/2019 by Hon. Ronald Kiprotich Tonui;
- (iv) Question No.479/2019 by Hon Peter Kimari Kihara;
- (v) Question No.487/2019 by Hon. Geoffrey Omuse;
- (vi) Question No.493/2019 by Hon. Joshua Kandie;
- (vii) Question No.494/2019 by Hon. Catherine Wambilianga;
- (viii) Question No.500/2019 by Hon Ruweda Obo; and,
- (ix) Question No.505/2019 by Hon. Jackson Lekumontare.

We have told the Cabinet Secretaries that, in the event that they are held up, they need to write to the Clerk of the National Assembly before Monday and delegate to the Administrative Secretaries to appear on their behalf.

Finally, Hon. Speaker, the House Business Committee will reconvene on Tuesday, 26th November, 2019 at the rise of the House to schedule business for the rest of the week.

I now wish to lay the Statement on the Table of the House. Thank you.

Hon. Speaker: Next Order!

MOTIONS

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.51 OF 2017)

THAT, this House doth agree with the Report of the Committee of the whole House on its consideration of the Public Finance Management (Amendment) Bill (National Assembly Bill No. 51 of 2017).

Hon. Speaker: Order Members! I am sure the Member for Emuhaya can sit next to Hon. Melly. I am sure he is not harmful.

Hon. Members, debate on this Motion was concluded and what remained was for the Question to be put, which I hereby do.

(Question put and agreed to)

Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move that the Public Finance Management (Amendment) Bill (National Assembly Bill No.51 of 2017 be now read a Third Time. I request Hon. Amos Kimunya to second.

Hon. Amos Kimunya (Kipipiri, JP): Seconded.

Hon. Speaker: After a very long time, Hon. Pukose is getting into the Chamber after 3.00 p.m.

(Question proposed)

I will put the Question having confirmed the House has quorum.

(Question put and agreed to)

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

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE
ON THE OFFICE OF THE COUNTY ATTORNEY BILL
(SENATE BILL NO.3 OF 2018)

THAT, this House doth agree with the Report of the Committee of the whole House on its consideration of the Office of the County Attorney Bill (Senate Bill No. 3 of 2018).

Hon. Speaker: Again, Hon. Members, you concluded debate on this Motion and I put the Question.

(Question put and agreed to)

Hon. Aden Duale (Garissa Township, JP): On behalf of the Chair of Departmental Committee on Justice and Legal Affairs, Hon. Cheptumo. I beg to move that the Office of the County Attorney Bill (Senate Bill No.3 of 2018) be now read a Third Time. I also request Hon. Pukose to second.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Speaker, I second.

Hon. Speaker: The Member for Tiaty, if you could walk a little faster. You are swinging like you are in Tiaty.

(Question proposed)

I do not see any interest and I will put the Question having confirmed the House has quorum.

(Question put and agreed to)

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

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE
PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL

THAT, this House doth agree with the Report of the Committee of the whole House on its consideration of the Petition to County Assemblies (Procedure) Bill (Senate Bill No.22 of 2018).

Hon. Speaker: Again, what remains is for the Question to be put, which I hereby do.

(Question put and agreed to)

Let us have the Mover.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, again on behalf of the Chair of Justice and Legal Affairs Committee, Hon. Cheptumo, I beg to move:

THAT, Petition to County Assemblies (Procedure) Bill (Senate Bill No.22 of 2018) be now read a Third Time. I also request Hon. Naomi Shaban to second.

Hon. (Dr.) Naomi Shaban (Taveta, JP) seconded.

(Question proposed)

Hon. Speaker: I confirm that there is Quorum

(Question put and agreed to)

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

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE
ON THE EARLY CHILDHOOD EDUCATION BILL

THAT, this House doth agree with the Report of the Committee of the whole House on its consideration of the Early Childhood Education Bill (Senate Bill No.26 of 2018).

Hon. Speaker: Again, I put the Question

(Question put and agreed to)

Let us have the Mover, Hon. Melly.

Hon. Julius Melly (Tinderet, JP): Hon. Speaker, I beg to move that the Early Childhood Education Bill (Senate Bill No.26 of 2018) be now read a Third Time. I also request Hon. Omboko Milemba to second.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker. I second.

(Question proposed)

Hon. Members: Put the Question!

Hon. Speaker: Very well if it is the desire of the House. I hereby confirm that there is still quorum. I put the Question.

(Question put and agreed to)

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

Hon. Speaker: Before we go to the next Order, I need to register my appreciation to the House on the passage of too many Bills and, more so, those who participated in the Committee of the whole House stage. Those are four Bills which are headed to become laws of the country. Next Order!

BILL

Second Reading

THE COMPETITION (AMENDMENT) BILL

(Hon. Aden Duale on 20.11.2019)

(Debate concluded on 20.11.2019)

(Question put and agreed to)

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

Hon. Speaker: Next Order!

MOTION

REPORT OF THE COMMITTEE OF POWERS AND PRIVILEGES ON THE INQUIRY
INTO ALLEGED LEAKAGE AND MISUSE OF OFFICIAL INFORMATION

Hon. Peter Mwathi (Limuru, JP): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Committee of Powers and Privileges on the Inquiry into Alleged Leakage and Misuse of Official Information contrary to the Leadership and Integrity Act, 2012, laid on the Table of the House on Wednesday, 20th November 2019, and pursuant to the provisions of section 17(3)(b) of the Parliamentary Powers and Privileges Act, 2017, resolves to reprimand Hon. Fatuma Gedi for conducting herself in a manner that –

- (i) reflected adversely on the dignity and integrity of the National Assembly and its Members; and,

- (ii) is contrary to the best interests of the National Assembly and its Members in contravention of section 16(e) of the Parliamentary Powers and Privileges Act, 2017.

(Hon. (Ms.) Rozaah Buyu consulted with Hon. Peter Masara)

Hon. Speaker: Hon. Rozaah Buyu and Hon. Masara, you must have the decorum to listen and then you can get a chance to say what you wish to say. Even as you do so, I want to invite every Member – because I suspect not many of you have read the Powers and Privileges Act 2017 – to fully appreciate your powers in a Report of this nature so that whatever you do, you do from a point of information. Please, apprise yourselves accordingly.

Hon. Peter Mwachhi (Limuru, JP): Hon. Speaker, thank you for that protection. The basis of the inquiry that is in front of us was the leakage of a media letter by the Director of Criminal Investigations (DCI) addressed to the Clerk of the National Assembly. That is the only matter that we are dealing with. Was this letter leaked or not and who leaked the letter? Was it supposed to be leaked or not? Our inquiry ended there and does not touch on any other issues pertaining to that matter.

The letter in question was given to Hon. Fatuma Gedi by a parliamentary staffer, a fact that this Committee was tasked to inquire into and establish whether, contrary to Section 22 of the Leadership and Integrity Act, the Hon. Member directly or indirectly used information obtained through or in connection with her office as Member of Parliament and which was not available in the public domain for the furtherance of a private interest. This Committee was tasked to inquire into and establish whether contrary to Section 22 of the Leadership and Integrity Act, the Hon. Member directly or indirectly used information obtained through or in connection with her office as a Member of Parliament and which was not available in the public domain for the furtherance of a private interest.

Hon. Speaker, it is also good to appraise Members that Section 22 of the Leadership and Integrity Act provides:

“A State officer shall not directly or indirectly use or allow any person under the officer’s authority to use any information obtained through or in connection with the office which is not available in public domain for the furtherance of any private interest, whether financial or otherwise.”

The Committee held nine meetings. It had an opportunity to receive submissions from parliamentary staff, Hon. Fatuma Gedi who was invited to give evidence, Director of Criminal Investigations (DCI) and other officers under him. Therefore, the question for determination by this Committee during the inquiry was simply to determine whether Hon. Fatuma misused official information contrary to the said Section.

In doing so, we keenly looked at the evidence which was submitted by all the witnesses who appeared before the Committee, including Hon. Fatuma Gedi. All that information is available in our Committee. We arrived at the following determination. The Member directly used the information obtained through or in connection with her office, as she rightly said that

she got the letter from the staffer and she owned up that fact, as a Member of Parliament, which was not available in the public domain. The conduct of the Member of leaking the official letter dated 21st February 2019 by the DCI to the Office of the Clerk reflected adversely on the dignity and integrity of the National Assembly and its Members. It was also contrary to the best interests of the National Assembly and the Members. Consequently, pursuant to Section 22 of the Leadership and Integrity Act as read together with Section 16(e) of the Parliamentary Powers and Privileges Act, the conduct of the Member constituted a breach.

Section 16(e) of the Parliamentary Powers and Privileges Act provides for the conduct which constitute breach. It states that the National Assembly Committee of Powers and Privileges may find a Member in breach of privilege, if he or she conducts himself or herself in a manner which, in the opinion of the Committee, is intended or is likely to reflect adversely on the dignity or integrity of Parliament or of its Members, or to be contrary to their best interest.

Therefore, based on the observations and findings of the Committee, the Report hence recommends that the House, pursuant to Section 17(3)(b) of the Parliamentary Powers and Privileges Act, 2017, reprimands Hon. Fatuma Gedi for conducting herself in a manner that reflected adversely on the dignity of the House and its Members, and contrary to their best interest. It is also noteworthy - and this is very important - that the parliamentary staff in question who gave that letter to the Hon. Member was also disciplined and reprimanded by the Parliamentary Service Commission (PSC) as the Committee's jurisdiction was only limited to the complaints against Members of this House but not the staff. Therefore, without much ado, allow me to thank the Members of the Committee for participating in the inquiry and ensuring that the case was brought to a conclusion and, hence, the Report which is before the House.

With those many remarks, Hon. Speaker, I beg to move the Motion and ask Hon. Vincent Tuwei to second.

Hon. Vincent Tuwei (Mosop, JP): Thank you very much, Hon. Speaker. The inquiry in question is limited to the leakage and misuse of official information that is contrary to Section 22 of the Leadership and Integrity Act and Section 16(e) of the Parliamentary Powers and Privileges Act. The matter in question is leakage of information. Whatever we are reading out there which was circulated by the media is not the basis of our inquiry.

The Committee held 16 sittings or meetings to find out what really happened. The Committee got inside information. For anyone who has read the Report, the staffer confirmed and accepted that he gave the letter to *Mheshimiwa* Fatuma Gedi. We found this true. The staffer confessed and accepted that he is the one who gave the letter to *Mheshimiwa*. I support this Report. All of us have confidential documents in this Parliament. If we allow these kinds of leakages to go out there, some of us know how dangerous it is. We have rivals out there who might use the information that is kept confidentially here. We are the custodians of all the information pertaining to the wealth of every Kenyan in this country, including the President, under the Parliamentary Powers and Privileges Act. If this information can be leaked, and is not guarded well, we will open a very bad Pandora's Box. If anyone leaks any medical records adversely in the same manner that the information in the letter was done, this House will be vilified. It will lose its honour, integrity and credibility in the eyes of the public.

By the powers conferred to this House by the Constitution, it is the custodian of all the confidential documents pertaining to each and every public officer in this country, including the President. If we do not guard them by protecting them through the provisions of the law and the Parliamentary Powers and Privileges Act, this will go badly. It will be on record and will reflect badly on us and this House.

Hon. Speaker, I second.

(Question proposed)

Hon. Speaker: Hon. Members, I guided that it is fair that all of us familiarise ourselves with the provisions, particularly of Section 22 of the Leadership and Integrity Act that was enacted in 2012 and further, the provisions of Section 16(e) of the Parliamentary Powers and Privileges Act of 2017. Having familiarised yourselves with those two provisions, proceed to understand what the House may do under Section 17 of the Parliamentary Powers and Privileges Act.

Hon. Arbelle, you have the Floor.

Hon. Marselino Arbelle (Laisamis, JP): Thank you Hon. Speaker for giving me this opportunity to contribute to this Report. This Report is on the inquiry of alleged leakage of information, contrary to the Leadership and Integrity Act, 2012. I sit in that Committee and I have been attending all the sessions to discuss this Report. However, it is good to understand this Report from all perspectives. We are told that when you hear a dog barking, do not be pay attention to the dog. Look for the master.

(Applause)

It is true that we are trying to safeguard the integrity of this House and the Members. However, we also need to look at the integrity of the Member of Parliament who is being accused here. Having gone through the Report, and having sat in that Committee, I am here to tell this House that Hon. Fatuma Gedi's integrity has also been violated in the sense that... I do not know if you are apprised of what is happening in the social media. There was a pornographic clip which went viral.

Hon. Speaker: I am sorry! I will not allow that particular aspect of this Report to be the subject of debate.

Hon. Marselino Arbelle (Laisamis, JP): But Hon. Speaker...

Hon. Speaker: Hon. Arbelle, this Committee has already directed the Director of Criminal of Investigations (DCI) to move expeditiously to complete investigations relating to that matter. This is not a matter that this House is seized of. That is why the two of them must be separated. It does not matter what you feel. If you debate that, you are compromising investigations into that matter. This Committee has already directed the DCI to ensure that that matter is concluded. They must go to the utmost depth. That is why it is very specific. We have to deal with what is in Section 22.

Hon. Members, it is important that we separate the two. If it is not possible in your mind, you do not belong here. If you are unable to distinguish issues which are very clear, it means you are in the wrong place.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: It must be a point of order not a point of argument!

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Speaker. I rise under Standing Order No.95 to move that the Mover of this Motion be called upon to reply, so that we can vote on it. Further debate on this Motion, given your directions, which we understand, will make it quite complicated. This matter is like the issue of the chicken and egg. For us to debate this matter, we have to make reference to the matter that you have embargoed. Rather than continue the debate in a manner that breaches your own direction, I plead that the Mover be called upon to reply so that we vote on this matter and wait for the substantive matter when and if it comes before the Floor of this House so that we can debate it adequately.

Thank you.

Hon. Speaker: You are saying before another matter comes before the House. Which one?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): I said if it ever does – the matter that has been embargoed. I know it is not before this House; it is before the DCI, but what we are saying is that it is impossible to debate this Report without touching on the matters that the Hon. Member was touching on. I move that the Mover be called upon to reply.

Hon. Speaker: Hon. Arbelle, are you through with your contribution?

Hon. Marselino Arbelle (Laisamis, JP): Hon. Speaker, thank you for giving me this opportunity again. As I had earlier indicated, there is no way, for heaven's sake, we can deliberate by zeroing in only on the leakage of the confidential material without touching on the other matter because they are inter-connected. The Member has actually been humiliated. I, therefore, would like your guidance on how best we need to approach this matter.

Thank you.

Hon. Speaker: It is surprising that Hon. Arbelle is a Member of the Committee and he suddenly has a problem understanding this. Let us hear the Member for Kimilili.

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Speaker, for giving me this opportunity. I want to restrict myself on the matter that was before the Committee. I want to bring in the allegation...

(Hon. (Ms.) Gladys Wanga spoke off record)

Hon. Speaker: Hon. Wanga, you have no capacity to compel me to do what you desire. I have ignored it because there are very many Members.

(Hon. (Ms.) Gladys Wanga spoke off record)

Hon. Wanga, you are not directing me. Hon. Masara, please, appreciate this. If you want to contribute, you press an intervention button. If you speak while seated there, you are making noise. You are actually causing disorder for which Standing Order No.107 will be applying very soon. Let us have Hon. Barasa.

Hon. Didmus Barasa (Kimilili, JP): Hon. Speaker, the Powers and Privileges Committee has the responsibility to determine any matter that is brought before the Committee. Whatever this Committee was investigating was leakage and misuse of public information. We need to ask ourselves three questions. One is whether the letter from DCI to the Clerk of the National Assembly was leaked to the media, and the answer is yes! We also need to ask ourselves a second question. Did the horrible Fatuma Gedi confirm, when she appeared before the Committee that, indeed, she is the one who took that letter from an officer of Parliament? The answer is yes. We must protect the integrity of this House.

(Loud consultations)

Protect me, Hon. Speaker. You should protect me from this Gladys Wanga. Why are you making noise? This is Parliament. It is not your house. Hon. Speaker, you should protect me.

Hon. Speaker: Yes. You are protected.

Hon. Didmus Barasa (Kimilili, JP): Hon. Speaker, I will punch this lady who is making noise to me.

(Loud consultations)

Do not make noise here.

(Hon. (Ms.) Esther Passaris stood in her place)

Hon. Speaker: Hon. Passaris.

Hon. Didmus Barasa (Kimilili, JP): What are you doing? Stupid! I can punch you.

Hon. (Ms.) Esther Passaris (CWR Nairobi, ODM): Who do you think you are? You cannot punch me.

Hon. Didmus Barasa (Kimilili, JP): Who are you? Why are you accusing me? For what purpose? You are becoming unruly. I will... Stupid!

(Loud consultations)

Hon. Speaker: Hon. Passaris, I will not allow disorder!

(Hon. (Ms.) Esther Passaris walked to the Speaker)

Get away from me. I have not called you. I am calling you to stop grimacing at Members. Can you go back there?

(Loud consultations)

Hon. Speaker: Order, Hon. Members! Order, Members! Take your seats. I can see we are soon going to get to good business.

Hon. Members, Standing Order No.107(1) reads as follows:

1. (1) A Member commits an act of disorderly conduct if the Member —
 - (a) creates actual disorder;
 - (b) knowingly raises a false point of order;
 - (c) unnecessarily interrupts proceedings or consults in a disruptive manner;
 - (d) fails to record abstention in a division;
 - (e) fails to declare personal interest in a matter before the House or a Committee in accordance with Standing Order 90 (*Declaration of interest*);
 - (f) deliberately gives false information to the House;
 - (g) makes allegations without, in the Speaker's opinion, adequate substantiation;
 - (h) threatens to use violence against a Member or other person in the House or Committee;
 - (i) votes more than once in breach of these Standing Orders;
 - (j) fails to record abstention in a division; or
 - (k) commits any other breach of these Standing Orders, that in the opinion of the Speaker, constitutes disorderly conduct.
- (2) The Speaker may call a Member whose conduct is disorderly to order, and—
 - (a) caution the Member; or
 - (b) order the Member to withdraw from the precincts of the Assembly for a maximum of four days.

That is in the first instance.

Hon. Members, as you know, it is only fair that the House conducts itself in a manner that is dignified. When I call out a Member to caution them that the behavior they are about to engage in is disorderly, I am merely warning that any persistence in that conduct may result in the action being taken against that Member which will include, in the first instance, suspension from the precincts of Parliament for four days. So, Hon. Members, I think we are almost at the tail end of this Session. I hope none of us, none of you, wants us to end the Session in a situation where a Member is either going to be suspended or forcibly ejected out of the House whose consequences are graver than this. When I see the Serjeant-at-Arms come to cool you or to calm you... Remember if they touch you a bit - just read the Standing Orders - or if I tell them to touch you, you will be out of this Chamber. In fact, the precincts of Parliament, including your offices in Continental House for a very long time. Please, let us not get to that. The staff of the Serjeant-at-Arms are not here to harass any Member. They are here to ensure that whatever Members want or would like is provided to them in the most convenient way and to ensure *inter alia* that the Mace is at all times guarded. So, if you are not happy about a Member's contribution, do not shout at them. If you like, I will give you an opportunity to say something.

Hon. Wanga claims that when she rises and calls for the Mover to be called upon to reply, the Speaker must assent. Please, just read Standing Order No.95 fully. You cannot keep shouting at your place, for whatever reason. You may be very angry even with the decision of the Speaker, but you know, if you feel such angry, take a walk, go and have a cup of tea. You will relax. I am sure you will cool down. There is even a lot of water.

(Laughter)

You cannot behave as if we are conducting public rallies in the House. In as much as I know you do that out there, let us have some dignity when we are here. So, if you do not like something, wait for your chance to contribute. Remember there is nothing you will not decide. Even this Report will be decided upon by yourselves. So, what is the hurry? Hon. Rozaah Buyu, I am happy now you are taking water. Yes!

(Laughter)

And you have cooled down. That is good. So, Hon. Rozaah Buyu, Hon Masara, Hon Esther Passaris, and Hon. Wanga, I do not have to call you to order again. Please, your chance will come and you will say what you want to say, provided you say it within the limits of the Standing Orders. So, let us relax. I do not know what it is you may have taken over lunch.

(Laughter)

It may be harassing you, but just relax. If you cannot, go and seek medical attention. I do not have to read to Members Standing Order No.107 or, indeed, Standing Order No.107A. I have read it because I realised that all of us just make reference to Standing Orders without regard to what, indeed, they say. I do not have to read it again. Allow the business to be transacted. In a short while, you will make a decision. Let us proceed. Hon. Barasa, you were on your feet.

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Speaker. I want to, again, reiterate my position that I support this Report. It is a fair Report. It has been done in a professional manner. Its findings reflect the true picture of what happened. This is one of the committees that are chaired by a person who is of high standing in the legal fraternity. He understands the law. This House should not behave in a manner that seems to appease our various political formations. We must debate soberly within the precincts of the law. We should be guided by the facts that were presented before the Committee. It is important that the files that are being held in the Office of the Clerk of the National Assembly are not accessed by anybody to further their personal interests. I have gone through the findings and recommendations of the Report and they are fair. Whereas the Act gives the Committee powers to order a Member to vacate his or her seat, the Committee has just recommended for the Member to be reprimanded. That is a fair recommendation. I want to ask Members of this House to debate issues with their brains and not with energy. It cannot be that every time you have a disagreement, you want to sort out the differences by blows and abuses. We should restrict ourselves to the facts that are contained in the Report. The Report represents the facts the way they were.

The person who was being investigated appeared before the Committee and she confirmed that she went to Noor many times and coerced that Parliamentary staff. She was given the documents and she leaked them to the media. Those are the facts. I want to urge my friends in the House to support the Report. Today, we are looking at this Report, but tomorrow another Member may have used unscrupulous means to get documents or reports that affect each one of us and leaked them to the media. We are not just punishing Hon. Fatma Gedi., but we are sending a warning that nobody has the powers to coerce a Parliamentary staff to access documents that he or she is not entitled to. This will prevent further recurrence of this particular act.

With those few remarks, I support.

Hon. Speaker: The Member for Funyula, you have the Floor.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Speaker for this opportunity. I have gone through the Report and it contains a lot. Knowing the limitations of Parliament, a number of allegations in the Report have not been verified. While it is abhorrent to leak official documents, indeed, it is also not fair to stand in public and debate the conduct of our colleague. Now that we have placed a gag on this matter laid before the House...

Hon. Kimani Ichung'wah (Kikuyu, JP): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Ichung'wah, what is your point of order?

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. As you have said, we have our Standing Orders that we read, but we do not seem to interpret and understand what they provide. What we are debating is a Report by a Committee of the House. The House has every right to debate and consider reports tabled before it. Therefore, I do not think the Member for Funyula is in order to mislead Kenyans, who are watching us, that we are debating the conduct of a Member. We are debating the contents of a Report that is rightly before the House. Therefore, he should not mislead the House that we have no business to debate the conduct of a Member. Let me not debate. I hope I will get an opportunity to do that. The House has the right to debate even the conduct of a Member, should a substantive Motion be brought to this House. What is before the House is a Motion. I know the Member for Funyula is serving his first term, but it will be good if he apprised himself with what happened in the House.

(Hon. Esther Passaris raised her hand)

Hon. Speaker: I can see Hon. Passaris. Maybe you want to disagree, but you know that it is not done that way.

(Laughter)

Let me also make it absolutely clear to all of you that the Constitution of the Republic of Kenya obligates all of us, among other things, except in exceptional circumstances, to conduct our affairs in the open and in a transparent manner. This House is at liberty to discuss or debate the conduct of anybody, including the conduct of the President and the Speaker. Their conduct will not be discussed in camera. Maybe, the Member for Funyula may have forgotten that this House has had occasions to discuss Motions of this nature in the open and, in fact, it resolved them. It

was during this Parliament that a Report of complaint was launched against the Member for Embakasi East and the Member for Starehe. That Report was brought to this House and it was debated. Was that not about their conduct? This House reprimanded them. They even went ahead and apologised. So, we are being selective. What is this new thinking that has engulfed the House? Remember, Hon. Oundo, you, as a Member of this House, can bring a Motion to impeach the President. Would you be suggesting, by your argument, that the Motion be discussed somewhere in the dark room? It will be discussed and debated here. Is it not so?

Hon. Members: Yes.

Hon. Speaker: Remember if you gag yourself today, then you must gag yourself forever. Those impeachment Motions will be about conduct. You might as well then repeal the Parliamentary Powers and Privileges Act and the Leadership and Integrity Act. Indeed, go ahead and repeal Articles 75, 76 and 77 of the Constitution. You can oppose, but do not use... Because this is the law and you should not misapply it. The Constitution commands us to do all our business in the open.

If you suggest that we should retreat into camera because this matter is weighty according to you, you could move a Motion to that effect. The House can, in exceptional circumstances, resolve to hear a matter in camera. So, Hon. Oundo, proceed, but be informed.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Speaker, I am well guided. I made reference to two issues. One, we are Honourable Members and we are colleagues. Being colleagues, we have a moral duty to protect the good name of our colleagues. Secondly, yes, it is true we will debate the Report that is before the House, but behind the minds of all Kenyans who are listening to us, there is a genesis to that matter. And the matter is dealing with an honourable lady. We are dealing with a mother. We are dealing with a respectable lady in the society. That is why I want to urge my colleagues that today, it is Fatuma Gedi, tomorrow, it will be you and I. As much as there could be credible evidence to suggest that an illegality was committed, as Africans and as members of this community called Kenya, there is a better way of dealing with our internal issues. As much as we debate, as much as we want to unmask ourselves, and as much as we want to take the time to settle political scores, it is not in order. It is un-African for us to stand and debate the conduct of whoever in this manner.

For that reason, I stand to oppose the Report and request my colleagues that whatever has been done is enough punishment for any mistake the Honourable Member had made. I seek that all Members oppose this Report, put this matter to rest and leave it where it is.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I want us to know what it is that we are debating. What is the issue? It is leakage of official communication. I would ask you to look at all the observations and testimonies that have been given. Was there any leakage or not? There was no leakage according to some. This is the problem and we have said it several times in this House. Hon. Passaris, you appear to be burning with something. Say it.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Speaker. In the era of increased gender-based violence, when a Member threatens to punch another Member and especially a woman in the House, and shouting insults that you did not hear, then that is bad. I cannot repeat the insults. I will not go there.

I have read the Report and it is true Hon. Gedi appeared before the Committee. She stated very clearly that she did not lie. She held herself with integrity and she admitted acquiring the said document. But she did not say that she leaked the document. She actually said that she never leaked that document. So, when Hon. Didmus stands up and misleads the entire country and puts it on the HANSARD that Hon. Gedi admitted to the Committee that she leaked the document, he is misleading the House. We know that this has nothing to do with the document. These are wars out there which are being brought to the House.

(Applause)

Hon. Gedi, I know you do not want us to discuss the investigation material, but all this is related. This is a score trying to be settled between the two factions that exist in the country. We want the handshake. We want the Building Bridges Initiative. We do not want to be divided in the House.

(Loud consultations)

If the Report is going to be debated, let it be debated with decorum and accuracy.

Hon. Gedi, with her integrity, did not deny before the Committee that she asked for that document and she got it. She was obviously going through a stressful and emotional period. She was defamed by people who used an online video. She was defamed in front of her family, society and electorate. She did not deny that she asked for that document. When she was asked whether she leaked the document, she clearly stated to the Committee: "No. I did not." So, the fact is that Hon. Didmus is standing here wanting to beat me and I challenge you. I am sure you cannot beat me.

Hon. Speaker: Hon. Passaris, I have just read to you Standing Order 107. Maybe it has not been applied to you. It is just about to. Do not be personal. Continue with what you were saying, but do not be personal.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Speaker, I am a woman and women are emotional beings.

Hon. Speaker: Then you are in the wrong place. We do not run emotions here.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Speaker, because I am too emotional, can I donate my remaining minutes to Hon. Malala?

Hon. Speaker: Proceed.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Speaker, I stand to oppose. If you allow me, I would like to donate to anyone in this front row my remaining minutes.

Hon. Speaker: You have no authority. There is nothing to donate. That is the kind of thing that I told you. Read your Standing Orders. Do not start telling us that you are donating. Donating what? Certainly, what you want to donate is not here. Donate it elsewhere. Certainly not in the Chamber. Stop the donations.

Hon. Speaker: The Member for Kinangop, you have the Floor.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Speaker, for this opportunity. I must thank you for taking charge of the House today. In fact, if you were some of us, some of us

would be locating their addresses as to wherever they live because of the disorder. Nevertheless, I want to support this Report based on the fact that the Powers and Privileges Committee sat and did what it was supposed to do. It gave us findings and listened to all the witnesses. Indeed, there was admission by one Hon. Fatuma Gedi that she got that letter from a Parliamentary staff. That is enough reason to invoke Section 17 of the Parliamentary Powers and Privileges Act. This Committee is even mild. I can see from the Act other remedies that should have been conferred on her. The Committee chose to only reprimand her. They would have chosen to expel her from the House or all the other options. They chose to reprimand her, so that we can maintain the dignity of this House. Therefore, I wish to support the Report and congratulate the Committee for coming up with such a balanced Report. Thank you.

Hon. Speaker: Let us hear Prof. Oduol.

Hon. Prof. Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Speaker for giving me an opportunity to speak to this important Report. From the outset, as we look at this very significant Report, which I have already looked at, it is our duty, as Members, with regards to the context, not to look into the alleged leakage of official information by Hon. Gedi.

When I look at Page 52 of the Report, it indicates the Committee's consideration of witnesses' evidence and their conclusion. They have stated that in view of the foregoing, the leakage may, therefore, have happened immediately after the exchange of the letter between Mr. Noor and Hon. Gedi. First and foremost, the premise we would use to confirm the misconduct is not conclusive according to the Committee's submission. It is extremely important to remember that there is some context which we can infer from facts.

I would like to urge the House to consider the distinction that exists between facts and truths. Facts have evidence and looking at the Report, I can see there are facts of those who walked into the room and were asked questions. The truth, in a way, is extremely important. I want to thank you because as you guided us in terms of dealing with this matter, and you helped us by ensuring that we do not, in any way, begin to look at facts that might not be relevant.

As I speak to this very same premise, I feel it is important for us, as House, to conduct ourselves in a way that is becoming of the House. We need to see that the truth is, indeed, in accordance to the facts and it has authenticity. Truth is something that depends on a person's perspective and experience. I will keep going to the Committee because I have absolutely no basis or reference. From their submission, they are making reference without evidence to show that Hon. Gedi admitted to the accusations. In this context, it is extremely important, as we make a determination, to remember that there can be cases or instances when we can be called upon to confirm our decision and we will be in a hard place.

Therefore, I want your indulgence because there is a sense in which as we talk about a context, we need to see that the meaning does not exist in isolation. I did not get a chance to raise a point of order, but Hon. Didmus, while making his submission, seemed to reflect what might be a fact in Kenya, that when you are a leader of the female gender, you might seem not to be given the same level of respect or recognition as a male. The truth is that whether you are a male or a female leader, you are called upon to ensure your perspective and the manner you look at issues is above board, and not interfered with influenced.

My request to the House is that we have a Report before us. I plead that we should not look at the question of leakage. The Committee has not confirmed or made us aware of what happened. On the contrary, we see a manner in which the Speaker seems to influence. For this reason, as we look at the Report with serious consideration, we cannot avoid the fact that Hon. Gedi is female and there is a sense in which sometimes this is used in ways which are unfavourable. This can be seen as an abuse of sort.

I would like to urge the House that in as much as we see there were witnesses and a case of an unacceptable behavior, I do not feel the Report of the Committee is conclusive and warrants the case of abuse that is presented. With this, I do not support the Report. I urge the House to remember that we must separate facts from truths and rise above experiences and perspectives. They can be influenced by circumstances other than what we have before us.

With those remarks, I do not support. I urge the Members of the House to rise above any issues of personalising and remain honourable. Before I resume my seat, I have looked at Standing Order No.107, which you referred to earlier on. As you are aware, I got a chance to go to Beijing and next year, we will celebrate 25 years. We hosted in Nairobi in 1985 and convened in Beijing to name and reject any levels of abuse or violation.

The context which we are in as a House, looking at what could be acts of gross misconduct, I would like to draw your attention because I got the impression that you did not get it. Hon. Didmus Barasa should be called upon to retract and withdraw the comments he made which were unparliamentary. There is no way, looking at the Standing Order, any other Member is expected to act in a way that looks like they are showing violence to another one.

Hon. Speaker, as I look at Standing Order No.107, Hon. Didmus made utterances that were unparliamentary when referring to a lady. From what I heard, and maybe the HANSARD will be a good basis for helping to confirm, he threatened to handle the lady. Therefore, Hon. Speaker, I beg, through your indulgence, that he retracts. It is unacceptable that 25 years after Beijing, an honorary House is discussing issues of misconduct.

Thank you, Hon. Speaker.

Hon. Speaker: Did he say he would handle her?

Hon. Prof. Jacqueline Oduol (Nominated, ODM): He said he will punch the lady. There is no lady. In this House we cannot be violent or threaten each other.

Hon. Speaker: Hon. Barasa, Professor says that you threatened to punch.

Hon. Didmus Barasa (Kimilili, JP): No! It is Hon. Gladys and Rozaah Buyu who were attempting to punch me. I did not punch her. I cannot punch Hon. Esther Passaris here. I did not say I want to punch Hon. Esther Passaris. I cannot punch Hon. Esther Passaris. If I did not beat Hon. Simba Arati, how can I punch Hon. Esther Passaris? It is not possible.

(Laughter)

Hon. Speaker: Let us hear Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Speaker, I support the Committee Report. When you go to Page 52 of this document, on Part (e), it says:

“Mr. Noor in his testimony stated that he gave a copy of the letter to Hon. Fatuma Gedi late in the evening on Friday at around 4.00 p.m., but soon thereafter, he learnt that a copy of the letter he had given to Hon. Fatuma Gedi was being circulated on the social media.”

It also goes on to say that even the memo was being circulated on the social media. To me, it is a question of how sensitive documents that concern all of us were handled. I am looking at the moral issue of how documents that concern Hon. Members are being guarded within the precincts of Parliament. If this Committee on Powers and Privileges is not supported in its Report, then it means we will be exposing the Members and anything that you have done, your file or even your medical report, can be shared on the social media. If you look at the submission of Hon. Fatuma Gedi, it says that she got the document from Noor. After getting the document from Noor, she went to the lounge where she left that the document. To me, it is a lame excuse. It is not the truth. It is careless handling of sensitive information which was concerning her.

So, the Committee, sitting and saying that it is reprimanding the Member is a very fair position. It protects the integrity of the Member and it is very wrong for us to start diverting issues concerning the Member to discuss her. We should just discuss the handling of that document and we leave it at that level.

With those few remarks, I support.

Hon. Speaker: The Member for Uriri, it is your chance.

Hon. Mark Nyamita (Uriri, ODM): Thank you, Hon. Speaker. I just want to record my voice on this issue. I have gone through the Report and I have seen the Member in question, Hon. Fatuma Gedi, admitting to have received the document. However, I want to challenge the Committee because we might be missing something; that a Parliamentary staff would issue to a Member a sensitive document in the streets or the corridors like that. If the Parliamentary staff gave this Member the copy of the letter, why are we thinking that the letter was not given to someone else?

(Applause)

To say that it is the Member who shared the document on the social media because she was given the document is not correct. Hon. Fatuma Gedi is an Hon. Member of this House, but not a staff of Parliament. If she went with the document and probably someone else picked it from there, it is not her responsibility. For the House or the Committee to crucify the Member just because she was handed a document and the document found itself on the social media, is inconclusive.

I also want to ask whether the Committee on Powers and Privileges has the capacity to determine whether it is Hon. Fatuma Gedi who shared the document on social media. I do not think we went into that length. We should then even further the investigations to find out the original phone and the IP address where this document originated from and then it was circulated. It would be wrong to say that I am the one who shared a document on the social media because I picked it on a table here today and the next minute it was on the social media.

So, I completely oppose the Report on that strength. Even if it were me, under the circumstances that I do not want to discuss in as much as you have gagged us and the Report salutes to some of the issues that you do not want us to speak about here, any Member in such a position would be seeking every available opportunity to get any information. Even if I was told that that information is at the Central Bank of Kenya, I would like to seek it because the allegations that led to even these memo flying back and forth were very serious - touching on family. I do not want to get into the issue. But even if it were me or you, Hon. Speaker, and you were told that that information is in heaven, you would want to go to church, so that you get to heaven to get that information just to apprise yourself on the issues. To say that she is the one who leaked it to the social media, I do not think the Committee has the capacity to determine that it was her.

So, I urge my colleagues that let us reject this Report and oppose it completely.

Hon. Speaker: Hon. Member, you may have seen me recently in the media at a workshop with the Members of the Powers and Privileges Committee, at which I made the proposition. I want to challenge my very good friend, Hon. Peter Kaluma, to take this one up. When we passed the Parliamentary Powers and Privileges Act in 2017, you provided that the chairman or the chairperson, as the case may be, of the Parliamentary Powers and Privileges Committee of each House shall be the respective Speakers. You have heard me recently say that I think I find that a bit of a challenge. Hon. Peter Kaluma, I know you are very good in this area. Please, take up this challenge. Propose an amendment. In other jurisdictions, the Speaker's roles will be to preside here in the plenary.

(Applause)

If the Speakers have to have any role, it should only be limited to - and I want to say this in providing information - helping to select, in consultation with the leadership, Members from either side of equal number, who then would elect their chair. I have made that comment because I think it is not fair. Hon. Wanga stood in her place and claimed that the Mover be called upon to reply and I could very well see - I have had many years in politics - that there is some spirit, but you see I cannot get involved in the debate. As your Speaker, I find myself in a very awkward situation, especially when Members say that they do not think the Committee has the capacity to solve a case.

(Laughter)

The Committee received evidence. Even when a person is taken to court, he pleads not guilty. That does not mean he is innocent. I know the sequence of events, Hon. Shamalla. On Thursday, 21st February 2019 this year, a letter was delivered in the Office of the Clerk of the National Assembly purporting to summon four Members of Parliament to appear before the Director of Criminal Investigations (DCI). The Clerk of the National Assembly sought opinion from the Directorate of Litigation and Compliance who advised him that the matters complained in those summonses are of criminal nature and we have no business helping the DCI to investigate them. The correspondence was handed over and somehow, it was intercepted along

the way. The information was in the social media in less than one hour. Then as it happens with many politicians, things started moving. Others started calling the DCI to ask him whether it was true that he would summon them. You are putting me in a very awkward situation. I wish I was in the other life because it would not be difficult. Hon. Nyamita would not have found it difficult to believe that we have capacity to assess evidence, veracity and determine who among the protagonist has told us the truth or that which is nearly capable of belief. What are the circumstances that led us to a particular conclusion?

You put me in a very awkward position. That is why I am appealing to my good friend, Hon. Peter Kaluma, not to put Hon. Speaker in this kind of situation. You are putting me in the debate now. There are things that bother you. If I were to participate in the debate, I would give you the chronology of events. I would then tell you what happened on Friday, 22nd February 2019. The letter was delivered on 21st February 2019. The next event was on 22nd February 2019.

On 23rd February 2019, a Member, who is seated next to Hon. Fatuma Gedi called a Senior DCI Officer inquiring whether it was true that he was looking for him. I know all this because I sat in the Committee. Is it wrong, Hon. Kaluma, for me to say that I am conflicted because I have all this information? You make me conflicted because of the provisions of the law which you passed. I have all this information, which you do not have. Even those who have claimed here to have read the Report have not gone to the various observations which are in excess of 20. Some of you claim to have read the Report and then they proceed to give wrong information. The Members of this Committee who are present like Hon. Mwathi, Hon. Tuwei and Hon. Oyoo, know that I said that this law is not proper. It allows Hon. Speaker to chair a Committee that is *quasi-judicial* in nature. This Committee is given that kind of responsibility. It puts Hon. Speaker in a very awkward situation, Hon. Oundo.

It is very bad because I should not be the one in possession of this information. However, I have it, but I cannot participate in the debate. You are saying things which are not in the Report. I can see that you have not read it.

Hon. Members: We read the Report!

Hon. Speaker: Some have not read it. This Committee decided not to allow this case to be investigated by the DCI. You remember it was reported to him. This Committee castigated the DCI for taking too long to investigate the matter. He caused a lot of unnecessary suffering. Indeed, I understand the feelings of many of you who spoke with that spirit which I referred to. The Members of the Committee are fully seized of these things that agonised Members.

(Hon. Rozaah Mbuyu spoke off-record)

The best thing is for me to put the Question. Hon. Rozaah Mbuyu, because you are new, please, I want to encourage you to thoroughly understand the Standing Orders. The only thing for me to do so that the spirit can work is to put the Question that the Mover be called upon to reply.

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

Hon. Speaker: Let us have the Mover.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Speaker. I do not envy your position. However, the way you have put the matter is good. You are in catch-22 situation where you have to preside over the Committee as the Chair, as well as preside over the House.

I want to thank all the Members who contributed, notwithstanding the pressure that is there. As I reply, let me start by stating the following. One, Hon. Members, it is a fact that a document was leaked out. It is a fact that a staffer has already owned up that that document was leaked out. It is a fact that one of us also accepted receipt of the document. Those are facts. I do not know how it was handled thereafter, including saying that she left it at the Member's lounge. However, it leaked in the next hour after that. Let us pose these questions, Hon. Members. Suppose we did not reprimand the staffer? Is it okay that we shall allow staff to give our documents out anyhow? We have documents of your emoluments, medical records and declaration of wealth. Is it okay that these documents should leak out? Those are hard questions that we should ask ourselves. At the same time, we should ask ourselves whether we want to conduct ourselves in the manner that we have seen in the issue being handled. Would you want to leak out documents pertaining your colleagues' issues? My answer is no.

As to whether there are African ways of solving this issue, probably, they are there, but they are not legislated. We are using what we have, which is the Parliamentary Powers and Privileges Act, which gives us the mandate. Therefore, the Act gives us the strength and mandate to sort out the issues as they come. Members, we have worse penalties in the Act. We have eight different penalties, but we settled on a lesser one, so that it becomes a deterrent to us and the staff. Even as the Question is being put, we need to tell ourselves which one of us leaked out the document, but we do not need to go that way. We should adopt the Report.

With those many remarks, Hon. Speaker, I beg to reply. *Asante*.

(Question put and negatived)

Hon. Speaker: Before we move to the next Order, it is fair for me to say that for the time being, this Committee should not entertain further complaints from Members until maybe we have amended the law. So, you can do what you want to do to each other. In the meantime, where will you take the complaints to unless you take them to the police? It is not possible that even if you sat in the Committee sittings, there will be some other spirit. That is the net effect.

An Hon. Member: Retreat!

Hon. Speaker: No, I do not retreat over matters of this nature.

BILLS*Second Readings*

THE INSURANCE (AMENDMENT) BILL

*(Hon. (Ms.) Cecily Mbarire on 20.11.2019)**(Resumption of Debate interrupted on 20.11.2019)*

Hon. Speaker: Debate that is ongoing is the one on the Insurance (Amendment) Bill (National Assembly Bill No.50 of 2019). It is a resumption of debate. Hon. Cecily Mbarire had moved it and it was seconded by Hon. Joseph Limo. Therefore, it is open to any Member to contribute. I hope all these people who have their cards on do not want to contribute to this. I am sure Mohammed Sheikh does not want to contribute to this. He wanted to contribute to the other one. Hon. Oundo, had you contributed to this?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I had not contributed, but I would take the opportunity to say a word or two.

Hon. Speaker: Very well.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Speaker, for the opportunity to contribute to the Insurance (Amendment) Bill of 2019. From the outset, as a country, we need to appreciate the importance of insurance business and the general life activities of the people of Kenya and humanity as a whole. The purpose of insurance is a risk transfer mechanism that whenever a person is faced with a peril that results in loss, there is somewhere he can transfer that risk to, so that it is assumed by another party that has the competence, resources and ability to mitigate the particular loss.

The amendments that are being brought here are essentially to strengthen compliance, supervision and governance of the insurance business in this country. The Bill proposes various amendments to impose fines, sanctions and reprimand or a process that will ensure that the various players in the insurance sector, be they brokers, insurance underwriters and any party involved in the insurance business, comply with the rules.

Specifically, the issue at play is the transfer of funds paid as premium to insurance brokers and insurance underwriters. This country is replete with cases where brokers collect premiums and do not remit them to the insurance underwriters. In the event the insured faces a loss or a claim, that is the moment they understand that truly, there was no proper insurance in place. We believe with these amendments, there will be adequate deterrence of that kind of behavior.

Secondly, quite a number of insurance companies have become notorious. At the point of taking the insurance cover, they come with very sweet stories. They send to you very suave salesgirls and convince you to take an insurance cover and then you sign on the dotted line. Beneath those dotted lines are very invincible statements; exemptions that make it impossible for you to get a claim in the event of a loss. We believe that once this Bill is enacted, it will deal

with this kind of misrepresentation to finality. Such case of misrepresentation should not be allowed to be a defence in the event of a claim being turned down.

Insurance companies will go down or under like any other business on the issue of compensation. We like the proposal to enhance the mandate and representation of the Board of Trustees that manage the Compensation Fund.

With these few remarks, I support the Bill and urge Members to support and conclude this matter as soon as possible.

Hon. Speaker: Let us have the Member for Bumula.

Hon. Mwambu Mabongah (Bumula, Independent): Thank you, Hon. Speaker.

I support the Insurance (Amendment) Bill. It is a very important Bill because many people are suffering in this country. It is in the hands of middlemen. As my colleague has alluded to, it is true that in most cases, unless you are connected to some powers, it is not very easy to get benefits when you incur a loss.

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

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

Hon. Temporary Deputy Speaker, the first thing that needs to be done with all these insurance companies is that once you are insured, there should be a clear communication that when you are remitting your money, it is not just going into the hands of the middlemen. At the end of the day, even if it is not monthly or quarterly, you should get clear confirmation that they have received your money. There should also be clear timelines on how your benefits should be remitted whenever you incur a loss. At times people run up and down the whole year; at times people run for several years. I know of a person who is following insurance benefits for almost three years now. There should be very clear timelines of compensating people who have been involved in any kind of loss. It is very important. I support this amendment.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Having no other Member interested to speak to this Bill, I call upon the Mover to reply.

Hon. Aden Duale (Garissa Township, JP): The Speaker this afternoon said that you can only donate outside the Chamber.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, you can still donate.

Hon. Aden Duale (Garissa Township, JP): No, I do not want to. The Speaker was very categorical that any donation can take place outside the Chamber. I am very good in donating outside the Chamber, not inside.

Hon. Makali, maybe you will contribute when you come to the Committee of the whole House. He is one of the very serious Members.

This is a small Bill. It is part of the Bills that came with the Budget; including this one and the Competition (Amendment) Bill. So, it is good that we deal with these Bills before we go on the long recess. The principal object of this Bill is just to make sure there is a small

amendment to the Insurance Act, mainly touching on one or two aspects. That aspect is, one, to introduce a provision for the protection of policy holders where the insurer is in distress and the assets are put in statutory management. That is in the event that the insurer gets serious financial implication or is in distress. Then, there must be a way to put in place statutory management.

It also empowers the Insurance Regulatory Authority (IRA) to prescribe the manner of submission of various kinds of returns. All insurance companies are under obligation to make returns. That is also provided for. It shall be payable into the Policy Compensation Fund. So, it is also creating that Fund.

This Bill will be one of the few Bills with few amendments. The Report of the Committee is available. That is why there are not less than five Members who contributed. It is not because there are issues, but it is a small Bill that the Cabinet Secretary for the National Treasury felt it is necessary when he was presenting the Budget Highlights for the Financial Year 2019/2020 to the House on 15th June 2019.

I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, the Bill has been debated and replied to but, pursuant to the provisions of our Standing Orders. I am not in a position to put the Question. Therefore, I defer putting of the Question.

(Putting of the Question deferred)

Next Order!

THE GAMING BILL

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you very much, Hon. Temporary Deputy Speaker. I beg to move that the Gaming Bill (National Assembly Bill No.38 of 2019) be now read a Second Time.

By way of introduction, this is a Committee-sponsored Bill. It is by the Departmental Committee on Sports, Culture and Tourism. It was published on 27th May 2019 and read the First Time in this House on 11th June 2019. Thereafter, it was committed to the Committee for consideration, pursuant to the provisions of Standing Order No.127.

The Gaming Bill, 2019 seeks to repeal the Betting, Lotteries and Gaming Act Cap 131 of 1966, by providing for control and licensing of betting, casinos and other forms of gambling, authorisation of price competition and public lotteries; establishment of the National Lottery, the imposition and recovery of tax on betting and other forms of gaming, among other things.

The Gaming Bill seeks to repeal the Betting, Lotteries and Gaming Act Cap 131, an Act of Parliament that has been in existence since 1966. The Bill further seeks to address various inadequacies in the existing Act.

Allow me to highlight a few key distinctions between the Bill and the existing Act. It addresses devolution and in particular the role of county governments as provided under Part II of the Fourth Schedule of the Constitution, which also assigns the county governments a function on betting, casinos and other forms of gambling. The Betting, Lotteries and Gaming Act do not address devolution.

Secondly, this Bill establishes the National Gaming Authority with representation from the Council of Governors where the Betting, Lotteries and Gaming Act establishes the Betting Control and Licensing Board whose membership excluded representation from the county governments. Thirdly, the Bill addresses the issues of online gaming under Part VII of the Bill. That is something which is not addressed in the Betting, Lotteries and Gaming Act. Whereas the Betting, Lotteries and Gaming Act does not provide for the national lottery, this Bill provides for the establishment of the national lottery under Clauses 70 to 78. Part IX of the Bill provides for the conduct of the national lottery.

Part X of this Bill establishes the National Lottery Distribution Trust Fund, from Clauses 89 to 100. The purpose of the Fund is to retain and distribute the proceeds of the national lottery which will go to assist activities of good cause like sports. The Betting, Lotteries and Gaming Act do not establish such a fund.

The Bill also establishes the Gaming Appeals Tribunal to resolve disputes between parties and for persons to appeal to it. The Betting, Lotteries and Gaming Act provide for an appeal to the High Court, which may take a lot of time to resolve disputes. However, the committee will be proposing an amendment at the Committee of the whole House to have disputes resolved by a gaming appeals committee, which will be able to resolve disputes faster.

The Bill has expanded provisions on various offences, which are now stiffer. Whereas the existing Betting, Lotteries and Gaming Act has penalties which are very low and non-effective, the penalties proposed in the Bill are fines ranging between Kshs250,000 to Kshs2 million; whereas the ones in the existing Act are non-punitive. They range between Kshs3,000 to Kshs10,000, making it very difficult to control and regulate gaming in Kenya.

Public participation is a constitutional imperative. In this regard, the Committee called for submission of memoranda through the *Daily Nation*, *The Standard* and *The Star* newspapers on 17th June 2019 and received memoranda from the Betting Control and Licensing Board (BCLB), the National Treasury, KRA, CA, Directorate of Gaming and Betting of Nairobi County, the Vexex Advisory Limited, the Kenya Charity Sweepstake, the Association of Gaming Operators-Kenya, Game Code Limited, Anjarwalla and Khanna Advocates, the White Rhino Ventures, Shop and Deliver, and the Gaming Awareness Society of Kenya.

There were public hearings that the Committee conducted in order to receive comments on the Bill from stakeholders. The Committee conducted public hearings in Mombasa, Kwale, Kisumu, and Nairobi, Kakamega, Uasin Gishu, Nyeri and Meru counties. The Committee received considerable representations on the Bill, both through memoranda and public hearings it conducted. The Committee also considered representations it received on the Bill. Where it agreed to proposed amendments, it indicated so; and where it rejected proposed amendments, it gave its reasons.

The Committee also sent delegations for study visits to the UK and Nevada, Las Vegas in the US in order to learn best practices on the regulation of gaming with a view to enriching the Bill. In the UK study visit that was conducted between 14th and 18th October, the study visit had specific objectives:

- (a) To meet with the UK's Department of Culture, Media and Sports, with a view to learning the UK's regulatory landscape on gambling. The role of the

Department in relation to gambling is policy direction and formulation of future plans in the regulation of gambling.

- (b) To meet with the UK Gambling Commission in order to understand its functions, how it has discharged them, their challenges and how they have addressed them, and their thoughts on regulation of gambling.
- (c) To meet with the UK gambling-related All Party Parliamentary Group (APPG), with a view to learning the House of Commons' lessons in the legislation of gambling, the function of the APPG, the advocacy role of the APPG, and its comments on the challenges and lessons on regulation of gambling.
- (d) To understand the UK Gambling Act, 2005 and other relevant legislation, with a view to incorporating in the Gaming Bill, 2019 suggestions that may suit Kenya's circumstances.

The delegation made very many observations which are going to make the basis of the amendments we are going to propose. Out of the observations, the committee recommends:

- (a) The Gaming Bill should be amended to include as sources of funds for the national gaming authority fees charged upon gambling operators.
- (b) The Gaming Bill should be amended to require all licensees to make a financial contribution towards research, prevention and/or treatment of gambling-related harm, especially the need to improve understanding of treatment needs and effectiveness and strengthen the voluntary system for funding.
- (c) Self-exclusion, an option which customers can exercise by asking to be banned from gambling with an operator or group of operators should be provided for in the Gaming Bill.
- (d) There is need to provide in the Gaming Bill that if a licensee acts in a manner that is not appropriate in a different country, this may be a factor to be taken into consideration in renewal or revocation of a licence.
- (e) There may be need to further discussions on global regulation of gambling with a view to addressing cross-border issues on gambling.
- (f) The Gaming Bill should provide for personal licences for key persons working for licensees.
- (g) Parliament may explore the possibilities of establishing a parliamentary caucus on gambling-related harm in order to have structured dialogue on the negative consequences of gambling and how to address them.

The Committee observed the following during public participation and engagement with various stakeholders:

- (a) The Betting, Lotteries and Gaming Act (Cap. 131) is an archaic, old piece of legislation which is outdated and it needs to be repealed and a new, robust legislation be enacted to regulate gaming effectively in Kenya. That is why the committee thought it wise to come up with the Gaming Bill to address these inefficiencies.

- (b) There were overwhelming views on the Bill from stakeholders, with most stakeholders being of the view that the gaming industry needed to be regulated effectively. Kenyans have been confronted by runaway advertisement on betting and gaming. The public we met across the country generally were complaining of receiving unsolicited messages to their phones encouraging them to click onto some link and immediately they become gamblers. Once you click on that application, you will spend money and start betting. So, many views of the public were that unsolicited messages need to be banned. They said somebody should pay the price for sending such messages to unsoliciting users.
- (c) The Bill also targets protection of children from gambling.

Clause 153 of the Bill will help Members to understand how this Bill will protect children from the effects of gambling. When we went round we found the Chinese machines which the Ministry of Interior tried to mop up in the country. Children went to an extent of stealing from their parents to gamble and most of them failed to go to school.

In Clause 110, we have made it a must that all slotting machines be located inside licensed casinos, where Government officers can monitor them. This is so that, children do not access the gaming premises. We have also talked about illegal gaming machines being certified from their source of origin. The Kenya Bureau of Standards (KEBS) and other authorities should be involved. This will ensure Kenyans are not conned through delivery of fake Chinese machines which find their way into the country and are assembled somewhere around Kericho.

The public was wondering how customs allowed such equipment into Kenya without taxation for them to be assembled somewhere in Kenya and distributed in almost all the villages. I want to laud CS Matiang'i for his effort of mopping up those illegal machines and burning them. Although, he experienced a lot of opposition from the illegal traders who got court orders to stop the Ministry from destroying their machines.

The existing licenses in the old Act are very low. In fact, for an online gaming operator who makes billions they pay Kshs500,000 per year. We tried to enhance the licenses and securities because for you to operate the gaming industry, you need to deposit security with the authority so that in the event a winner wins a substantial amount of money we are assured they will get paid.

The Second Schedule talks about enhanced licenses. For Casinos we have enhanced it to Kshs50million from Kshs500,000. For online sports betting we have enhanced to Kshs100 million. In Clause 34, we have proposed that anybody trying to enter the industry must put up a standard firm which conforms to the international best practices; so that we do not have kiosks mushrooming across the country calling themselves casinos. We stated capital which will encourage big investors to come up with casinos or online business.

When doing public participation and research we discovered that in Kenya we had a lot of capital flight because the online gaming came into Kenya and there were no proper structures in place or legal framework. So these operators exploited Kenyans and the Government at large. It was like the Government was caught unawares and these guys made a killing. Most of the

money collected from Kenyan players ended in offshore companies. Kenya lost a lot of money because of this. We proposed that if a foreigner wants to establish a gaming firm, he must have a Kenyan shareholder at the level of 30 per cent.

We also proposed to have a mechanism known as real time monitoring system. This is where the Board will put up servers which will track all the betting monetary transactions from players so that Kenya Revenue Authority (KRA) can access the amounts Kenyans have played for the purposes of knowing how many taxes to levy. As a Committee, we decided this because currently, there are many court cases between operators and the Government because they have the leeway to declare the amount of money they transact.

We thought during this era of technology the Government should come up with a system where it can track and monitor all the transactions in real time. This is so that we can get the correct taxes and avoid arguments and unnecessary court cases on matters taxation.

We also thought that the masses in Kenya are too much exposed to gambling through the mobile phone because of sports betting. Section 68 of the Act is trying to ban the use of telecommunication platform as a means of betting. The Committee proposed amendments because when you talk about telecommunication platform, it is ambiguous and we may be unable to deal with it. We will bring an amendment banning the use of mobile devices as a means of betting so as to limit access of Kenyans to betting.

As I conclude, the Gaming Bill 2019 will effectively regulate the gaming industry in Kenya better than the existing Betting, Rotaries and Gaming Act Cap 131 of 1966. I urge all the Members of the House to support this Bill. The past attempts by this House to effectively regulate the gaming industry have been through various piecemeal amendments to the existing Act. This structure has withstood all manner of repair of cracks on its walls, but there is a limit on how much you can repair and hold a dilapidated and defaced sinking house. This Bill does not repair, but it pulls down the entire edifice and builds a new ultramodern house that can let in fresh air of the new changes happening in the gaming industry.

Hon. Temporary Deputy Speaker, I beg to move.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Munyaka, do you have a Seconder to the Gaming Bill? Who is your Seconder?

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): My Vice Chair, Dr. Korei Lemein.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have Hon. (Dr.) Korei Lemein, the Vice Chair, for seconding.

Hon. Korei ole Lemein (Narok South, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second this Bill. At the outset, I would like to thank my Chairman and the Committee for putting in a lot of effort in coming up with this Bill. It is true that this Bill is very important. It is coming to address a number of issues that have been a challenge to the people of this country.

If you look at the objects and reasons for the Bill, you will find that they have been addressed by the Chairperson. It is a Bill that has been there for a very long time but it had many challenges. Therefore, it comes to address a number of them. As it has been put very well by the Chair, this Bill also has an impact on the county governments as per the Constitution of Kenya 2010. It has a number of parts that are very important. It contains a provision for the

establishment of the Gaming Authority. This Authority has a number of staff. It has members and a Director-General. It also addresses the issues of qualifications. Again, it contains provisions for the licences and permits which in the old Act has been a challenge. It also contains provisions on control and licensing of betting. This is a whole provision in the new Bill. It is lacking in the old Act. That is why you see in the entire country, whether somebody was young or old, it was affecting almost everyone. This particular provision will address the same.

Again, it contains a provision on control and licensing of lotteries. The old Act does not even distinguish between a lottery and a betting company. It is very difficult in the old Act. This Bill has gone further and got the difference and tabulates between what is what. It contains the provision of online gaming. The old Act, which was passed in 1966, did not even imagine that there is what we call online gaming. The world is changing and technology is really moving very fast in the 21st Century. In that sense, the most challenging part to address is online gaming. This Bill proposes a number of issues that are also going to address the same.

It also contains a provision for establishment of a national lottery. I might not address much on this because the Chairperson has addressed it. The various visits that the Committee made gave it an opportunity to compare notes with the rest of the advanced world on gaming. It also contains a provision on the conduct of a national lottery. If you look at what we have in the Act, it does not really give teeth to bite when there are issues that affect our people. There is also a provision for the National Lottery Distribution Trust Fund which will address a number of issues.

Let me address what we really got while we were doing public participation. When we visited the coast, western and eastern regions and almost every place we visited in this country while we were doing public participation, there was outcry from Kenyans. Gaming or betting has destroyed our children to an extent that they steal from their parents and instead of going to school, they go betting and just come back in the evening. Even on the so called family values, we also realised that it went to an extent of harming the family. A man can get out of a home and instead of going to do a job or struggle for his family, he goes for betting. The unique part we learnt in the coast is that it went to a situation where a man can steal the wife's clothing to sell in the market just for him to get a few coins to be able to bet. This is a very unique thing.

I really thank this Committee because of the kind of recommendation it has put in place. I also had an opportunity to visit one of the most advanced states on matters gaming. In Nevada, gaming contributes to almost 70 per cent of the GDP. What we learnt is they have professionalised gaming to an extent that they even have a university that has a department that manufactures gaming machines. They are able to look at and inspect these machines on a yearly basis. So, if somebody tries to tamper with the same, an inspection team is sent to inspect the entire machines all over the state. That is a very good observation. Here we put gaming machines everywhere. We found out that they are put in specific areas and you can only walk there if you are going to play. These are some of the issues that we realised that, as a country, we really need to look at.

Therefore, there are a number of amendments that are contained in our Report that we laid on the Table of this House on 14th of this month. We have a number of them that we felt if adopted by this House, this Bill is going to be enriched further to be a Bill that is going to, one,

address the ills that are prevalent at the moment and, two, it will become a business and an entity that is going to be productive and contribute to the GDP of this country.

I second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, the Bill having been moved and seconded, I now propose the Question.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Oduol Odhiambo is the first to contribute to this debate.

Hon (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to the Gaming Bill, 2019.

From the outset, I am a Member of this Committee. I thank my Chair who has very ably captured the soul of the country at this particular point in time. As has also been echoed by our Vice-Chair, as a Committee, we were concerned that as much as we might not want to address the culture and practice of gaming, we needed to ensure that we responded to the cry of people of all ages but most particularly, the family. As the saying goes, whenever we look at a nation or the world and determine where it will go, we need to look at the children. It is agreed that as the children go, so goes the family, the nation and the world.

Looking at the manner in which gaming and issues of gambling are currently practised, almost all Kenyans can bear witness that to date, we have a practice where one of the key inductions or introduction of our young people as they go to school is that they have to stop and look at what they were calling China. There is a culture being inculcated in our children that they do not even need to engage in serious work. They do not even see the importance of working in school. Much more worrying is that they even lose the respect and sense of restraint that they had with regards to how they spend school fees or the monies that parents sent them for different errands.

As was indicated by our Chair, we were able to establish from the public participation across regions in this country - ranging from those in authority such as the CSs to those who are in touch with the public on a day-to-day basis like the regional commissioners and chiefs - that the family and in particular, the manner in which children were getting addicted or acclimatised in an industry that did not seem to have any clear regulation was the basis for this Gaming Bill.

As a Committee, our greatest concern was to see that this industry is here with us. Our concern was that we need to provide a way in which the practice would protect the interests, not only of the children and the family, but even of those who would be engaging in the activity. This is because we noticed that there were those who said that this was a way for them to get employment. Our greatest concern has been to ensure that we provide an appropriate regulatory framework by repealing the Betting, Lotteries and Gaming Act Cap.131 of 1966. We do this because we are aware that after 2010, we now have a national Government and county governments in terms of administration and governance. The Act that applied in 1966 did not also recognise or take into account devolution, in addition to not having the capacity to deal with online betting which is another serious menace.

Apart from ensuring that we broadly and very specifically look at the regulations that address the problems that we have, we are concerned about protecting the youth and the poor. For people who live below the poverty line or those who do not have a proper means of income, it appeared as if the only thing that was left for them was gambling. It is extremely important that we have a proper framework that will protect the interests of our children and the poor.

We are also ensuring that we task betting companies. We specifically recognise that there are betting companies which, after luring our innocent citizens some of whom even take monies that were not theirs which they borrowed, in the event that they win large amounts of money, would not compensate them. Because we did not have a proper regulatory framework in place, they were getting away with it.

We would also like to ensure that we do not have a situation where the lack of clarity of specific roles and responsibilities between the two levels of governments lead to a situation where those who are engaged in this activity are not clearly monitored. We have clearly delineated roles for the national Government and county governments. It is necessary that county governments know that they are the ones to enforce compliance of the Act and other applicable laws and, therefore, protect the citizens at that level. County governments would issue permits for premises. During public participation, we were told that there were cases where you would find that personal premises, rooms in homesteads or some insecure areas were being used for this activity.

I support this Bill because we must recognise that the culture of gaming that we are accepting is totally destructive because it touches the core of our most vulnerable, poor, children and youth. It is destructive because it benefits those outside Kenya and exploits the soul of our country. It is destructive because it seems to be a free-for-all and can be engaged by anyone at any level without any repercussions or consequences. It is also destructive because we do not have a clear mechanism with which to engage in real-time monitoring and looking at online gaming that seems to be at the heart of our country.

I support this Bill because it is timely and necessary. If we do not address this issue, we will find that we no longer have a country because our children will get addicted and lose money. We cannot afford the breakdown of relationships between children and their parents or between spouses.

I urge the Members of the House to take this with the seriousness that it calls for.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Let us have Hon. Shamalla Jennifer.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this very timely Bill. I commend this Committee for the work that has gone into this Bill. I went through the reports. I have seen the Report and it is really extensive. You have done a lot of public participation and really captured what the people of Kenya want.

It is a tragedy going on in this industry at the moment. I grew up in a world where gambling was almost akin to prostitution. They were almost the same type of sin. My mother would not even let us play with cards. I understand the reason behind my mother doing so. It is because of the addictive nature of gambling. I want to thank my mother who is alive. Her name

is Ms. Stella. She was very strict. We could not understand it. We were not even allowed to play with cards. I do not know how to play a card game. When the people outside there see the title of the Bill, the Gaming Bill, they may think that we are endorsing gambling. We are not. This House and Committee are saying that it must be regulated. There were days when we were not allowed to play with cards and enter casinos. Civil servants were prohibited from entering casinos. I know the reason. It becomes a place where you can be bribed and blackmailed. It was there then. We had the Charity Sweepstakes which was about fraud charity. Kenyans must understand that gambling has to be regulated like it is done in gambling capitals around the world. Parliamentarians do not want to promote gambling. They have realised that it must be regulated. I agree that they are hooking our children who are the next chosen generation using telephones. These unsolicited adverts in phones must stop in this country. We get unsolicited adverts for pornography and gambling.

I also want to really commend the Committee on its public participation. I have gone through the Report. Like I said earlier on, they captured what Kenyans want.

With those few remarks, Hon. Temporary Deputy Speaker, I support the Bill.

The Temporary Deputy Speaker (Hon. Jessica Mbalu): Hon. Godfrey Osotsi, you have the Floor.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this very important Bill. First, I want to commend the Departmental Committee on Sports, Culture and Tourism for this very good work. If all committees work like this, this will be a wonderful House. As Hon. Shamalla said, they have really done a good job. There is extensive public participation and even its content is quite wide.

However, I have several concerns to raise which can be rectified by the Committee before we go to the Committee of the whole House. There are some inconsistencies in this Bill, especially if you look at it from the context of other legislations that we passed in this House. For example, this Bill talks very little about other legislations that are affected by some of these provisions, for example, the Sports Act. It talks a lot about national lottery. I have looked at the Bill but it does not provide for consequential amendments to the Sports Act, especially on matters lotteries and Sports, Arts and Social Development Fund.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Jessica Mbalu): Do not distract the Chair. I can see that the Chair, Vice Chair and Hon. Shamalla are consulting.

Hon. Godfrey Osotsi (Nominated, ANC): I wish the Chair can listen to what I am saying because it is very important. We will require harmonising some of the provisions in this Bill with other legislations, particularly the Sports Act on formation of a national lottery. The Sports Act talks about formation of a national lottery. This Bill again talks about formation of a national lottery. It is important to look at the consequential amendments and include them.

The second aspect is on the formation of the Gaming Authority. I have looked at the composition of the Board members. One major omission is that the industry is not represented in this Authority. I suggest that we need to be very specific on the three persons who will be

appointed by the CS. We need to be very specific on whose interest they will represent in the Board because it is not clear. It is so wide for the CS to choose any person without specific information on whom he will represent.

I have also looked at the financing of this Authority which the Bill is a bit silent on. It is not clear how this Authority will be financed. We may assume that it will be financed by the Exchequer, but when it comes to operationalisation, we may consider funding it from the license fees or taxes. We need to be very specific on how this Authority will be financed.

There will be transition from BCLB. However, we need to be very clear on all the specific issues on transition, especially when it comes to transition of staff from the old body to the new Authority. It needs to be clear. Recently, we passed amendments to the Sports Act in this House. One of the amendments was that the National Sports Fund would be abolished to create a new Fund called the Sports, Arts and Social Development Fund. We agreed and passed amendments to say that the staff that is affected will transition automatically to the new Fund.

I can report to this House that we have received complaints from the affected staff that used to work for the old Fund that they are still at home and have not been absorbed in the new Fund. This is a serious matter that borders on respect of the laws that we pass in this House. The Committee needs to investigate this matter because the members of staff were sent home in April and have not been absorbed in the new Fund. I was told that the new Fund is run by a Chief Executive Officer (CEO) who is one person and yet this House passed a law that says that there would be seamless transition to the new body. The issue of transfer is very key. When staff transition, they need to do it with their benefits like pension. This Bill is very silent on benefits like pension.

Another very important issue is license fees. As much as I agree with a number of Members who are saying that we need to manage the negative effect of betting and gaming in this country, we cannot set very high license fees. This Bill is proposing to set up very high license fees of between Kshs5million and Kshs100 million. In addition to that, after every three to five years, you will pay high renewal fees. We also have charges on gaming security which is also very high. It is up to Kshs100 million. These fees will discourage investment in this sector. On one hand, we ask for huge taxes from these companies. On the other hand, we charge very high fees to set up this kind of companies in this country. This country has to make a decision on whether we want to continue having this kind of businesses or to completely shut them down. It does not make sense to have this high operational cost. These costs are high compared to international standards.

The other issue is online gaming. I commend the Committee for coming up with this provision. Before this law, we used to regulate those who did gaming and betting in this country, but people who did online betting and gaming were still in business. The high licence fees disadvantaged those who are doing business in this country. Those who have set up business outside the country were enjoying. As much as I commend the Committee for introducing this aspect in the Bill, I also want it to also look at the inconsistencies in that Section.

When I look at Section 68, it is outlawing the use of telecommunication service. We know that over 80 per cent of Kenyans have access to mobile phones and that is where they do all their operations online. Therefore, if you outlaw use of technology, then how are you going to

conduct this business? It will be very difficult. The Committee should look at that provision which I think is not necessary. In this era of technology, I do not think it makes sense.

There is the issue of restriction on the use of foreign servers. My background is in IT. I can tell you that it is not practical for you to say you will restrict the use of foreign servers. We recently passed data protection law. It will deal with such issues that the Committee is trying to remedy. There is also the issue of Communication Authority to ensure that online gaming companies which are not licenced in Kenya should not operate. That should also be looked at because...

I support, but I will bring some amendments so that we remove some of those ambiguities.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Osotsi, as you are aware of the procedure of the House, you are at liberty to propose your amendment or sit with your Committee. You have just heard the Chairperson as he was moving saying that they have some amendments that will be looked at during the Committee of the whole House. You are at liberty to do your proposals as an individual or approach the Chairman to do it as a Committee. That is already provided for in your Standing Orders.

QUORUM

Hon. (Dr.) Oundo Wilberforce (Funyula, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): What is out of order, the Member for Funyula?

Hon. (Dr.) Oundo Wilberforce (Funyula, ODM): Hon. Temporary Deputy Speaker, looking at the House and the mood of the day, I rise under Standing Order No.35 to seek your guidance on whether we are properly constituted to debate and conclude such an important Bill, as it is in the Floor of the House today

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): What do you mean?

Hon. (Dr.) Oundo Wilberforce (Funyula, ODM): We may not have the necessary quorum to transact business as required under Standing Order No.35.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Are you saying it based on looking at the mood of the House or you are just stating the importance of the Bill?

Hon. (Dr.) Oundo Wilberforce (Funyula, ODM): Hon. Temporary Deputy Speaker, without even going through electronic or complicated counting system, we can see that the numbers here are very few. We do not have enough numbers to transact business as contemplated under Standing Order No.35. We seek your guidance on how to proceed in view of the importance at hand. In any case, all the matters before the House are important, but this could be extremely important being such an emotive issue that requires proper debate and discussion.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, Hon. Oundo stood under Standing Order No.35, questioning the constitution of the House. I direct that the Quorum Bell be rung.

(Quorum Bell was rung)

*(Hon. (Dr.) Wilberforce Oundo
stood up and walked around)*

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Member for Funyula, I hope your intention is not walking out of the Chamber. As a matter of procedure, you cannot walk out of the Chamber when the Quorum Bell is ringing. It is only the Whips who are allowed to walk out of the Chamber.

(Hon. Jimmy Angwenyi walked into the Chamber)

I order that the Quorum Bell be stopped. Very well.

Hon. Members guided by the same Standing Orders, we are not in a position to conduct business.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): ... *(Off-record)*

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I can hear Hon. Angwenyi mentioning that there are some more Members coming, but the time that has been in our Standing Orders has lapsed. We have not been able to get Quorum for us to transact business.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time is 6.14 p.m. but we do not have Quorum. Therefore, the House stands adjourned until Tuesday, 26th November 2019, at 2.30 p.m.

The House rose at 6.14 p.m.