

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

THE HANSARD

Wednesday, 8th June 2022

The House met at 2.30 pm.

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

PRAYERS

QUORUM

Hon. Speaker: Please, ring the Quorum Bell.

(The Quorum Bell was rung)

Very well. We may now commence business.

COMMUNICATION FROM THE CHAIR

INVITATION TO A MEMBERS' EVENT

Hon. Speaker: Hon. Members, this is a unique Communication in that it is titled: "Invitation to a Members' event on Thursday, 9th June, 2022 at the rise of the House."

As you are aware, the Sixth and final Session of the 12th Parliament is coming to an end with the *sine die* recess due to commence on Friday, 10th June, 2022. In this regard, all Members of the National Assembly are invited to a Members' farewell event and cocktail, which will take place tomorrow, Thursday, 9th June 2022 at the rise of the House at 7.00 p.m. The event and cocktail will be held at the Members' restaurant within the main Parliament Buildings. You are all welcome.

Thank you.

(Applause)

PAPERS LAID

Hon. Speaker: The Leader of the Majority Party or is it the Majority Whip. The Deputy Leader of the Majority Party, any Papers to be laid?

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

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Report of the Auditor-General and Financial Statements in respect of the Kenya Revenue Authority for the year ended 30th June 2021 and the certificates therein.

Hon. Speaker: Very well. The Chairperson of the Special Funds Accounts Committee.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The 12th Report on the audited Financial Statements for the Land Settlement Fund for the Financial Years 2019/2020 and 2020/2021 and the 13th Report on status of the Equalisation Fund.

Hon. Speaker: Very well. Can we get the following Chairpersons: The Chairperson or the Vice-Chair of the Departmental Committee on Health, exit report. Those are very active Members, Hon. Sabina Chege and Hon. Joshua Kutuny.

(An Hon. Member spoke off record.)

She is very busy. Hon. Kutuny is said to be on *WhatsApp*. We will invite him to the Chamber. Chair, Departmental Committee on Agriculture and Livestock, exit report. Hon. Tiren.

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Speaker for this opportunity.

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

Exit Report of the Departmental Committee on Agriculture and Livestock, 2017-2022.

Hon. Speaker: Very well. The Chairperson, Departmental Committee on Communication, Information and Innovation. A Report on the Startup Bill as well as the exit report. Who is the Chairperson of that Committee now? It is no longer Hon. Kisang'? Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): She happens to be the one who represents you in this National Assembly.

Hon. Speaker: No. My Member of Parliament is Hon. Njagagua.

Hon. Emmanuel Wangwe (Navakholo, JP): The Woman Representative, your Excellency.

Hon. Speaker: Ooh! The one representing women?

(Laughter)

She represents women from the county. Anyhow, let us get the Chairperson, Committee on Delegated Legislation, Hon. Kamket. A Woman Representative is a female Member of Parliament in the National Assembly representing women in a particular county.

(Laughter)

You see, those of us who have a history in the making of the current Constitution would recall some very serious and heated arguments that arose when that position was created because one of the Members who was a key Committee Member, Hon. Jimmy Angwenyi, insisted that he wanted to be the Woman Representative of Kisii County.

(Laughter)

Yes, he was a Member of the Committee. Hon. Kamket.

Hon. Kassait Kamket (Tiaty, KANU): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Committee on Delegated Legislation on its consideration of the Scrap Metal Dealers Rules 2022, Legal Notice No.84 of 2022.

Hon. Speaker: Chairperson, Committee on Members' Services and Facilities. Is it Hon Aseka? Very well.

Hon. Christopher Wangaya (Khwisero, ANC): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Report of the Select Committee on Members' Services and Facilities on inspection visit to constituency and county offices in Uasin Gishu and Nandi counties.

Exit Report of the Committee on Members' Services and Facilities, 2017-2022.

Hon. Speaker: Very well. The Chairperson, Departmental Committee on Lands, Hon. Rachel Nyamai. Hon Owen Baya, on her behalf.

Hon. Owen Baya (Kilifi North, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Exit Report of the Departmental Committee on Lands for the 12th Parliament, 2017-2022.

Hon. Speaker: My list indicates that the Chair of the PIC was also to table their exit report. If it will be ready later in the day, you can actually table it because it has been indicated as one of those to be tabled.

Is there a Member from the Departmental Committee on Health who can act as an agent of necessity? Majority Whip, do you have the exit report of the Departmental Committee on Health?

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

Exit Report of the Departmental Committee on Health, 2017-2022, on behalf of the Chairperson.

Hon. Speaker: Very well. Let us have the exit report from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives. Let us have Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. I appreciate you and thank you for allowing me to lay the Paper on behalf of the Chair.

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

Exit Report of the Departmental Committee on Trade, Industry and Cooperatives, 2017-2022.

Hon. Speaker: Let us have the exit report from the Chairperson of the Departmental Committee on Environment and Natural Resources. Who is that? Is that Hon. Nzengu?

Hon. Paul Nzengu (Mwingi North, WDM-K): Hon. Speaker, thank you for this opportunity.

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

Exit Report of the Departmental Committee on Environment and Natural Resources for the 12th Parliament, 2017-2022.

Hon. Speaker: Very well. Let us have the exit report from the Chairperson of the Select Committee on Regional Integration. Let us have the Chairperson or an agent of necessity. Who currently chairs that Committee? Maina Kamanda? No, this is the Select Committee on Regional Integration. Hon. Ruweida Obo? Maybe they can do it tomorrow because we have a morning and an afternoon sitting.

Let us have the Chairperson of the Departmental Committee on Labour and Social Welfare. Hon. Sankok, are you the agent of necessity?

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker.

On behalf of my Chairman, Hon. Josphat Kabinga Wachira Wathayo, I beg to lay the following Paper on the Table on the House:

Exit Report of the Departmental Committee on Labor and Social Welfare, 2017-2022.

Hon. Speaker: Hon. Members, the session has just begun. The Member in a *buibui* who is taking off, come back. The session has just begun. There is a lot of business to transact.

Let us have the Chairperson of the Committee on Implementation.

Hon. Jared Okelo (Nyando, ODM): Thank you very much, Hon. Speaker. On behalf of the Chairperson, ole Kenta, and Members of the Select Committee on Implementation, I have two Papers to lay before the House.

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

Sixth Report of the Select Committee on Implementation on its consideration of the submissions from stakeholders regarding implementation status of inquiries, petitions and resolutions passed by the House.

Fifth Report of the Select Committee on Implementation on its consideration of the submission from stakeholders regarding implementation status of inquiries, petitions and resolutions passed by the House.

Report on the Implementation Status of the Report of the Public Investments Committee on consideration of the Special Audit Report on procurement of pre-export verification of conformity (PVOC) to standard services for used motor vehicles, mobile equipment and used spare parts by the Kenya Bureau of Standards.

Exit Report of the Select Committee on Implementation for the 12th Parliament, 2017-2022.

Hon. Speaker: The next exit report is by the Select Committee on National Cohesion and Equal Opportunity. It is indicated that Hon. Edward Oku Kaunya is the one to present.

Hon. Oku Kaunya (Teso North, ANC): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Exit Report of the Select Committee on National Cohesion and Equal Opportunity for the 12th Parliament, 2017-2022.

I thank you on behalf of the Chairman of the Committee, Hon. Maina Kamanda.

Hon. Speaker: The one by the Departmental Committee on Labour and Social Welfare has been tabled. Let us have the Chairperson of the Departmental Committee on Administration and National Security. I thought I saw him strolling. He has forgotten. Hon. Mwathi, come back to the House. You are supposed to table a number of Papers.

Hon. Peter Mwathi (Limuru, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Administration and National Security on its consideration of:

- (i) The Kenya Citizenship and Immigration (Amendment) Bill (Senate Bill No.33 of 2021);
- (ii) The Office of the County Printer Bill (Senate Bill No.13 of 2021);
- (iii) The National Flag, Emblems and Names (Amendment) Bill (Senate Bill No.36 of 2020); and,
- (iv) The County Governments (Amendment) Bill (Senate Bill No.38 of 2021).

Hon. Speaker: Hon. Mwathi, there is something which appears to be misplaced. There is also supposed to be a report, but it is indicated that it is coming from the Departmental Committee on Labour and Social Welfare. It is a report of the Departmental Committee on Administration and National Security on its consideration of the Regional Development Authority Bill. Do you have that one?

Hon. Peter Mwathi (Limuru, JP): No. In fact, the additional one I have is a Report on the Huduma Bill, which you referred to the Committee.

Hon. Speaker: An addendum?

Hon. Peter Mwathi (Limuru, JP): Yes. I have that one, but not the other one.

Hon. Speaker: Addendum report on the proposed amendments to the Huduma Bill?

Hon. Peter Mwathi (Limuru, JP): Yes.

Hon. Speaker: Okay. Is that what you are tabling?

Hon. Peter Mwathi (Limuru, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Addendum Report of the Departmental Committee on Administration and National Security on its consideration of the proposed amendments to the Huduma Bill (National Assembly Bill No.57 of 2021).

Hon. Speaker: Very well. Hon. Sankok, do you have the report on the Regional Development Authority Bill? You do not.

Hon. David ole Sankok (Nominated, JP): I have instructions to table it, but the Table Office did not give it to me. I had instructions to table it.

Hon. Speaker: We will proceed. Let us go back to the Chairman of the Public Investments Committee.

Hon Abdullswamad Nassir (Mvita, ODM): Thank you, very much, Hon. Speaker.

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

Exit Report of the Public Investments Committee for the 12th Parliament (2017-2022).

Hon. Speaker: The Chair, Committee on Regional Integration, Hon. Ruweida.

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Exit Report of the Select Committee on the Regional Integration for the 12th Parliament (2017-2022).

Hon. Speaker: Very well. Hon. Members, you will realise that we still have some business to be transacted. I think we are through with the tabling of the Papers unless there is any other Chairperson who has an exit report. I approved the one by the Departmental Committee on Defence and Foreign Relations. Yes, Hon. Ogutu, Member for Bomachoge Borabu.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Hon. Speaker, on behalf of the Chair of the Departmental Committee on Education and Research, I beg to lay the following Paper on the Table of the House:

Exit Report of the Departmental Committee on Education and Research for the 12th Parliament (2017-2022).

Hon. Speaker: Very well, Hon. Thuku Kwenya.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Speaker. On behalf of the Chair, I wish to lay the following two Papers on the Table of the House:

Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Regional Development Authority Bill (National Assembly Bill No.46 of 2021).

Exit Report of the Departmental Committee on Defence and Foreign Relations for the 12th Parliament (2017-2022).

Hon. Speaker: Hon. Members, I wish to draw the attention of the House to the existence of a Supplementary Order Paper. This has been necessitated by the fact that during the Morning Sitting, there are quite a number of Bills that were considered in the Committee of the whole House. However, the final decision on agreement with both the Committee as well as Third Readings were not carried out. Therefore, we did a Supplementary Order Paper which I have approved. Can we go to the Procedural Motion? Which is the next Order? Any Member giving notice? Very well. Proceed.

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

Hon. Speaker: The Leader of the Majority Party.

Hon Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 30(3)(a), this House orders that should the time appointed for adjournment of the House be reached before conclusion of business appearing under Order No.25 on today's Order Paper, the sitting of the House shall stand extended until conclusion of the said business.

Hon. Speaker, yesterday we did very well. We had an extension, but we could not exhaust it. We were able to rise at around 7.30 p.m. or thereabout. Today, we have a number of Questions to be put. Also, there is pending business to ensure we do justice to the committees that have done a lot of work.

Hon. Members, you will notice the last Order on Ratification of the Bilateral Air Services agreements is something that is critical for our aviation industry. Hence it will be good for us to close that matter before we have our last day tomorrow.

I want to thank Members for agreeing yesterday. They should do the same today. Also, this morning we agreed to have another sitting tomorrow morning, so that we can transact as much business in the time we have. Then we do not have to look for an extra one week. This gives us time for campaigns out there, now that we are already here anyway. I ask that we agree with this.

I beg to move and ask the Leader of the Minority Party to second this extension of time until we conclude business.

Hon. Speaker: The Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. I want to second the Motion by the Leader of the Majority Party. Even though in the morning I said I did not think I would get an opportunity to speak on the Floor of this House again, God had His own plans. That is why we should always leave our lives to God to dictate. Otherwise, the thinking of a human being is different from the way the Almighty thinks. It is simple. We should have an extension of sitting time today, so that some of the business we have before us is dealt with because we are going home. We are finishing.

This has been an eventful 12th Parliament. Again, I want to repeat, because most of the faces I see around are seeking re-election, I wish you all the best as you come back to work for the people of Kenya. May God bless you. I second.

(Question proposed)

Hon. Members: Put the Question!

Hon. Speaker: Hon. Ichung'wah.

Hon. Kimani Ichung'wah (Kikuyu, JP): Apologies, Hon. Speaker. I have no card, and I want to support that Motion although under the circumstances, I would have been inclined to oppose it. I must also commend the Leader of Majority Party because there is a time a rumour was flying around that he was pushing for extension of sittings by a week, and I think it is only fair we allow Members to go and campaign.

Let me also take this opportunity, because Hon. John Mbadi has appeared in the House, and being the Chair of the Orange Democratic Movement (ODM) Party, he has become very rare in the House, and since he has wished us well, let me also take this opportunity to also wish him well because he is not running for a re-election.

I found Hon. John Mbadi in this House close to 10 years ago and he had served for five years prior to that. He had served the people of Gwassi and now, Suba South, diligently as their Member of Parliament for the last 15 years. He has also served as the Leader of Minority Party, and it is only fair in this Session of Parliament to appreciate and recognise the work he has done for the people of Kenya, the people of Suba South and his party, ODM.

I worked with him as his Chair of the Budget and Appropriations Committee, and on record, I must say that he has been a very diligent Member of the Budget and Appropriations Committee, and very keen on issues to do with finances. He is a very balanced leader when it comes to issues to do with economy. Wherever he will serve beyond this, if he does not come back to this House since he is not seeking re-election, I wish him the best. I thank him for the service he has given to the House as the Leader of the Minority Party.

I had opportunity to work with him in the Budget and Appropriations Committee and we worked notwithstanding our varying political positions, but for the best interest of the nation.

I missed his contribution when we were discussing the issue of the public debt because I know his position on issues, and together with other Members like Hon. Makali Mulu. I truly appreciate the time the people of Suba South have given him to serve. I wish him all the best.

Hon. Speaker: Very well. Let me go ahead and put the Question.

(Question put and agreed to)

(Hon. Kassait Kamket consulted with the Clerks-at-the Table)

Chair of the Committee of Delegated Legislation, is there banditry in your constituency currently? He never heard when Order No.6 was read out. Hon. Kamket, I will re-arrange the Order Paper to accommodate you. It is important.

(Loud consultations)

NOTICE OF MOTION

THE SCRAP METAL DEALERS RULES, 2022

Hon. Kassait Kamket (Tiaty, KANU): Hon. Speaker, my mind had actually wandered a bit to the mighty Tiaty.

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 Scrap Metal Dealers Rules, 2022, laid on the Table of the House on Wednesday, 8th June 2022, and pursuant to the provisions of Section 18 of the Statutory Instruments Act, 2013, annuls the Scrap Metal Dealers Rules, 2022 published as Legal Notice No.84 of 2022.

Hon. Speaker: Very well. Move to the next Order.

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD OF THE SUPPLEMENTARY APPROPRIATION (No.2) BILL

Hon. Speaker: Chair, Budget and Appropriations Committee.

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Speaker. I beg to move the following Procedural Motion:

THAT, notwithstanding the provisions of Standing Order No.120, this House resolves to reduce the publication period of the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.33 of 2022) from seven days to one day.

Hon. Speaker, as you have also said in your Communication, tomorrow we will have a farewell party which clearly indicates that we are here officially for the next one day. Going by that, I beseech Members to consider reducing the publication period from seven days to one day so that by the time we are going for the farewell party, we would be through with the Supplementary Budget.

I request my Vice-Chair, Hon. Shinali, to second.

Hon. Speaker: Hon. Shinali Benard.

Hon. Benard Shinali (Ikolomani, JP): Thank you, Hon. Speaker. As my Chair has requested, you will realise that every Member here is not settled in this House. We would like to conclude the business of the House especially the Supplementary Budget, so that we can go home and campaign to try and come back to this House to serve *wananchi*.

I second.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: Next Order.

REPORT AND THIRD READING

THE APPROPRIATION BILL

Hon. Speaker: Members have asked for the Question to be put before we proceed to Third Reading.

(Question put and agreed to)

Hon. Speaker: Mover.

Hon. Kanini Kega (Kieni, JP): Thank you so much, Hon. Speaker.

I beg to move that the Appropriation Bill (National Assembly Bill No.31 of 2022) be now read a Third Time.

This matter was ably canvassed yesterday, and in the morning, and with that, I want to request the Vice- Chair to second.

Hon. Speaker: Vice-Chair, Hon. Shinali.

Hon. Benard Shinali (Ikolomani, JP): Hon. Speaker, I beg to second.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: Mover

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Speaker. As I reply, I want to thank all the Members who participated both in the morning, and yesterday. This forms the budget for the next financial year for the next Government.

I beg to reply.

Hon. Speaker: The House did agree with the Committee. Mover

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Speaker. I stand guided. I think there are so many people around here.

Hon. Speaker, I beg to move that the Appropriation Bill (National Assembly Bill No. 31 of 2022) be now read a Third Time. I request the Vice Chair to second.

Hon. Bernard Shinali (Ikolomani, JP): Thank you, Hon. Speaker. I beg to second.

(Question proposed)

(Question put and agreed to)

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

REPORT AND THIRD READING

THE SUPREME COURT (AMENDMENT) BILL

Hon. Speaker: Hon. Members, when consideration of this Bill came to an end in the Committee of the whole House, there was no quorum.

(Question put and agreed to)

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to move that the Supreme Court (Amendment) Bill (National Assembly Bill No.15 of 2022) be now read the Third Time.

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Let me take this opportunity to thank the Members who did it. This is a Bill that we only introduced into the House this year and we have been able to finish it. At least the Supreme Court can now have the legislation to sort out their issues. So, I beg to move and request Hon. Wangwe to second.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. I second.

(Question proposed)

(Question put and agreed to)

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

REPORT AND THIRD READING

THE TRAFFIC (AMENDMENT) BILL

Hon. Speaker: Again, Hon. Members, I put the Question for agreement. Th

(Question put and agreed to)

Hon. Kassait Kamket (Tiaty, KANU): Hon. Speaker, I beg to move that the Traffic (Amendment) Bill (National Assembly Bill No.60 of 2021) be now read a Third Time. I request the people's chairman, Hon. Murugara, to second.

(Laughter)

Hon. Speaker: He is the people's chairman?

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Speaker. I seem to be getting titles every day. I am worried whether this is because we are just about to close. I used to be Sir George, now I am the people's chairman.

I beg to second.

(Question proposed)

(Question put and agreed to)

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

REPORT AND THIRD READING

THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

Hon. Speaker: This is for agreement with the Committee. Hon. Member for Eldas, I know you do not know what it was. You agree or disagree.

(Laughter)

(Question put and agreed to)

This Bill is sponsored by Hon. John Paul Mwirigi, Member for Igembe South. He has asked Hon. K.J, Member for Dagoretti South to prosecute it on his behalf.

Proceed to prosecute, Hon. K.J.

Hon. John Kiarie (Dagoretti South, JP): Thank you very much, Hon. Speaker. The very youthful Member of Parliament looked around and saw that I am the next most youthful Member of Parliament in the House and he asked me to hold brief for him.

Hon. John Kiarie (Dagoretti South, JP): Hon. Speaker, I beg to move that the Higher Education Loans Board (Amendment) Bill (National Assembly Bill No.37 of 2020) be now read the Third Time.

I request Hon. Kwenya Thuku to second.

Hon. Speaker: Is he the next youthful Member?

Hon. John Kiarie (Dagoretti South, JP): He is youthful enough.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Speaker. I take this opportunity to second and congratulate the youngest Member of Parliament who brought this very important Bill. It is going to ensure that young people are given time to seek jobs after graduation and once they settle, they can repay their HELB loans.

I second.

(Applause)

(Question proposed)

(Question put and agreed to)

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

REPORT AND THIRD READING

THE INFORMATION COMMUNICATION TECHNOLOGY PRACTITIONERS BILL

Hon. Speaker: Hon. Members, again this is for agreement.

(Question put and agreed to)

Let us have the Mover, Hon. Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Speaker, I beg to move that the Information Communication Technology Practitioners Bill (National Assembly Bill No. 38 of 2020) be now read the Third Time.

I also request Hon. Mark Nyamita to second

Hon. Speaker: Let us have Hon. Mark Nyamita, Member for Uriri.

Hon. Mark Nyamita (Uriri, ODM): Thank you, Hon. Speaker. We went through that Bill, and I think it is a good one for the industry.

I beg to second.

(Question proposed)

Hon. Speaker: There being no opposition, I, therefore, put the Question, while again confirming that the House still quorates.

(Question put and agreed to)

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

REPORT AND THIRD READING

THE INSURANCE PROFESSIONALS REGISTRATION BILL

Hon. Speaker: Again, this is for agreement.

(Question put and agreed to)

Let us have the Mover, Hon. Washiali. Congratulations, you have really pushed for this Bill.

Hon. Benjamin Washiali (Mumias East, JP): Thank you so much, Hon. Speaker.

Hon. Speaker, I beg to move that the Insurance Professionals Registration Bill (National Assembly Bill No.25 of 2020) be now read the Third Time.

Before I ask Hon. Pukose to second, I want to thank the entire membership of Parliament for having provided a Bill for insurance professionals to now put their act together.

I, therefore, request Hon. (Dr.) Pukose to second.

Hon (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. As I second, I congratulate Hon. Washiali for the effort he has put in. He is apparently one of the Members who is also not defending his seat. He is the Member for Mumias East and has worked very diligently. He has been our Majority Whip in this House during the first part of this Parliament. He is a team leader and has worked with us in this House. He has given a lot to the House and, more so, the Kenya Kwanza team in western Kenya. I laud his efforts. He is a man of integrity and has done a lot for the people of Mumias East. I wish him well. I know he is not defending his seat, but for those who will defend their seats and come back to this House, you have left a mark, having pushed for this Bill on the training and registration of insurance professionals. It is a very commendable effort. It is a mark that will be left in the annals of this Parliament.

With those few remarks, I beg to second.

Hon. Speaker: Hon. Members, you will keenly observe that because during the Committee of the whole House you amended the Bill to delete the word “registration”, when I propose the Question, I will not use the original title.

(Question proposed)

There being no contribution and quorum still being present, I put the Question.

(Question put and agreed to)

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

BILLS

Second Reading

THE KENYA REVENUE AUTHORITY (AMENDMENT) BILL

(Hon. Amos Kimunya on 8.6.2022)

(Debate concluded on 8.6.2022 – Morning Sitting)

(Several Hon. Members stood in the gangways)

Hon. Speaker: Very well. Hon. Members, just freeze. No, do not do that. Member for Nairobi, do not bother. Just stand as you are. That is the way it is done. I know you have been campaigning and so, you have forgotten these rules.

Hon. Members, debate on this Bill was concluded in the morning.

(Question put and agreed to)

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

First Readings

THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL

THE KENYA SCHOOL OF LAW (AMENDMENT) BILL

THE LEGAL EDUCATION (AMENDMENT) BILL

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

Second Reading

THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL

Hon. Speaker: Hon. Members, I wish to make this correction. On the Order Paper, there are two Order Nos.13. There is Order No.13 on the Higher Education Loans Board (Amendment) Bill and Order No.13 on the Information Communication Technology Practitioners Bill. That should be Order No.14. Therefore, what is indicated as Order No.25 should read as Order No. 26. Therefore, the Motion passed earlier on should read as Order No. 26.

For some reasons we can dispose of this matter. I will make some small readjustment. So, business appearing as Order No.20 will now be No.21 and come before the Supplementary Appropriation Bill. So, we can dispose of the matter there. Call out that Order.

MOTION

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ADOPTION OF PUBLIC INVESTMENTS COMMITTEE REPORT

THAT, this House adopts the Twenty Fourth Report of the Public Investment Committee on its consideration of the Auditor General's Reports on Financial Statements of State Corporations, laid on the Table of the House on Tuesday, 31st May 2022.

(Hon. Abdullswamad Nassir on 7.6.2022)

(Resumption of Debate interrupted on 7.6.2022)

Hon. Speaker: Was there anybody on the Floor? No, not the Mover to reply. There is a notice of amendment by the Member for Bomachoge Borabu, Hon. Zadoc Ogutu. Is he in the Chamber?

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Thank you, Hon. Speaker. I have an amendment to the Motion on the adoption of the Twenty Fourth Report of the Public Investments Committee on its consideration of the Auditor General's Reports on Financial Statements of State Corporations.

Hon. Speaker, I beg to move:

THAT, the Motion be amended by inserting the following words after the figure '2022'-

“Subject to deletion of the Committee recommendations appearing as paragraph –

- (i) 1437 on page 359 of the Report;
- (ii) 1443 on page 360 of the Report;
- (iii) 1540 on page 386 of the Report; and
- (iv) 1613 (ii) on page 400 of the Report.”

I am moving this amendment on the ground that the matters upon which the recommendations are made have been in existence for a long time and somehow overtaken by time. At the same time, some of the recommendations were made ahead of time, including the policy intended to be put in place for purposes of managing various lapses in the lending of finances used in projects.

It is on this basis I feel if this Report was to be approved with these recommendations, we will be doing a lot of injustice. This is because some of the players involved in this Report are already gone. So, the new players may have little in terms of the implications of the recommendations.

Thank you, Hon. Speaker.

Hon. Members: What has he said?

Hon. Speaker: Who is seconding you? More importantly, before you are seconded Hon. Prof. Ogutu, what you are seeking to be deleted? First of all, if you have read the Report of the Committee, it contains observations by the entire membership of the Committee - things they observed.

After making all those observations the Committee has recommended in a host of areas that the Ethics and Anti-Corruption Commission (EACC) undertakes investigations. You are not

a Member of that Committee and you want to delete recommendations on investigations. What is the foundation of your argument?

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Hon. Speaker, I have read the Report. I want to talk on one recommendation which touches on procurement of transformers in 2017/2018. The action taken by the management was a matter of urgency as indicated in the Report. This urgency was intended to provide power for the roll out of digital literacy project in schools. I have looked at the overall basis upon which the Committee has made these recommendations and read the whole Report. I have no problem but picked areas which perhaps should not be included in the Report.

Thank you, Hon. Speaker.

Hon. Speaker: I approved your amendment subject to the provisions of Standing Orders 47(3)(a) as read together with Standing Order 133(4). So, you need to explain the effect, meaning and purpose of this. The fact that some people may have been in office or have left does not mean this House or a Committee cannot make observations and recommend that they be investigated, unless they are dead.

(Applause)

So, the Committee spent all this time making these inquiries and observations. Now, you are saying they should not investigate these ones because they were supplying transformers to schools. Surely, the Committee did not come across such information.

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

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

Hon. Kimani Ichung'wah (Kikuyu, JP): On a point of order, Hon. Speaker. You have rightly read out the Standing Orders, on a Member proposing an amendment to a Committee Report. He is not a Member of that Committee because I have gone through the list of membership, to see if he is one. He has not bothered to explain to the House the import of his amendment. I have just heard him babbling about recommendations, people who are not there and should not be investigated.

I was the Vice-Chair of the Public Investments Committee in the 11th Parliament. A lot of work goes into PIC and PAC Reports before a recommendation is made. I think everybody is offered an opportunity to be heard including Members of Parliament, if they have information that is valuable and will help the Committee in coming up with recommendations.

I think to allow a Member at this hour to make an amendment to the Committee's Report is not fair to that Committee and the House. If anything, the House is not passing judgement on anybody. It is making a recommendation to the EACC to investigate. No one should fear - it is only the guilty who should be afraid. If you have done no wrong then you should not fear. Just allow other constitutional institutions like EACC to investigate. This is because the Committee in their due consideration of all the evidence adduced before it made this recommendation. We should allow that recommendation to stay as it is in the Committee's Report. Should the people who are being recommended to be investigated be innocent, we can leave it to other investigative agencies to investigate and pass judgement. However, to be the one Member asking for a deletion of a recommendation, is what I do not think is right. We should allow the Committee's Report to pass as recommended by the Departmental Committee.

Hon. Speaker, we also have precedence, and especially in Public Accounts Committee and Public Investments Committee Reports, not to allow amendments on the Floor of the House. I do not want to pass any judgement on Hon. Zadoc who I hear is a Professor. Perhaps, he was

not briefed well by the people who sent him properly, but I would beckon him to withdraw that amendment because it is not a good one. If he however, opts to proceed, I would beg the House to act in accordance with the precedence that we have set in protecting Committee Reports, and reject that particular amendment.

(Hon. (Prof.) Zadoc Ogutu raised his hands)

Hon. Speaker: Hon. Professor, I can see your hand is up.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Hon. Speaker, given the mood of the House, I wish to withdraw the amendment.

(Laughter)

Hon. Speaker: Yes, I was not even going to propose it. You are supposed to give meaning, purpose and effect of a proposed amendment, and it looks like none of that has been achieved. I needed to hear from you so that I know whether I should go ahead, and propose the Question or not. Now that it does not even get anywhere, you have however, graciously withdrawn the proposed amendment. The Report will therefore, be debated as it is.

Thank you very much, Hon. Ogutu.

(Loud consultations)

Any other contribution on that one? Mover to reply. Very well.

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Speaker, I know majority of Members here are waiting for the next item on the Order Paper, which I appreciate because they are very important amendments.

I, however, want to give the genesis of how important this particular Report is. I again, insist on three particular State Corporations: One, is Kenya Electricity Generating Company PLC (KenGen). As I reply I want Members to understand the in-depth of this. We have a State corporation that has geothermal wealth but the Cabinet Secretary for Energy, who is in charge of giving authority for that particular State Corporation to supply power to Kenya Power and Lighting (KPLC) decides to sit on that particular approval. As that is going on, the same Ministry is busy approving independent power producers who are selling power at a more expensive price. This is something that I want Members of this House to understand. I do not know who will be here, after me in the Implementation Committee but, I hope that this House will now be able to put an end to all that and rise to the occasion.

Secondly, is the issue of the Kenya Ports Authority (KPA). It had two matters in particular:

(1) The Lamu Port – a very grand and noble idea. What however, ended up happening is that the Ministry decided to do procurement in the middle of it.

They gave a file to KPA which is not aware how procurement was done or who the bidders were. They were just given a document and told to continue with implementation that was started by the Ministry. It now begs the question as to whether KPA acted as an autonomous body in this particular matter.

(2) This is something that is affecting the livelihood of very many people. This House through other Members of Parliament and myself discussed this matter, and the Auditor-General

was very clear as to when KPA appended their signature. If Members, and the teams that will investigate this, and get to the bottom of it, look at the appendixes that we have attached they will see that the Standard Gauge Railway (SGR) had three contracts: the loan, which no one has been able to see; an agreement between KPA and Kenya Railways and an agreement between KPA, Kenya Railways and China Exim Bank.

This is why the Port of Mombasa is facing a threat. Amongst the clauses that are there and I say this with a lot of passion considering that today is my second-last day being a Member of Parliament sitting in the Chambers, they actually signed off, and KPA has to guarantee cargo, yet legally, KPA has no mandate and capacity to guarantee cargo anywhere. International norms do not even allow them to do that.

Secondly, they were told that failure to bring cargo would mean that they would have to pay Kenya Railways a certain amount of money. In the process, what happened is that they signed, and in the words that were used in that contract, arbitration was to be done in Beijing. They signed off all rights, including sovereign rights. We are saying that we saw this and we have evidence to that effect. For the record, the Cabinet Secretary who signed this particular document, and it is important I mention is Mr. Rotich.

(Hon. Kimani Ichung'wah spoke off-record)

Hon. Ichung'wah, instead of shouting, please listen. There was no board approval that was ever shown to this Committee; there was no ministerial approval that was provided and there was no Attorney General's concurrence that was provided as well. Mr. Gichiri Ndua, the then Managing Director...

As I speak, we are hearing through the grapevine... I am glad that this House is going to pass this because there was a time when it was politically correct for others to be able to sign off. Today, we are having a change of guard. I have my preference on who will be the head of the Executive, and I do not want that to be an issue but it is the hope of the whole Committee that those decisions will be reversed. The issue of KPA's involvement on matters of Kenya Railways has to change. That is the reason the people of this country were being forced to use the SGR. We were singing about this when we were told that we were academic dwarfs. We were talking about this when we were being told that we do not know what we were doing. I strongly believe that we have laid it out in the open.

There is another State corporation, namely, the National Housing Corporation. I do not want to pre-empt debate, but mark my words. Something being mentioned on the grapevine is that other State corporations' assets are equally being given out without necessarily going through any tendering process. That is a danger to the children of this country. I hope the next Chairperson of the Public Investments Committee will do what they need to. More equally, I hope that the next Chairperson of the Public Investments Committee does not have to encounter these particular matters we are going through. It is a warning to other State corporations' heads out there not to blindly sign things just because it was politically correct for them to do so.

The National Housing Corporation went ahead and until today, they are trying to chase away people who are living in their houses in Changamwe. They failed to do public participation, and to involve the National Environment Management Authority (NEMA). They failed to realise that there was a human aspect. NEMA stopped this despite the fact that the National Housing Corporation had paid Kshs38 million to a contractor. Until today, they have

not finalised the contract. Do not do anything until the time comes when you will now involve the people themselves. Do not treat humans as if they are nothing. Laws have to be respected.

Lastly, Hon. Speaker, this is vital. I want it known when this was done. It was done close to 10 years ago. When the Kenya Airports Authority paid Kshs4 billion to a contractor popularly known as Greenfield, a Member, the Leader of the Majority Party who is seated here, refused that particular contract. That is what happened. It was another very grand and noble idea, but look at how some malicious individuals thought they would get away with it. I am honoured to have served in a committee where my Members were so diligent. Even the word “billions” did not shake them. They stood their ground and said that this is what Kenyans need.

They signed a contract, which was meant to be one of the largest in this country, but that is where it all went wrong. The contractor was meant to bring a financier, but failed to do so. They ended up giving that contract to someone prior to securing a financier. That means that they committed themselves despite knowing that if there was no financier, there would have been a problem.

Even graver than that, this is how bold some individuals got because they were politically correct at that time. The contract was to be inclusive of Value Added Tax (VAT). They went and signed a document stating that those figures were meant to be exclusive, so another VAT should be added on top of it. Not only that, but they also decided to take their time to write a cancellation letter. This took a huge amount of time during which the contractor was continuously charging a fee.

Once again, I give it to the Members of this Committee. I have never been more blessed and elevated as I was when serving as the Chairperson of the Public Investments Committee alongside such Members. I wish them good luck and the best in their future endeavors. If it were not for this Committee prompting and asking questions, we would not have realised today that those letters had not been shipped out to that company telling them that we were cancelling the contracts thus the need to finalise. At the time of our signing and tabling this Report, nothing had been finalised.

Kenyans should act on those who have created nothing else but economic sabotage. If nothing else, I am trying to imagine children in Baringo, where that money would have been used for security purposes. I am trying to imagine children from Mandera, where that money would have been used for food. I am trying to imagine children in Mombasa whose parents are jobless, but that money would have been used for the blue economy. What did Kenyans envisage? It will be a total shame if this House lets a few hungry individuals, who at that time were politically correct, get away with it.

With those remarks, I beg to reply.

Hon. Speaker: Very well. It is important to note that this Committee has considered the audited accounts of 30 State corporations. For most of them, the Committee considered the audited accounts of more than three financial years. So, they have been able to keep up to date with most of those 30 State corporations. The Report is almost 900 pages long. It is available for people to peruse and confirm the issues that Hon. Abdullswamad has referred to.

Granted that this country currently has 396 State corporations, you can now see the wisdom in the decision that you took to split this Committee into three. For those who will be in the 13th Parliament, this Committee will be split into three. Authority was given to the Speaker to indicate which of the three committees will consider reports of the audited accounts of which State corporations.

As it is now, the Committee has done a huge job in considering the audited accounts of 30 State corporations, but it is only 30 out of 396 State corporations. It is a lot of work. Therefore, while I commend this Committee for the work that they have done, it is also good that the House has taken the decision to split this Committee for efficiency and to also try and bring all the corporations up to speed with regard to their audited accounts.

Hon. Jimmy Angwenyi, Hon. Ichung'wah and Hon. Abdullswamad, who have all served in this Committee, know that there are several other corporations which are merely regulatory. It is only fair that they be banded in some way so that all of them are brought up to speed. The country needs to deal with up-to-date accounts.

Hon. Abdullswamad talked about some things that Hon. Kimunya may have done when he was the Minister for Finance. We are dealing with issues that happened a long time ago. It becomes too historical. Things happened after he left, but nevertheless, it is too long ago for us to contemplate. I think the House has taken a good decision to split that Committee.

(Question put and agreed to)

BILL

Second Reading

THE SUPPLEMENTARY APPROPRIATION (No.2) BILL

Hon. Speaker: The Chair, Budget and Appropriations Committee.

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Speaker. I beg to move that the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.33 of 2022) be now read a Second Time.

This is a matter we ably canvassed through a Motion we adopted yesterday. I believe that most of the issues and matters are still fresh. I do not want to bother Members again with a whole report. However, I will just highlight a few issues that have been captured in this Supplementary Budget. We raised quite a number of issues on the use of Article 223 of the Constitution as clearly guided by this House. We noted this continues to be improperly used by the National Treasury. We hope as we move to the next dispensation, this article will be properly used as envisaged in the Constitution.

The main highlight of the Supplementary Budget II is an increase of the fuel subsidy. It has been allocated a substantial amount of money, about Kshs16 billion. Moving forward, this issue must be dealt with substantively. This is because every other month, the Government is subsidising fuel to a tune of about Kshs10 billion. This is not sustainable and there has to be a sustainable way. However, we have allowed this for the time being.

There is also the subsidy on fertiliser. Fertiliser prices have been high and a matter of concern to Members here. We are happy that a chunk of the funds has been set aside for fertiliser subsidy. Kshs8 billion has been set aside for road infrastructure. Basically, the ongoing road infrastructure cuts across the country from Mombasa, Nairobi and all other rural areas.

The other issue that has also been captured is the drought mitigation. The failed rains in the country have created hunger in literally all parts. An amount of Kshs1 billion has been set aside to mitigate this. There is also revision of Appropriation in Aid (A-in-A) which is a good thing. This means our economy is rebounding back especially in the education and tourism

sectors. So, there is an increase of A-in-A. A nagging issue that has always been with us is pending bills. There have been attempts to pay a few. Substantively, the National Treasury and county governments should find a way of dealing with the issue.

There is also funding for the railway from Longonot to Nakuru. There was hue and cry that the railway to Naivasha was ending nowhere. With the provision of these funds, there will be an extension of the Metre Gauge Railway (MGR) from Longonot to Nakuru. This will ensure that goods taken from Longonot to Nakuru join the rest of the MGR and vice versa.

There is also enhanced security. Insecurity is everywhere, in North Eastern and the Coast we have heard cases of insecurity. So, there is provision for heightened security surveillance considering this is also an electioneering year. There was a concern to the Committee because most donor funded projects got a reduction. The simple answer was low absorption which of course begs the question; why the low absorption?

Hon. Speaker, with that I beg to move and request the Member for Uriri, Eng. Nyamita to second.

Thank you.

Hon. Speaker: Hon. Nyamita.

Hon. Mark Nyamita (Uriri, ODM): Thank you, Hon. Speaker. Indeed, I think the Chair has done justice in moving the Second Supplementary Appropriation Bill. I heard murmurs in the Chamber when he said the railway to nowhere is now being moved to Nakuru. I still think this is nowhere. Eventually, I hope we will allocate more funds so that it connects with the other one in Kisumu and finally get somewhere. You know, the journey of a thousand miles begins with one step.

I want to thank all the Chairs of various Committees who took their time to give their feedback quickly on this Second Supplementary. Overall, there still needs to be a bit more attention on how we exercise the use of Article 223 of the Constitution, especially by the National Treasury. We continue to see items that are not very urgent. Hopefully, in the next regime, the planning department of the National Treasury should be given a bit more work. So, they can plan better instead of having a lot of expenditure going under Article 223 of the Constitution.

There has been hue and cry on the cost of fuel. You will appreciate this Government has done a bit of work in trying to cushion Kenyans against the high cost of fuel, compared to what is happening across the region.

Hon. Ichung'wah I can hear you shouting. It is a fact that if you compare our fuel prices with those of neighbouring countries, we are among the ones charging the lowest. This is courtesy of the subsidy the Government continues to provide.

Maybe, it is about time we began to look at other alternatives in the future. The truth of the matter is that despite the subsidy, the cost of living is still at an all-time high. As we near the close of the 12th Parliament tomorrow, we wish the next Government will go through all the reports done during this Parliament because we experienced COVID-19 which affected the economy. Now, we are feeling the aftershocks of the war in Ukraine and the high cost of living. The planning in the next season should be done better.

Indeed, this is a Second Supplementary Budget, which ordinarily should not happen. I mean, good practice should be that we have at least one budget and a supplementary to go for. In fact, we have been on record at some point having had three supplementary budgets within a financial year. This is an indication of the gaps we have in the National Treasury.

With those few remarks, I beg to second.

(Question proposed)

Hon. Speaker: I know there are some Members who do not want to... Hon. Oundo, are you contributing on this?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Speaker for this opportunity. I want to echo the sentiments of my colleagues, that indeed the National Treasury has continuously and without shame abused Article 223 of the Constitution, in respect to supplementary budgets.

We have a few weeks to the end of the financial year. Indeed, it beats logic where they have been all these months, in order to bring a supplementary budget to resize or reset the budget we passed last year. Again, it looks a bit unfair because we have a lot of money being allocated towards infrastructure projects that require procurement, tendering and awarding.

Hon. Speaker, when the chair was presenting, I was just wondering how they would manage to procure and get to commit the funds before the end of the financial year. Unless of course there is a suggestion that the works have been done and this is just being used as a cover up to avoid accumulation of pending bills.

Hon. Speaker, it is indeed again saddening that donor-funded projects have not received adequate counterpart funding. The reason simply being lower absorption. Indeed, if there is low absorption, how then will they absorb the Kshs 8 billion for the roads infrastructure? How will they absorb the several billions being put on the Longonot to Nakuru railway line? Hon. Speaker, this is indeed a pure case of probably lack of foresight and planning that seems to now get us into a fix.

Finally, subsidy on fertilizers is laudable. There has been a lot of hue and cry all over the country and it became a hot political potato. It is good the Government has risen to the occasion and given subsidised fertilizers to farmers. It is so telling that most of the planting season has ended. I do not know who the recipient will be of the subsidized fertilizer towards the end of the red planting season.

Finally, the issue of fuel subsidy is not sustainable. I totally disagree and this is a debate we have had in other circles. That is the fact of the matter. It is not sustainable and indeed the country, the National Treasury and the energy sector need to go to the drawing board. We have allocated Ksh 16 billion, the other time I think it was Kshs15 billion and then Kshs10 billion. This is not sustainable considering that a number of reasons for the high fuel prices are the endless taxes imposed on fuel. It is probably time we look at the whole thing all together.

With those few remarks, Hon. Speaker, I support.

Hon. Speaker: Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker for allowing me to contribute to this Supplementary Budget just to join my colleagues. This issue about fuel subsidy of Kshs16 billion, I really find it inappropriate because when you look at it, you are regularising an amount of money of Kshs16 billion, yet we already had a subsidy from the fuel levy fund which should have been used to subsidise the fuel prices.

Therefore, how do you now come in to borrow money to pay for fuel subsidy from the Consolidated Fund? I think there is some misuse, when you even talk of Kshs1 billion being drought mitigation. As we speak today, there are parts of Kenya where it is raining. We are talking of areas in the North and South rifts.

When you go to western Kenya and some parts of the south rift, people are harvesting. I heard the other time some unscrupulous people saying that they should be allowed to import. Right now, our maize is beyond the top dressing. It is at tasseling level. This means within the next two months we should be preparing to harvest.

Now, this fuel subsidy of Kshs1billion is coming at a moment when we do not need it. We have already planted our maize. We are already in the process of waiting for the maturity of the crops. Therefore, how do we benefit from this fuel subsidy of Kshs1billion, yet even the fertilizer that has been subsidised with the Ksh 1billion is not available for farmers' use.

Take for instance Kitale in the North Rift, many of the farmers have been going to the cereals boards to line up for two weeks without getting the subsidised fertilizer. Therefore, whom are we subsidising this fertilizer for? To me, it seems like a business. It is even stealing from the public because when you subsidize to an extent of Kshs1billion and the intended farmer does not get the subsidised fertilizer, it is wrong. Therefore, it goes into the food security of this country and we are missing the point.

Another area which I am seeing there is a bit of opaqueness is the issue of giving money for security purposes. This has always been misused. I think with the split of the Public Investments Committee into three committees we need to look clearly into how that money is going to be used. This is because, as we head into the elections, many of the technocrats think that this Government's term is over. Now, as the Government is going to change, people are thinking of how to get money from the national coffers. This is an area where we need to be careful. When we look at the audit reports where we have allocated money to areas of food security, fertilizer subsidy and even the road infrastructure, I think it will be very important that the next Parliament scrutinises these areas especially when it comes to transition to ensure that anyone who has inappropriately acquired money during this time in an illegal way, they are brought to book.

Therefore, with those few remarks, I beg to support.

Hon. Speaker: Member for Nyando.

Hon. Jared Okelo (Nyando, ODM): Thank you, Hon. Speaker for the opportunity.

I also join my colleagues in expressing my concern that a Supplementary Budget II is coming at such a suspicious moment when we have already started debating the annual estimates and will be passing it soon. Therefore, during electioneering period such as this, certain things happen that are swept under the rags without our people getting to know the gist of all these issues.

However, we hope that the budget means well. It will address fundamental areas. I know during this electioneering period our security department does need a lot of funding to provide adequate security during campaigns, during elections and probably after elections. However, we hope this time round the country will not face any disturbing situations that call for backup security. If Kenya is an agricultural country and we generate our revenue from agriculture, how I wish that lots of funding will go towards that angle. We still grapple with high prices of inputs. Buying a tractor in this country, buying fertilizer and all the components around agriculture, we still have to spend so much money, yet again we talk about subsidy every time.

Therefore, I hope that the incoming Government beginning August this year, will pay much attention to the issue of agriculture and hence create more employment to our youths. A lot has been said about tourism and we reckon that many countries have been affected by COVID-19, global warming, the war in Ukraine and many other aspects.

However, Kenya being a tourism destination, we also need to look at a way of encouraging many visitors to come so that through that we can have dollars. Today, the Kenya Shilling has received quite a beating against the American Dollar. If we encourage tourism, visitors coming in to trade with their dollars, we will have enough dollars to even do international trade. Just two weeks ago, Kenya did not have enough dollars to even pay for fuel. Therefore, if we have to convert the Kenya Shilling to dollar, then we have to pay much more than what we have traditionally been paying. Our money is becoming weak by the day. In order to attain favourable balance of trade, we must encourage the sectors that produce more into our economy. That is why when I heard hues and cries about second hand clothes, I wondered why people would cry that we are closing the international market that brings in clothing into this country to the detriment of KICOMI, RIVATEX and more others. Let us put more emphasis on developing our own and buy Kenyan to build Kenya. The moment we ship in clothing from international markets, we are equally shipping jobs abroad. I know that a few months ago, the United Democratic Alliance (UDA) presidential candidate also talked about stopping second hand clothes coming into Kenya. When the shoe is in a different foot, it becomes a real concern. Let us put monies into areas that will generate more and try to import less but export more for a favourable balance of trade.

With that, I support the Supplementary Appropriation (No.2) Bill. Thank you, Hon. Speaker.

Hon. John Kiarie (Dagoretti South, JP): On a point of order, Hon. Speaker.

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

Hon. John Kiarie (Dagoretti, JP): Hon. Speaker, we are actually in the last few hours of the 12th Parliament, and time is very precious. I appreciate that debate on this Supplementary Appropriation Bill is very important.

Hon. Speaker, I rise on Standing Order No.95 to request that you ask the Mover to reply so that we can cover more ground this afternoon as we move.

Thank you very much, Hon. Speaker.

(Loud consultations)

Hon. Speaker: Hon. Members, I had already given the Member for Kipkelion East the microphone. Once he finishes, I will test what the Hon. KJ has requested.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Speaker, for giving me this opportunity to contribute to this very important Bill.

It is a great concern that Supplementary Estimates in this country have been turned into a rubber stamp. If this House is going to be respected, we must follow the law to the letter. We cannot be used as a rubber stamp. The items that have been listed, it is practically impossible to implement any allocations which have been put here which have not been spent.

Article 223 of the Constitution does not indicate in any way that it can be used by the National Treasury in making a Budget that has not been approved by this House. It was intended to be used in good faith on items that have not been budgeted for by this House. But what has happened is that the Executive, through the backdoor, have taken over the work of budget-making by ensuring that whatever they intend to do that has not been approved by this House or what this House does not intend to approve, they put it in Supplementary Estimates or they spend according to Article 223 of the Constitution. One of the dangers that is bringing this country down is the misuse of Article 223 of the Constitution by the National Treasury, spending and

holding approvals this House has passed without implementing. You will find that this House passes a certain project, but it is not implemented but held to ransom by the National Treasury under the Executive until such a time they have allocated money using Article 223 of the Constitution. They then bring it to this House for approval and kill the allocation which had been made by this House.

On the other hand, there are many projects that have not been implemented, or have been implemented without funding. That causes a lot of problems, accumulates a lot of pending bills and kills many businesses in this country. So, as this House considers this, we should look for a way of passing a message to the National Treasury. In fact, the best message to the National Treasury is to shoot down a number of supplementary estimates like this one. That way, we make sure that any application which is not supported by the law becomes spending without authority, so that those who do that are held responsible. But the moment we say that it has been spent and we pass it, we are legalising illegalities.

There is a lot of spending which is inappropriate. The Hon. Late President Mwai Kibaki was good, and we were supposed to give him a very good send-off. But how can we support a heavy spending of Kshs260 million in just one week? We cannot convince anybody in this country that such an expenditure is supposed to be approved by this House.

As I conclude, yesterday we passed the extension of our borrowing limit, and there is a lot of danger there. It is very painful that this House passed it. It is very shameful that we do not consider how the borrowing is killing the economy of this country. There is a very dangerous trend in this country. Once we expand the borrowing limit, we are supposed to make sure that the National Treasury gives us the breakdown of borrowing. What has killed the economy of this country is not only borrowing in general, but the makeup of borrowing. During the leadership of the Hon. Late President Mwai Kibaki, there emerged a trend where banks were hawking loans outside the banks. They pitched tents everywhere. Why? It is because Kibaki was a very smart economist. What he did is that he starved the banks and, therefore, the banks were looking for customers. What is happening now is that the National Treasury borrows heavily from the local market. Consequently, the Government now competes with the public. So, the banks do not see the need of giving *mama mboga* and *boda boda* riders credit. Why? Because they are considered risky. The Government is a very solid ground for business for the banks. I witnessed that in the last review, when I was the Chair of the Departmental Committee on Finance and National Planning, the National Treasury actually did not give this House correct information. They tricked this House that they were going to restructure the public debt. They were supposed to go outside this country to negotiate bilateral and multilateral concessional loans and repay the domestic loans. They did not do that. So, what has happened is that the Small and Medium Enterprises (SMEs) and local borrowers are not able to get any loans, which has strained their finances and they have closed down. If the Government is going to borrow without restructuring the debt, it is not going to work.

Finally, the reason we have this Supplementary Budget is lack of planning. Let us challenge the National Treasury to plan properly so that when they bring the Budget to this House, they will have thought about it well, and it is well-funded. That is so that they do not come and ask this House, after passing the Budget, to pass extension or expansion of the borrowing limit, because we did not plan on how to finance the Budget.

So, as I conclude, I am not going to support this Appropriation Bill. I ask this House to reject it so that those who are responsible for mismanaging this economy are held responsible, because it will be taken as an unapproved spending. That is when this House will be respected.

Otherwise, we are not going to be respected as long as we allow ourselves to be rubberstamps. I urge this House to teach the National Treasury and the Executive a lesson. Let us reject this Appropriation Bill.

(Applause)

Hon. Speaker: The Member for Dagoretti South stood in his place and claimed that the Mover be called upon to reply under Standing Order No.95. It is only fair that I put that to question so that we know how to proceed.

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

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Speaker. I thank everybody who has contributed. We take the contribution very seriously. We have been following your guidance on Article 223 very closely. We urge that the administration of the next Committee in the next Parliament to be vigilant.

With that, I beg to reply.

Hon. Speaker: Hon. Members, I will still put the Question.

(Question put and agreed to)

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

POINT OF ORDER

CONSTITUTIONALITY OF THE UNIVERSITIES (AMENDMENT) BILL

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. I beg to rise on a point of order under Standing Order No.83; and maybe ask Hon. Kanini Kega to relax, because it is not on the Supplementary Appropriation Bill. I know he never wanted me to speak about the expenditure on the funeral of President Mwai Kibaki at Kshs260 million. He never wanted me to speak about the Kshs400 million going to the AfriCities Summit in Kisumu, and of course, the Railway Development Levy.

My point of order under Standing Order No.83, is on the constitutionality of the next Order, if you look at the Order Paper. It is Order No.21, on the new Supplementary Order Paper. You have guided us before on issues to do with constitutionality of Bills. I rise under this Standing Order No.83 on the constitutionality of the Universities (Amendment) Bill (National Assembly Bill No. 35 of 2021), which is set to proceed to a Committee of the whole House as the next Order. You have guided us before that at any point in time, if a Member feels that a Bill is tainted with unconstitutionality, we may rise in our place and ask you to offer guidance. That is why I seek your guidance on the constitutionality of this Bill.

Hon. Speaker, I invite you to rule on the constitutionality of this Bill in respect of two aspects. One is on Article 10, and the other is on Article 201 of the Constitution. On Article 10, which speaks to our national values and principles of governance, the Constitution is very clear.

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If you look at the Bill in Clauses 13 and 14, this Bill gives very huge sweeping powers to the Cabinet Secretary in charge of education to appoint Vice Chancellors of public universities, and the power to revoke any appointment of members of university councils. In the Bill, these powers are without any limitations or checks and balances. Therefore, I find that this Bill in these Clauses 13 and 14 falls contrary of Article 10 of the Constitution, since public universities will henceforth be subject to the control and direction of the Cabinet Secretary in charge of education. That, in my view, would be very unconstitutional and will fall contrary to the provisions of Article 10 on good governance, as spelt out in our Constitution.

The Bill also violates Article 201 of the Constitution, which provides that public money shall be used in a prudent and responsible manner. The extent is that this Bill seeks to accentuate the current practice for placement of Government sponsored students in private universities, even when there are vacancies in our public universities. It is important to note that I must make disclosure that I speak and want to speak on behalf of our public universities. Many of our public universities, including our premier public universities like the University of Nairobi (UoN) and Kenyatta University are on their knees financially. If Moi University in Eldoret is not closed down, it is probably on the verge of being closed down.

Therefore, when we pass a Bill that is placing students in private universities at the expense of public universities, we are going to be acting in a manner that is contrary to Article 201, that provides for prudent use of public resources. It is public resources that are funding these students being placed in our universities. Additionally, Article 201 of the Constitution provides that financial management shall be responsible and fiscal reporting clear. It means that all public money shall be managed in a manner that is responsible and the fiscal reporting clear. If you look at Clause 18 of the Bill, which deals with the Universities Fund, it provides for allocation of public funds to private universities without subjecting the same private universities to the Public Audit Act of 2015 in terms of reporting and accounting for public funds.

Hon. Pukose just mentioned in the previous Motion that where we appropriate money in this House, whether we are appropriating that money to a public institution, that public institution must be subject to the Public Audit Act of 2015. That is why the Public Investments Committee reviews the accounts of our public universities. Under this Bill, when we now give money to private universities that are not being audited by the Auditor-General, what confidence and assurance do we have that indeed this money is going to benefit real students, or even students that exist? Those who sit in the Public Accounts Committee can tell you – because it is a matter that has been before it – of cases where there are ghost students being sent to private universities purposely for capitation. Because that matter is still alive before the PAC, we hope that maybe it is a matter that will come to light when they table their reports. But, my point is that we must ensure that the money we appropriate in this House is being audited by the Auditor-General so that we ensure that Kenyans are getting value for money.

Thirdly, Hon. Speaker, is on Article 43(1)(f) of the Constitution, which provides for the right of every person to education. The Bill is an affront to this particular Article of the Constitution, as it now allows the placement of Government sponsored students in private universities even in instances where there are vacancies in public universities hence, negating the right of Government-sponsored students to education in a university of their choice. I am very keen on this particular provision, because I am very passionate on education matters. Many Hon. Members here will bear me witness that we have hundreds, if not thousands, of our students who pass their KCSE and are placed in private universities. Consequently, with the Government capitation that is going to those private universities, they are not able to meet the requisite fees in

private universities. Many of those university students fall back to our constituencies looking for NG-CDF bursaries to cater for their education in the campuses.

Hon. Speaker, why they do not get it is because many end up falling off the education system, and that is how we will see the rise in the issues that have been raised before the PAC of ghost students. That is because a student who was placed in a private university could not afford to continue with the education for four years. So, after the first one year, they drop out, but they continue being in Government books as students who are in those private universities, and Government money continues to be wasted. Therefore, in this regard, I honestly want to seek your guidance on the constitutionality of this Bill. These are issues that we had identified. I know a number of Members had identified some of these unconstitutional issues in this Bill.

Hon. Speaker, when you directed the Committee – and I wish the Chair of the Committee was in this House today – to go and do what you call winnowing of the many amendments that Members had proposed, the Committee then engaged in what, to me, was a public relations exercise.

Hon. Speaker allow me to speak on behalf of Hon. Sankok, who has just told me that this matter is too heavy for him. This is because he had amendments, knowing what Maasai Mara University is to him and to the people of Narok County. He told me that he saw an invite to appear for winnowing before the Departmental Committee on Education and Research at the time when he was mourning his son. He has asked me to speak on his behalf, because he actually indicated to me that he had written to the Clerk to protest that he was being invited to come for winnowing at the time when he was mourning his son. He actually told me he sent the clerk who sent him that message a reply and asked him how callous this Committee could be, knowing that he was bereaved, and was now inviting him for winnowing. He says, worse still – and these are the words of Hon. Sankok – that at that time he was mourning, he is invited to the Committee. He says he was not able to go, and the Committee still went ahead to disregard all his amendments; and tables a report that has trashed all his amendments.

Hon. Speaker, I had amendments on these particular issues of constitutionality. Also the Bill said it did not concern the counties. But there are issues that concern the counties in the Bill, and some that I had carried in amendments. I was never invited for winnowing. Therefore, besides the issues of unconstitutionality, I would also want you to guide the House on what is it that the Committee should do when you direct that they engage in a process of winnowing of amendments. That is because what was done by the Committee – and it is sad that the Chair is not here, and I do not know who the Vice-Chair is... This is because I have engaged her one on one, and asked her: “Why is it that you never invited some of us – like myself – to come and appear before the Committee, with all the amendments that I had for winnowing?”

Hon. Speaker, I also want you to rule on that issue because the Committee engaged in what amounted to a public relations exercise, and then tabled a Report that has trashed all the amendments that Members had.

Hon. Speaker, the issue of public universities is so sensitive to many of our Members. Many of those universities are in our backyards. I have the Kikuyu Campus of the University of Nairobi that supported Thogoto Village and Shopping Centre 10 to eight years ago. Today, that campus is a pale shadow of what it was. Murang’a University, Karatina University and all the public universities are closing down. They are not closing down because our children are not qualifying to join public universities, they are closing down because of such Bills and such provisions where we are funding private universities at the expense of our public institutions.

Hon. Speaker, history will judge us very harshly if we rush to pass such a Bill. Tomorrow or two years down the line, we probably will have only one or two of the premier public universities surviving. Even those premier universities like the University of Nairobi, Moi University and Kenyatta University are on their death beds. If you go through the Report of the Committee, look at how many people representing public universities appear before that Committee during public participation. I have gone through that Report, and what happened is that some association of public universities is what was invited by the Committee. Where is Prof. Wainaina of Kenyatta University? Look for Prof. Kiama of the University of Nairobi; where are their views in that Report?

But when you go to private universities, you will find real vice-chancellors and directors of those universities. Why is it that our public universities were never listened to, and they come through some amorphous association called the Association of Public Universities? I say I speak for and on behalf of our public institutions, because I have taken my time to engage with Vice Chancellors of our public universities, and they are all crying and begging. They have, in fact, been lobbying many Members of Parliament that when it comes to consideration of this Bill, I would even beg we consider such a Bill at a time when the House is properly quorate, and we have the numbers. That is because these are matters that touch on the majority of the Kenyans that we represent.

Hon. Speaker, I beg for your guidance. I will be obliged by whatever guidance you will give us.

Hon. Speaker: All of you have placed interventions. So, there is no need. Let me hear as many of you as possible. Hon. Murugara.

Hon. George Gitonga (Tharaka, DP): Thank you very much, Hon. Speaker. I also rise to agree with Hon. Ichung'wah, that you actually guide us on the two matters raised, including the constitutionality of the Bill. That is because we are supposed to be dealing with public universities as regards public money. But in a manner that cannot be explained, we are actually diverting public money to private universities at the expense of public universities. It is sad to note that we are not able to charter any more universities now, because a good majority of them are reeling in debt, and they are on the verge of collapse. I have been pursuing the Government for a long time so that my own university – Tharaka University College – can actually be chartered. The response I got is that there is no money to charter that university, because even those that are chartered are in lots of problems. Today, as we sit in this august House, we are passing a law that is going to channel public money to private universities, where it is not going to be accounted for. This flies in the face of Article 10 of our Constitution, that in good governance, public money must be well spent and must be well accounted for.

Therefore, as we reject this, it is against my wish that students are being taken to private universities contrary to their wishes. I am aware of this because university students who have passed very well find themselves in third range universities, like the Mount Kenya University, a university that has questionable credentials at all times. They come up with sloppy degrees and they have issues when it comes to employment. I would wish to see Tharaka University chartered and commissioned, so that it is a fully-fledged public university in our constituency and our county. However, if we continue doing this, it will remain a pipe dream.

Number two is very important. On 9th May, 2022, a couple of other Members of Parliament and I were invited for harmonisation and winnowing of the proposed amendments. Those Members included Hon. Owen Baya, Hon. Didmus Barasa, Hon. John Kiarie, Hon. David Sankok, Hon. Robert Pukose, Hon. Silvanus Osoro and I. As you have heard, the others like

Hon. Kimani Ichung'wah were not invited. Let me speak for myself because I appeared before the Committee and I had my proposed amendments, which are on the Order Paper today. I was actually heard very well and amicably. They spoke to me very well and they fully agreed with the proposed amendments. I have seen the Report and to my utter surprise, I do not know what changed and when it changed. Those proposed amendments were totally rejected. Not even one was carried. Sincerely, this was not a harmonisation process; this was not winnowing, as we know it under Standing Order No.131. This was a sham exercise to try and please those who had proposed amendments, while the Committee knew very well that it was not going to allow any of them for extraneous reasons, and reasons that cannot be explained in this House.

This is why we ask you, Hon. Speaker, to guide us appropriately as regards the various constitutional issues we are raising, and also Standing Order No.131. What is the purpose of harmonisation once the House commits a Bill to a Committee and asks it to harmonise proposed amendments? I seek to be guided.

Hon. Speaker: Member for Kilifi North.

Hon. Owen Baya (Kilifi North, ODM): Thank you very much, Hon. Speaker. I stand on a point of order to actually agree with Hon. Kimani Ichung'wah. One of the tenets of a great democracy and constitutionalism is freedom from discrimination. You have students who are now being sent to public universities and others to private universities. These are two different lanes, but then you give students undue advantage because you are taking them to private universities which have better infrastructure. That is why they are private, because their infrastructure is different from public universities. Now, we are saying that my son will go to a public university, but the same body places another person's son who has gone through the system, in a private university without them giving them the opportunity to choose whether to go to a public or a private university. That is discrimination, and it should not happen. When students are being placed by this Government, they should be placed in public universities. Let those who want to go to private universities make a choice that they are going to private universities without having to use taxpayers' money that gives them undue advantage over the others. That is a constitutional issue.

Secondly, public universities today are dying, and we know. I have a university in my backyard, Pwani University, which has a very ambitious and strategic plan; a plan that would have been funded by the Exchequer. However, a lot of this money now is not going to these public universities, which the late Hon. President Kibaki really put his foot down to ensure that universities exist. If you look at the Land-Grant College Act in the USA on why public universities are there, they are centres of development in the rural areas. Where there is a public or state university in the USA, you see that the town grows and everything else grows, and you see a lot of estates there have grown because of the presence of a state university under the Land-Grant College Act. Today we are taking away that great thought, that if you put a university in Kilifi, it will grow and grow the town and the economy around there and everybody else benefits. We are taking this money to private universities that are in town, and that are owned by people thereby making a few people rich using Government money, disregarding the Public Finance Management Act that this public money must be audited. If you take it to Kabarak University or Mount Kenya University... You can see the way Mount Kenya University is flourishing, and I ask you why. It is because Government money is being pumped there. Sometimes I sit down and wonder; are there politically connected people that are actually benefiting from this money? Why is Kabarak University now being funded more than Pwani

University in my backyard? Is it because a son of a prominent man is now the owner of that university? These are the questions that we must ask.

Therefore, this Bill should be given due time to be looked at and scrutinised, and those amendments that I have particularly proposed are dealt with at a different session, not when we just have a little time or a few hours to adjourn *sine die*, and then we want to pass these amendments.

Hon. Speaker, I beg that you intervene on this and ensure that the right thing is done to these Kenyans, and that public money is not siphoned off and taken to private universities.

I thank you, Hon. Speaker.

Hon. Speaker: There are so many of you who have interventions. Before I do that, let me have the Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I have heard the comments that have been made by Members on the purported constitutional issues. I will leave that to you to guide. But from what I have heard, the issues seem to be, first on the issues of the students being placed in private universities. For those who may have chosen to ignore, the truth of the matter is that there was a time before the exams were rationalised when everyone was passing, and the number of spaces in public universities were all taken up. Hence the students who had passed but could not find a place in public universities were then placed in private universities, and the Government would pay a certain capitation. In fact it is cheaper to educate students in private universities because only capitation is paid, than in a public university where apart from the capitation, they also get grants, the buildings and lecturers are paid for by the public.

We are not talking here about private versus public universities. We are talking about Kenyan students or students of Kenyan parents who have passed, but they do not have a space in a public university because the spaces are not available. I hear we can expand, but universities are not like starting up a kiosk, and that is why most of those universities have failed. This is because they were done in an expansionist way without regard even to the quality of lecturers you need. We just passed a law here that requires that lecturers in universities must have a PhD. How many PhDs do we have in this country? It is not even enough for the...

Hon. Speaker, I do not want to argue with Hon. Baya. I would want to contribute. So there is a history as to why students were placed. I was in the Departmental Committee on Education and Research, and I know that we looked at all these matters and we decided that the best way forward is not to remove those students who have been placed in a private university midway through their course. Let them finish, but progressively as the spaces become available in the public universities, the placement service to now give priority to the public universities.

As Hon. Members have rightly put it, it is up to the choice of the students. If students want to move from a public to a private university, they have that choice, and they go and pay the top up or whatever it is. However, this Bill is not... I am looking at the Bill. There is nowhere in this Bill where it says that students shall be placed in private universities to the exclusion of public universities. Whoever is saying that is not quoting from this Bill, because it is not there. It is not in this Bill.

Hon. Speaker, there are some things that people have heard in the social media, but they are not in the Bill. When we are talking of the Constitution and the Bill, I wish that Members can say that a certain clause is discriminatory or is against the Constitution, because it is saying something. However, it is nowhere in this Bill. It is within the powers of the Board to apportion money to public universities and give conditional grants to private universities where there are already students who have been placed there. However, the Bill does not state anywhere that

students shall be placed in the private universities at the expense of the public universities. That is some imagination that is being introduced on the Floor of the House.

There is another thing that I want to debunk. I published this Bill in July, 2021. That is almost a year ago. So, we are not debating or introducing this Bill because we are going for the *sine die* recess. It has been with us in this House for one year. The Committee wrote the Report and the same issues were raised. Members were requested to go to the Committee. I have seen the Report of the Committee which brings up the points of Members. For example, in Clause 2, there was a proposal by Hon. David Sankok, which was adopted by the Committee. There are two proposals by Hon. Baya in Clauses 7 and 6(a) which were adopted by the Committee. It is in the Committee's Report. When I hear Members saying that their proposals were not considered... Hon. Murugara and Hon. Kiarie have already told us that their proposals were adopted.

The import of winnowing is that if you feel that the Committee has not taken your recommendations, you can bring them to the Floor of the House. It is on that basis that I believe that Hon. Kimani Ichung'wah has brought proposals to Clause 16 of the Bill to bring in the issue of public audit of beneficiaries in private universities, which is the right thing to do. However, opposing the Bill and saying that we should not consider it, when you have done the right thing, which is to bring an amendment, is doublespeak. You mentioned yesterday or the day before that Committees have applied a lot of energy in reviewing these Bills. It will be unfortunate to stop consideration of this Bill when we are just about to finish, so that we can get the law for universities and look at the work that has been done by the Committee. If there is something that we do not like or our amendment has not been agreed upon by the Committee, we can resolve the matter. We try to bring things through a very roundabout route, like the Bill is unconstitutional. If it is unconstitutional, the courts will declare it so.

Hon. Speaker, at this point, I urge Members to bring amendments, including as late as now, to ensure that their issues are sorted out. We should not deny the Kenyan universities the amendments that are well-thought-out in this Bill. They will change the governance structures and create some of the things that have been missing. We should not be the agents of some of the Vice-Chancellors who are likely to be affected by the changes. They do not want change in their institutions. Because of that, they are actively lobbying that there should be no change in the way they are appointed so that they can continue with the *status quo*. We have to look at the bigger governance of our universities. These universities are not failing because they are in Pwani or Eldoret; it is because of management. The Maasai Mara University saga tells us a lot, in terms of what happens. However, some of those people want the *status quo* to be maintained so that they are not accountable to the Cabinet Secretary.

The Government is the biggest sponsor of the universities. It is the financier, and yet they do not want to be accountable to the Cabinet Secretary for Education. They want to be accountable to their independent councils, and yet they do not receive money from them. They get it from the public coffers, which is given through this Parliament, but they do not want to be accountable to the Cabinet Secretaries. They do not want to be appointed or removed by the Cabinet Secretaries, and yet that is the same person who gives them money. Whoever pays the piper must be given the power to call the tune. Those are some of the things that might not be coming out. The fights on the constitutionality of the Bill are more to defend interests out there who want to maintain the *status quo* so that they can continue plundering the universities. Our children will never have a university where they can go to study.

Hon. Speaker, I beg that you use your experience and wisdom on this matter. Let us allow the Committee to continue with the work. Members will be at liberty to bring in amendments or oppose amendments that they believe are not good for the country. When we keep it in abeyance, we will waste a lot of time and parliamentary funds that have been applied in this. This Committee sat during the first public participation. They were taken back to winnowing. It gets to a point where even the Committee gets tired, because their work is not being appreciated by the rest of the House.

An Hon. Member: On a point of order.

(Several Members raised their hands)

Hon. Speaker: All of you have indicated that you want to say something. So, do not bother raising up your hands. Just press your intervention button so that I follow the list as it is. Do not raise up your hands. Your hands will be seen through the intervention button.

Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker.

Hon. Speaker: I will follow the list the way it is, even if three of you are on one side, that is the way I will just follow it.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. It is important that we seek your advice on this matter. When you look at the issues which Hon. Ichung'wah has raised, especially for us who come in contact with the students who have been placed either in public or private universities, it is a big challenge. Once these students have been placed in the private universities, they top up to fill the gap. We are saying here that both public and private universities will get grants which are equal per student. That means that the students who are in public universities will have more advantage than those in private universities.

(Hon. Amos Kimunya spoke off record)

Hon. Speaker, I allowed Leader of the Majority Party to prosecute his case. Please allow me to also prosecute mine. The Leader of the Majority Party told us that in the same Bill, there is appointment of the University Council by the Cabinet Secretary. There is a veto power which we are giving the Cabinet Secretary in terms of who becomes the Vice-Chancellor. That is a threat to the independence of the universities. I appeared before the Departmental Committee on Education and Research sometimes back. The Cabinet Secretary and the Principal Secretary said that they were helpless in as far as managing universities is concerned. However, the university charter provides that universities are independent bodies worldwide. This does not happen just here in Kenya; whether you are in the United States of America (USA), Europe or wherever you are, universities are supposed to be independent institutions. The degrees that they offer must be beyond reproach. Within our country, when you come with papers from India or wherever, the Council of University Education (CUE) must ratify that they are correct and from a chartered university. The independence of universities must be protected. They are institutions for posterity. Governments will come and go. You will have a Cabinet Secretary who will be there for five years. However, that should not interfere with university education, because it is sacred. It is supposed to be protected for generations to come.

So, with those few remarks, Hon. Speaker, I think it is important that, as we move into that, if it proceeds, then we will have to bring amendments to protect university institutions.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Dagoretti South.

Hon. John Kiarie (Dagoretti South, JP): Thank you very much Hon. Speaker. I similarly rise to raise a constitutional issue. The rostrum that I am standing on is actually Article 201 of the Constitution; and because Hon. Kimani Ichung'wah had gone deep into it, I will not read it verbatim. But my prayer is actually that you would get time to just analyse all these amendments that are being brought in by the Committee, and amendments that are being brought by individual Members of Parliament so that you can identify the ones that go against the Constitution and expunge them from this Bill.

Hon. Speaker, this is not curious; you and even your various esteemed predecessors have actually pronounced themselves on this issue. That when an issue of constitutionality is raised, it cannot be put to a vote. So, this is not a matter of putting it to a vote as either yes or no; this is actually a constitutional matter.

Hon. Speaker, to my mind, the Bill before us is actually the Private Universities Bill, or even worse, the Death of the Public Universities Bill. For this, I do not see the hurry as to why we should be prosecuting it in the 11th hour of this 12th Parliament, especially with the raft of amendments or the plethora of amendments that need to be put to this Bill. In fact, when amendments get to this threshold, it even warrants for an actual re-publication of the Bill. That is because when we are amending each and every article of this Bill, it means we are even better off just doing a new Bill.

Hon. Speaker, when I look at this Bill – and I have been party to the debate that has gone on including my contributions in the Second Reading – as it is being presented this afternoon, this is actually the Departmental Committee on Education and Research conducting a postmortem on our public universities after successfully killing and annihilating them.

Hon. Speaker, I am requesting that with your discretion, because you have institutional memory and wisdom, to actually pull down this Bill on a number of issues. One, so that you have the time to attend to the constitutional issues that are being raised here. But secondly, because what is being said by the Leader of Majority is actually provocative. That is because what he is reporting here is not what actually happened. I had a raft of amendments that I had proposed. I was judicious and diligent enough to appear before the Committee for the harmonisation. But to my shock and awe, when I got there, out of all my amendments, I was only asked to prosecute one amendment that was actually not contentious, about the tenure of a Chief Executive Officer at Kenya Universities and Colleges Central Placement Service. All the other amendments never made it for the harmonisation. I only prosecuted one amendment before the Committee out of the many amendments that I had.

Hon. Speaker, it would be wrong for us to legislate in anger. There is no hurry. If we could leave this to the 13th Parliament, they would even have time to prosecute it better. That way, we will be able to look for a remedy for the right ailment, rather than provide a remedy to the wrong ailment while the real mischief that is ailing public education remains unattended to. So, when we have students being enrolled in private universities against their own will, that in itself, should be an issue of alarm. But to correct the Leader of the Majority Party, that is not the only issue on this Bill.

Constitutionally, this Bill is actually interfering with the right to education. These are Articles 43 and 53 of our Constitution. We know what has been happening to us, as Members of Parliament. Every week, we are attending *harambees* for students who are in private universities who never chose to be there. You know what happens is that, for example, if you are taking a professional course like law, you can get that for Kshs40,000 in a public university. However, if

you take it in a private university, that price could even triple. The cost of education could triple, thus disenfranchising very many learners. I want to say that this is not the kind of Bill that we should be passing at such a late hour in the life of this Parliament.

But, most importantly, which I think is an issue you should consider when you are making your decision, is that I believe this is one of the Bills that is a candidate for interrogation as to how it ended on the Floor of this House. Before that, it would also be important, maybe, even for the DCI or the EACC to step in and find out how this Bill ended up in the Cabinet. This is because there is no way a Government can be the one cannibalising its own institutions and trying to put that into legislation, and trying to pass it through this Parliament and in that way, spelling a death knell to our public universities.

So, my prayer is that you can consider the constitutional issues that have been raised here; the process issues that have been raised here; the issues that have to do with the disenfranchisement of students that would happen if we pass this Bill. Most importantly, you can have a look at all these amendments and see that I would be right to say that this Bill is right for re-publication because it has too many amendments. Actually, if we go into the Committee of the whole House, we shall be re-writing an entire Bill.

Hon. Speaker, I shall stand to be counted as one of the people in the 12th Parliament who stood to defend the public universities against... When the Leader of the Majority Party talks about interests, then we question what interests are driving the haste to pass this Bill in the format that it is in. We would like to know what interests are championing for this to be rushed. I am not blaming the Leader of the Majority Party, neither am I placing the blame on the Attorney-General, who processes Government Bills. I am just saying that it is very curious the manner in which this Bill found itself in the Cabinet, and how it found itself on this Floor. My prayer is that you could step down this item from the Order Paper so that it can be prosecuted at the right time.

Thank you very much, Hon. Speaker.

Hon. Speaker: Is the Chair of the Committee... You know some of the issues that are being raised by Members, I think the Leader of the Majority Party cannot be privy to them, like the issue that you have just raised. It would be very important that we could hear the Chair make some comments.

Member for Mvita. Be brief also. You do not have a card? Use the microphone next to you.

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Speaker, I have heard a lot of the issues that have been raised here. One, every single Member is accusing the Leader of the Majority of trying to rush this.

(An Hon. Member interjected)

No! No! I think the Hon. Member needs to...

Hon. Speaker, this is a Bill that has been in this House for a year. During that year, Members of Parliament, whether here or not here, were part and parcel of trying to go through all these issues.

Hon. Speaker, issues have been raised here, that universities all over the world... Yale University is a private university. It is one of the best universities in the world. Cambridge is funded by society, people gave their money for purposes. Oxford University... The list goes on. I have listened to the issues that the Members have raised here about constitutionalism. Article 43 talks about economic and social rights, and the right to education. If we are now going to say that

we are denying public funds to go to a university, then be ready to answer to every single child who is in a private secondary school, because it is you, in this very House, who have raised that matter.

Secondly, Article 201 of the Constitution on public finance just talks about using funds in a prudent manner. If it is a matter to do with forcing a student to go to a private university, I expect a strong proposed amendment saying that no student shall be forced to go to a private university unless it is a university of their choice. Learn to go through the books of accounts of all these universities. There is a problem. A vacuum always opens opportunities. None of these private universities would be in existence if there was no vacuum. We need to ask ourselves, is the problem that we do not have enough universities? That cannot be the case. We have universities. I expect Hon. Members who are here to come up with a way of assisting public universities which are State corporations, and it is not that they are not funded... They are funded. People need to realise themselves that....

(Hon. Owen Baya spoke off record)

Hon. Speaker: Please, do not respond to what Hon. Owen Baya is saying. You are the Chairman of the Public Investments Committee and you if you go through it, you will see that I am a past Chair of that Committee. I know that the Auditor-General's Reports on all public universities are tabled before the PIC. So, what is in law is not supposed to be sorted out here.

Hon. Abdullswamad Nassir (Mvita, ODM): History has it that whoever has sat in the positions we have sat are destined for greater things. But that is a discussion for another day.

What is most important is that we need to come up with ways of sealing the loopholes within our public universities. If the Vice Chancellors wish to be accounting officers, there is nothing wrong with that but, they have to be accountable as well.

Thank you very much.

Hon. Speaker: The reason the audit Reports are brought to PIC is that if they find they have misappropriated funds, you make appropriate recommendations against them. I do not think there is any confusion about this.

Hon. Limo. Please, let us be brief.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Speaker, thank you very much for giving me this opportunity to contribute to this very important issue under discussion. There is a bigger issue I want to mention. The Leader of the Majority Party here has actually said that there was a time many students used to perform very well but they were not absorbed into public universities. Therefore, private universities started coming in. Previously, students had the option of choosing courses in public or private universities.

There was a disease and it was

Hon. Speaker: Can you please address me on the constitutionality or lack of it of this Bill. The other issues will be addressed when we will be dealing with the Bill itself.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Speaker, I stand guided. I was saying it is the reason why funding was given to private universities. Therefore, Article 201 of the Constitution was not addressed properly at that time. Any public funding is supposed to be audited properly. The law then was not considered because there was a bigger disease of absorbing the students very quickly so that they could not lack education. So, the Government then decided to give private universities the students. But the issue of public audit was not addressed and that is very serious. Currently, no one has stood here even the Chair of PIC has not told us that private

universities have been brought into public audit. As it is, we have been funding public universities without accountability being brought in.

Hon. Speaker: Public or private?

Hon. Joseph Limo (Kipkelion East, JP): Private universities. We have been funding them without bringing in the issue of audit. It is a serious issue we need to consider. Hon. Speaker, as you look at it, you need to consider the inherent issues instead of amending and even expanding the scope of private universities in the funding now. Is it still necessary? We have to consider whether it is still necessary to send students there. Currently, public universities have no students and that is why funding issue is coming. Funding by the Government depends on the number of students. Currently, public universities are closing down because they do not have students. It is now high time, Hon. Speaker, you consider, you might even say it is not necessary to send students there. Therefore, why are we amending the law unnecessarily now? Change of policy is necessary so that we do not send students to private universities any more but leave them to choose where to go.

Finally, Hon. Speaker, students sent to private universities suffer. Other than the Government funding the students, there is the extra fee which is paid by students. In public universities, they pay about Ksh40, 000 or below. But in private universities, they pay close to Ksh100,000. So they are suffering. Hon. Speaker, as you consider the constitutionality, look at the moral issue also whether it is right for us to continue sending students to private universities at the expense of public universities which are collapsing because they are not funded.

Hon. Speaker, I urge you to consider this and rule that this is not an issue to consider in a hurry. It can be considered in a wider perspective.

Hon. Speaker: Member for Uriri.

Hon. Mark Nyamita (Uriri, ODM): Thank you, Hon. Speaker. I do not want to repeat what my colleagues have spoken about.

Listening to what my former Chair of the Budget and Appropriations Committee, a man I hold in very high respect, Hon. Ichung'wah and what Hon. KJ and many other speakers have said, this is what I will call smart filibustering. Indeed, they did not raise any substantial issue. On all the issues they have raised, they still have an opportunity to propose amendments on this particular Bill that is before this House. This Bill has been here for well over a year and if it is true what Hon. Ichung'wah said that the public universities were denied a chance to appear before the Committee during public hearing, we should have had a protest letter tabled by himself from these public universities. Why are they not writing to say that they have not been given an opportunity if indeed they have been denied that opportunity for well over a year?

We are at a stage when this Bill is going to the Committee of the whole House. Members in this House have had the opportunity. If they were denied the opportunity to present amendments they had before the Committee, they should have raised it here much earlier and not at this time we about to go to the Committee of the whole House.

Funding to private universities is not only going to begin by us enacting this law. Already, it is happening. It has been happening, I think, for well over the last seven years. We are already funding private universities. One of the challenges, and I speak as a Member of the Budget and Appropriations Committee, we have asked even the Departmental Committee on Education and Research and people from the Ministry, every other time we see amendments on money to move from one Vote Head to fund private universities, there has not been a criterion to determine how much is given. We normally give a certain amount of money to the ministry and it is left to the discretion of the officer sitting at Jogoo House to decide how much is going to

each and every private university, without any criteria that even this House and the Auditor General can audit. Through this Bill they are asking us to stop and demand that Universities Fund Board have the mandate to develop a criterion and show us how we can allocate funds per capita to public universities. When you say you are going to give Mount Kenya University Kshs100 million, what is it based on? It is what this Bill is speaking to. That very University Fund Board is now going to be given the mandate to audit funds that they send to private universities. When my colleagues say that we are going to be sending money to private universities and it is not going to be audited, this is what this Bill is speaking to.

Hon. Speaker: Where is that? I am just looking at that. I was trying to look for that element of audit. That area of audit is the thing I am trying to look for. If you just go to the functions, they are spelt out in Clause 54.

Hon. Mark Nyamita (Uriri, ODM): I will show it to you. Let me just go to the next one. I am getting a copy of the Bill and I will indicate that.

The other thing is that on the funding to students that are going to universities, we must remember in this House we give money to students in private universities and that the Higher Education Loans Board (HELB) is also about public money. Either way, it is public money that is being given to students that are going to public universities. So, it is not anything new. It is not true when they say there are constitutional issues around this Bill.

(Loud consultations)

Hon. Speaker, kindly protect me from the noise. They had the opportunity to speak.

Hon. Speaker: Let the Member finish.

Hon. Mark Nyamita (Uriri, ODM): Members have an opportunity to propose amendments on this Bill which is before us. If they propose and if they went through the Committee and their amendments did not go through, it is not anything new.

(Hon. Kimani Ichung'wah spoke off the record)

Please, Hon. Ichung'wah, we gave you an opportunity. Do not shout. I know you are acting on behalf of the people you so declared. But you do not need to really shout. Please, give me an opportunity. You will have an opportunity to have a say. Hon. Speaker, even as you will be making a ruling, I urge that you consider that.

Hon. Speaker: Please finish.

Hon. Mark Nyamita (Uriri, ODM): We are on the Second Schedule. I want to refer you to it. The Fifth Schedule is on page 953 which talks about the administration of the fund. Specifically, the Board shall prescribe the form of the report to be submitted under paragraph seven which shall include information on the amount apportioned to the Universities Fund Board and the number of students who have received funds. The Board in itself is going to be a State corporation and it is going to be subject to audit by the Office of the Auditor General. When we say funds are being given and they are not audited, we do not know what we are talking about.

Hon. Speaker: Just proceed. The more chaotic situation I find is that the Board even has perpetual succession. If you look at Clause 54, it is the one that establishes the Board and its composition, and all that. The Board has power to borrow, power to receive endowments and all manner of things. I have been going through this thing because you raised the issue of public money going unaudited.

Hon. Mark Nyamita (Uriri, ODM): The Universities Fund Board can also raise money. That is what we are talking about.

Hon. Speaker: Yes, it can. In Clause 54(b) and (c), it gives allocations of funds to public universities and issues conditional grants to private universities. It will apportion funds allocated by the national Government to public universities and issue conditional grants to private universities. Now, it is that which goes to the private universities. It is public money. How is it accounted for?

Hon. Mark Nyamita (Uriri, ODM): It is conditional grants.

(Hon. Kimani Ichung'wah spoke off the record)

Please, Hon. Ichung'wah, we are in Parliament. We are not in a market in Kikuyu.

Hon. Speaker: Anyhow, just make your contribution.

Hon. Mark Nyamita (Uriri, ODM): Please protect me from the noisemakers who are here so that we make progress. Let me get your question right. I was distracted by Hon. Ichung'wah.

Hon. Speaker: Just proceed.

Hon. Mark Nyamita (Uriri, ODM): I just wanted to say that when Members come to complain that they have not been given an opportunity when a particular Bill is before the House and the Committee of the whole House, they had that opportunity at the Committee. They should have raised it. Their amendments not being carried by the Committee or being considered cannot qualify as constitutional issues. I feel sorry for my colleague Hon. Sankok who Hon. Ichung'wah says he is acting for. We have been commiserating with him for the loss of his son. However, the business of this House can never stop because a Member is not there. If you know you are indisposed or you are unable to attend to an issue, you can use your colleague. Hon. Ichung'wah would have represented that Member who was unable to attend the Committee at that point and prosecute the issues.

Hon. Speaker: I want to hear a Member of the Committee.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Thank you, Hon. Speaker. As the initial discussions have already generated the heat you have witnessed, we as a Committee had this matter discussed at length. We even heard views from various stakeholders. I agree with the Members that sometimes the opinion given by the various stakeholders cannot be fully captured in a final Report.

Concerning the issue of Hon. Sankok and as a Committee Member, I am aware communication was made to him, including via *WhatsApp* and even a call was made. He was also requested to send somebody to represent him but he did not respond.

Going by the points that have been raised by Members here concerning funding, the Government does not fund private universities. What the Government does is give tuition to students who opt for or find themselves in private universities. We should not underplay this issue because we now have 100 per cent transition. In the next few years, two or three years, public universities will be full. Do we have to come back and make a policy or an amendment at that stage? We are learning from the experience we have had in the past where our public universities have been over-populated and the private universities have come in to rescue the situation. So, as much as we are looking at this matter from a constitutional point of view, let us also look at the other articles of the Constitution. They do give that leeway for the Government

to also support universities depending on where the students find themselves or chose to find themselves.

Hon. Speaker, the universities almost came to a standstill after an amendment that was made in 2018 if I am not wrong concerning the governance structure of the universities. The Vice-Chancellors took that as a reason for them to operate independently without consulting and without being consulted or without even being accountable to the Cabinet Secretary. It is for that reason that you had many issues with the University of Nairobi that touched on tuition that, sometimes, does not involve public consultations. This is why we are making this amendment so that, at least, as the Ministry gives out money to the universities, it can also intervene on the various issues. Currently, the universities are not able to pay staff statutory payments. Why?

It is because, as much as the Ministry releases money from the Treasury, the bosses of the universities do not make that money reach the right channels. So, I also want to differ with the Members. It is very unfortunate to listen to one of the Members that I respect much when he is debating in this House. He called this Report trash, just because it has not captured one of the stakeholder's opinions or simply because the Report is being presented at the 11th hour. So, Hon. Speaker, I want to say that this Report has taken us a lot of time. We have had a lot of consultations. It is very important that this House can respect this Report and be able to debate and make changes as they may find it necessary.

Finally, Hon. Speaker, I want to say that the Chair of the Committee is not in and had requested me... You saw earlier I stood in to give the exit Report. So, the Chair is not in. But as we discuss these issues, we take them seriously as the Committee on Education. Thank you, Hon. Speaker.

Hon. Speaker: Now, Member for Funyula, please take two minutes so that I can make some announcement.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Speaker. As you are about to make that momentous decision, there are a few facts that we need to put in mind. I totally agree with the Members who have expressed themselves on the matter of public students in private universities, the challenges and the difficulties that they go through. Indeed, even in the Public Accounts Committee under the able Chair Opiyo Wandayi, we have raised this matter at length.

But you are being invited here to rule on whether the Bill and the amendments are constitutional or not. Hon. Speaker, there are three issues at hand here. One, Article 95 is very clear on the role of Parliament and Members of Parliament. The procedure for introducing and enacting a Bill is expressly clear in the Constitution as well as in the Standing Orders.

Hon. Speaker, the mere fact that the so-called winnowing did not take into account all the views of the Members who had intended to make amendments, indeed, is an administrative matter and it cannot be a constitutional matter. It can be addressed at that level. But, Hon. Speaker, I think there has been a ruling before, and I can see the Hon. Members have complied that, whenever you feel that your views have not been taken into account at the winnowing stage, you can still proceed to present your amendments. Indeed, if you look at the Order Paper for today, I can see all the Members who have expressed the matter have actually presented their amendments which are going to be prosecuted in the Committee of the whole House.

The mere fact that the amendments are too many, does it make it unconstitutional? My point is no. That is because law making is a process that is normally done at the Committee of the whole House. Whether it is right to do it at the tail-end of the Parliament, again, Hon. Speaker, I see no harm in that. Again, we will leave it to you to make the decision. I totally agree

with them. They have issues. But I do not think that the Bill so far and the entire process is unconstitutional or illegal. We should allow Members to debate at the Committee of the whole House. If you convince the rest of the Members, your amendments will be carried. If you are unable to convince them, well, you will have another day to fight your wars.

Thank you, Hon. Speaker.

Hon. Speaker: Now, Hon. Members, I think we have an occasion to make some progress. I think it is fair that I have some time to apply my mind fully to the issues that have been raised.

Whereas there is nothing wrong with Members proposing amendments and having those amendments voted for in the Committee, it is also settled that it will be a dangerous precedent if an issue of constitutional or unconstitutionality is raised and the Speaker were to decide that it be dealt with in the Committee. That is because the decisions made in the Committee are usually not decisions that will be supported by the threshold that is required to address constitutional issues.

So the fact that there is a proposed amendment – I am just picking this because one of your issues is that the Leader of the Majority or Hon. Nyamita did indicate that Hon. Ichung’wah has put in a proposed amendment to address the issue of audit, I think it is important that we address that issue. If he has put in the issue of audit and then it is not carried, then what happens? Does it mean then the Bill will be passed with some unconstitutional provisions? The issue is hinging on Article 201 mainly, if I understood him correctly. Hon. Kiarie, on Article 201 on use of public resources by private bodies that are not subject to public audit, I will just need some little time to go and look at that and I will make a determination by tomorrow on this issue so that, at least, we do not just leave everything to the vagaries of the Ayes vote. Some great politicians in this country call it “*kura ya makelele*”. So, let us not subject that one to... A matter that touches on the Constitution is never decided that way. It is usually on the basis of clearly discernable numbers. So, I make the decision that the House will move into Committee, but just to consider the first business, which is the Supplementary Appropriation (No.2) Bill, (National Assembly Bill No.33 of 2022), and stand down consideration in Committee of the whole House of the business appearing as (ii) Universities (Amendment) Bill (National Assembly Bill No.35 of 2021).

Maybe, in the course of the few minutes that I shall retire to my office, I should be in a position to give an indication as to what we can do with it tomorrow, because, in any event, Hon. Members, we have both a morning and an afternoon Sitting tomorrow. So, to avoid a situation where we could find ourselves doing the wrong things, or even not getting anything moving, I can see how we are in the Chamber. I think let us just deal with the first business, Supplementary Appropriation Bill. The other one we will stand it down until I make a decision about it tomorrow.

Very well. Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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[The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya) took the Chair]

THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Hon. Members. We are now in the Committee of the whole House to consider the Supplementary Appropriation (No.2) Bill (National Assembly No. 33 of 2022.

(Clauses 3, 4 and 5 agreed to)

First Schedule

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the First Schedule be amended—

(a) in respect of Vote R1066 (State Department for Early Learning & Basic Education)—

(i) under Programme 0501000 (Primary Education) by deleting the expression “Kshs12,600,000” and substituting therefor the expression “Kshs102,600,000”;

(ii) by inserting the following new Programme immediately after Programme 0501000 (Primary Education)—

Vote No.	Service or Purpose	Supply (Kshs.)	Supplementary Appropriations-In-Aid (Kshs)
	0503000Quality Assurance and Standards	(90,000,000)	-

Hon. Temporary Deputy Chairlady, basically, this is for food subsidy that will go to National Council for Nomadic Education in Kenya (NACONEK).

(Question of the amendment proposed)

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

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Chair, do you have two parts of the schedule to move?

Hon. Kanini Kega(Kieni, JP): Yes.

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The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Which one did you do?

Hon. Kanini Kega (Kieni, JP): I did (a).

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Now we move to (b).

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the First Schedule be amended—

(b) in respect of Vote D1166 (State Department for Fisheries, Aquaculture & the Blue Economy) under Programme 0118000 (Development and Coordination of the Blue Economy) by deleting the expression “Kshs170,000,000” and substituting therefor the expression “Kshs308,000,000”;

Hon. Temporary Deputy Chairlady, basically these are funds for pending bills for services that have already been rendered.

(Question of the amendment proposed)

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

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

(First Schedule as amended agreed to)

Second Schedule

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have the Chair.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Second Schedule be amended in respect of Vote D1169 (State Department for Crop Development & Agricultural Research) under Programme 0107000 (General Administration, Planning and Support Services) by deleting the expression “Kshs363,203,560” and substituting therefor the expression “Kshs225,203,560”.

This is basically a question of rationalisation.

(Question of the amendment proposed)

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

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

(Second Schedule as amended agreed to)

(Hon. Temporary Deputy Chairlady consulted the Lead Clerk-at-the-Table)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, we have passed your amendment in the Second Schedule. Are you prosecuting an amendment on behalf of Hon. Pkosing or he will do it?

Hon. Kanini Kega (Kieni, JP): I will do it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Okay. Go on Chair.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Vote 1091, State Department of Infrastructure be amended by effecting the following deductions to the Development Vote for the State Department of Infrastructure.

VOTE	Programme	Budget Code	Committee Amendments
Vote 1091: State Department of Infrastructure	0202000 Road Transport	1091116000	(100,000,000)
		1091136000	(100,000,000)
		1091159100	(100,000,000)
	TOTAL		(300,000,000)

The increment will go to Vote 1091 – that is State Department for Infrastructure – to take care of critical roads that have been identified.

I thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

Hon. Members: Put the Question.

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

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

(Second Schedule as amended agreed to)

Clause 2

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 2 of the Bill be amended by deleting the words “seventy nine billion, five hundred and seventy four million, four hundred and eighty six thousand, nine hundred and twenty seven” appearing immediately after the words “sum of” and

substituting therefor the words “seventy nine billion seven hundred twelve million four hundred eighty six thousand nine hundred twenty seven”

Sometimes these figures are mind-boggling. The amendment seeks to rationalise and put the figures together.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Leader of the Majority Party, do you want to speak? I have not proposed the Question.

(Question of the amendment proposed)

Hon. Members: Put the Question.

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

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I will call upon the Mover to move reporting.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.33 of 2022) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya) in the Chair]

REPORT AND THIRD READING

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I call upon the Chairperson to report to the House.

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

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I call upon the Mover to move agreement with the Report.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Report of the whole House on consideration of the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.33 of 2022). I also request Hon. Arbelle to second.

Hon. Marselino Arbelle (Laisamis, JP): Hon. Temporary Deputy Speaker, I rise to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. This was a good day. I want to congratulate the Chair of the Committee and the House for processing this Bill.

In addition, I request you, Hon. Temporary Deputy Speaker; that, pursuant to Standing Order 53, even at the conclusion of this debate, you consider deferring putting the Question on this matter so that we can do it at another occasion.

Thank you, Hon. Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Leader of the Majority Party, that is in order. Putting of the Question stands deferred. We will put the Question at the next available opportunity when we have it in the Order Paper.

Next Order!

MOTIONS

ADOPTION OF PUBLIC ACCOUNTS REPORT FOR 2019/2020

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, the House adopts the Report of the Public Accounts Committee on the Report of the Auditor General on the Financial Statements of the National Government for the Financial Year 2019/2020.

Hon. Temporary Deputy Speaker, it must go on record that this is the final Report that my Committee is tabling before this House. At the outset, I want to express my sincere gratitude to the Office of the Speaker, indeed, the Speaker himself and the Office of the Clerk for the tremendous support they have accorded the Public Accounts Committee of the 12th Parliament. It has, indeed, been a long journey and this is the Sixth Report on the reports of the Auditor General that we are tabling before this House and asking the House to approve, if the House agrees with it.

I will not belabour the point. The issues that have been addressed in this Report speak for themselves. We have again continued in this Report to raise specific issues and make specific observations with respect to various State departments, commissions, independent offices and other agencies as to how they have spent public resources that have been put under their care in the financial year under review. In addition, we have gone further to make specific

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recommendations with regard to specific State departments, commissions, independent offices and various other agencies. In some instances, we have recommended further action by other agencies, especially the investigative agencies. We do hope that all the agencies concerned will take the shortest time possible to deal with the recommended matters.

Nationally collected revenue amounting to Kshs1,730,992,693,864 should form the basis of sharing of revenue between the national Government and county governments as contemplated in Article 203(3) of the Constitution. This is a tremendous step forward in terms of enhancement of allocation of revenues to our county governments. It can go a long way towards strengthening devolution, obviously, for the benefit of the citizens of this country. This Committee has been able to make it possible for citizens of this country to realize the full benefits of devolution as was contemplated by the framers of our Constitution. I am proud I have led such a wonderful Committee in the life of this House and I am proud of the gallant Members of my Committee who made it possible for this work to be accomplished in record time.

Therefore, without much ado, I wish to move. I proceed to ask my brother and fellow Committee member, the Hon. (Dr.) Ojiambo Oundo, the MP for Funyula to second. Thank you.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

I stand to second the Report presented by the Chair of the Committee on behalf of the Committee.

I also take this opportunity to thank Members of the Committee under the able leadership of Hon. Wandayi for the splendid job we have done in the past four-and-a-half years of the 12th Parliament.

The use of public resources is very critical and that is why the framers of the Constitution were explicitly clear under Article 95(5)(b) that the National Assembly oversees State organs. One of the key oversight tools is to review the expenditure of various Government organs. Many times, as we go through the reports, we ask few questions. There is always a typical matter that runs through the entire State departments. First, is the delay in providing necessary documents that the Office of the Auditor-General requires to complete the audit.

Second, is the general poor response to audit matters raised by the Office of the Auditor-General. However, we must note that in the fast few years, queries have continuously reduced. The measures that have been put in place through the Public Finance Management Act plus the fight against corruption, and strengthening of the procurement process, are now starting to bear fruits as evidenced by fewer audit queries in the subsequent years. However, we continue losing money and the debate that preceded this one concerning university students in private universities is a good example of how we lose money through unauthorized expenditure and without proper safeguards.

I trust and believe that the next Government will continue to impose more stringent rules and regulations to ensure that there is prudent use of public funds and that there is value for our money.

With those few remarks, Hon. Temporary Deputy Speaker, I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The first person on my list does not seem to be here. Hon. Wangwe, Whip of the Majority Party.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Report on the Financial Statements for the national Government for the Financial Year 2019/2020.

At the outset, allow me to thank the Committee for the good work they have done. Actually, as I have ever said here, a vehicle is as good as the driver. We were here about six or seven days ago and the Chair promised to deliver this Report to the House. Indeed, he has come. I feel it is important to appreciate the Chair and also thank him for the efficiency in reporting. He has pushed the Committee. I also wish to thank the Members. This is a good Report they have brought before us. As we go to the tail-end of the 12th House, it is good to have such final Reports which will enable the next Government, which I believe will be that of *Baba...* The Report will help, especially when it comes to the division of revenue and sharing between the two levels of Government. It will be very easy because the final Reports from PAC have been tabled. I also thank Hon. Oundo for the very good analysis of the Report. He made great input to it.

What comes out of this PAC Report is the efficiency in applying the resources that we vote for in this House. We are in the process of finalising the Supplementary Estimates II for this Financial Year. What PAC is giving to us is that we must enforce and support the requests by the Auditor-General. When you look at the requests the Auditor-General is making to the Budget and Appropriations Committee, you realise it is the special audited reports that this House needs to have. When you look at the analysis, without the Auditor-General's report, it would have been very difficult for us to come up and share what is happening with the public.

I also commend the Controller of Budget (CoB). She is trying her level best in whatever circumstance she is passing through. I request that she tightens up, especially the area of absorption of funds by county governments. County governments seem to be in a rush to absorb the funds at the last minute. They have been waiting and lying idle with resources allocated to them. The big issue is procurement. The issue of absorption is a bit low. It will be important that the Controller of Budget strengthens her assessment of the various receipts and expenditures, especially regarding devolved units.

There is also the issue of moving the country forward even as we spend. As we spend, we must be cognisant of the fact that the Government is the surest organ or institution which accepts goods and services from the public. The confidence that the public is losing in Government because of pending bills is really worrying. The rate at which pending bills are accumulating is really worrying. Why are we encouraging more expenditure and yet, the reports from PAC reveal that expenditure is not efficient? It is worrying. It is something the 13th Parliament, God-willing if the people of Navakholo give me the opportunity to come back here, should look into.

The rate at which procurement is undertaken is almost the same with the accumulating pending bills. It is worrying and we must check it so that we build confidence when giving Local Service Order (LSOs) from the Government. What the Chair has revealed in the PAC Report that we are debating now is something which we must be concerned about, so that we look at our country as one rather than looking at it from a different perspective as we support our economy.

I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I call upon the Mover to reply. Hon. Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you very much, Hon. Temporary Deputy Speaker. I want to take this opportunity to thank the Hon. Members who have contributed to this very important Motion, starting with my friend Hon. (Dr.) Ojiambo Oundo who seconded the

Motion; to the Chief Whip of the Majority side, Hon. Emmanuel Wangwe, Member for Navakholo for his gracious remarks.

I have nothing much to add, only to say that this marks the end in terms of the Public Accounts Committee work of the 12th Parliament. I just hope that the committee that is going to succeed this one in the 13th Parliament will pick the same tempo and carry on with the work that we have started. This work must continue. It is a continuing journey. The committee of the next Parliament will have to continue with examination of the accounts for the Financial Year 2020/2021, which we have made some progress on, as a Committee. They should be able to accomplish that task in a matter of two or three months once the committee is inaugurated and report to this House.

Otherwise, I thank you. May God bless you. I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): We shall defer putting of the Question until when we have it next in the Order Paper.

Next Order.

(Putting of the Question deferred)

RATIFICATION OF AGREEMENT BETWEEN THE KINGDOM OF DENMARK
AND THE REPUBLIC OF KENYA ON DEFENCE CO-OPERATION

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

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

The agreement is the subject matter of this Motion. It is proposed in the spirit of international co-operation between Kenya and Denmark; which are two friendly countries. Further, Article 1 of the agreement provides that the objective is to provide a framework for co-operation between the parties. It is also to regulate the status of visiting forces, enhance and strengthen the bilateral military co-operation and relations between the parties in accordance with the domestic laws of the two parties (Kenya and Denmark), and the applicable standards of international law.

The Kenya Defence Forces Act of 2012, in Section 37, speaks to the co-operation between our Defence Forces and the forces of our foreign visiting nations. For the record, it includes that any treaty or agreement between the Government of Kenya and any other state, or international institution, or organisation regarding the use or provision of military forces shall provide for the legal status of among others, the members of the Defence Forces placed at the disposal of the military authorities and their mission while their personnel are deployed in Kenya; and the conditions of operations of the Defence Forces and the foreign military personnel outside gazetted areas and compensation of local communities in the event of accidents in areas where the military is deployed.

This agreement then becomes necessary because it spells out critical elements of engagement between the Kenya Defence Forces and the visiting forces from the Kingdom of

Denmark and how they operate. Previously, the two states collaborated under a five-year agreement which was signed in 2013 and lapsed in 2018. This new agreement was signed in Nairobi in July of 2020 as a continuation. So basically, it is not a new co-operation but just continuation of the ongoing co-operation. This exercise also allows for some gains and co-operation benefits to continue accruing to the two parties. We know under the expired agreements, several gains were realised including improved maritime awareness by the Kenya Navy, construction of a footbridge simulator at the navy school, modification of the ship engine test cell at Mtongwe, training of officers and co-operation at the International Peace Support Centre in Karen. These benefits could continue to accrue including the upgrade of the Kenya Navy Training School to make it a regional centre of excellence for maritime security.

With where we are placed within the Indian Ocean, any improvement to our navy helps, especially when we get the challenges that we had with the pirates and in securing the trade within the entire Indian Ocean up to the Red Sea, Black Sea and to the west. Where we are, we have a unique opportunity for global trade through a better prepared navy. This agreement is not big like the PAC Report. I have gone through it and I just want to highlight the various articles in it. Articles 3, 4, 5 and 6 provide for the scope and areas of co-operation. Articles 7 and 8 provide for the monetary evaluation and auditing. Article 9 provides for criminal jurisdiction which is very important and the privileges and immunity in respect of the visiting forces. Again, other articles provide for the uniforms, arms and access to facilities. Articles 16 and 17 provide for the identification of members of the visiting forces, their vehicle registration, driving licences and training costs. It goes on until Articles 23, 24 and 26 which provide for amendments to the agreements, settlement of the disputes and when each of those enters into force.

This agreement is expected to commence upon the receipt of notification indicating the completion of each country's internal requirement with regard to ratification of treaties. So much as it was signed in 2020, it is only when this House does approve it that it will start taking effect and the benefits can start accruing to the two parties. Thereafter, it will remain for five years and it is supposed to be automatically renewed for an additional five-year period, unless terminated by giving a six-month notice.

Hon. Temporary Deputy Speaker, the good thing is that the termination of the agreement is also not expected to affect the completion of ongoing projects which are undertaken by the parties. Considering the growing concerns and security challenges - including issues of terror, organised international criminal syndicates such as piracy which I talked about and which has been a challenge in our Indian Ocean Coast, human and drug trafficking and instability within the region - there is need for co-operation between the various states to strengthen their capacities to maintain world peace.

This Motion also comes at a time when our country is a Member of the United Nations (UN) Security Council. This wider co-operation between different countries also strengthens our visibility as a tourist destination and trading partner with the European Union. It also gives Kenya more exposure through other visiting delegations from the military and public. It helps put our name on the global map which is good for this country. I am certain that this agreement will help in that regard, as well as the wider benefits which are expected to accrue on that co-operation.

It is on that basis that I urge the House to ratify this agreement and we make good progress. With those remarks, I beg to move and ask Hon. Wangwe, the Majority Whip, to second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second the Motion on Ratification of Agreement between the Kingdom of Denmark and the Republic of Kenya on Defence Co-operation.

The Kenya Defence Forces are very well trained. They are respected in the region. We must thank the Commander-in-Chief of the Defence Forces who is the President of the Republic of Kenya and the Chief of Defence Forces, who helps us to maintain our being at the top in the region. This means that we must always keep working hard. Otherwise, we will be overtaken. It is on this basis that our forces seek to visit countries to undertake training. At the same time, those other forces from the other countries can come here and undertake training. This has made it possible for the good Government of the Kingdom of Denmark to recognise and accept a bilateral agreement which we can enter into, have it in writing and approved by the National Assembly as per our laws of Kenya.

The co-operation will benefit the Kenya Navy. Piracy, in the recent years, has been at a high end. Our soldiers need to be acquainted with the latest technology for dealing with pirates and terrorists. We witnessed a case where a ship full of cocaine was burnt. That is only possible when you have a very active and strong Navy which must be trained. The intervention of the Kenya Navy during our penetration in Kismayu, Somalia, was very good and timely. We are proud of them. It is only through this co-operation that our forces will be active and very ready to defend our borders at any one time. As a House, we should not only ratify this agreement, but also approve resources to support it. Let us support the Departmental Committee on Defence and Foreign Relations whenever the KDF puts a request in this House during the budget-making process.

We must also motivate our KDF. I am happy because one of our presidential candidates has vowed to support the military and police officers in terms of motivation so that they can continue to maintain peace inland and protect the borders of our country.

Hon. Temporary Deputy Speaker, with those very few remarks, I second.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): We cannot put the Question before we propose.

(Question proposed)

Hon. Obo Mohammed.

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Ahsante Mhe. Naibu Spika wa Muda kwa kunipa nafasi kuchangia Ripoti hii ya maelewano baina ya nchi hizi mbili. Mwanzo, ikitajwa mambo ya Kenya Defence Forces, imenigusa sana na nikasema na mimi nichangie. Kusema kweli, sisi watu tunaokaa katika maeneo ya misheni za oparesheni tunajua kazi yao wanayoifanya. KDF wanafanya kazi nzuri sana Lamu, haswa askari jeshi wa maji. Kwa sababu tuna ardhi na maji tunajua mambo wanayopitia na kazi wanayofanya. Maelewano haya baina ya nchi hizi mbili yamekuwa yako kulingana na Ripoti. Ni vile tu tunataka yaendeleo kuweko. Yale mazuri yalikuwa yakipatikana yazidi kupatikana. Jeshi letu likiwa na maelewano haya ya hizi nchi mbili, zitapata utalamu mzuri ambao utatusaidia sisi kwa sababu watapata mbinu nzuri za kuweza kutulinda zaidi. Tatizo saa zingine ni kuwako wahalifu. Wapate mbinu za kuweza kuwatoa wahalifu bila kuwadhuru wale ambao si wahalifu. Sisi watu wa Lamu, haswa Kiunga, watu wengi wamekaa na hofu kwa sababu saa zingine wanaogopa ama wanakuwa na hamu. Kwa hivyo wakitumia mbinu walizofundishwa, wataweza kuwatoa wahalifu bila kuwadhuru wananchi na tutakuwa na nchi salama na yenye amani.

Ahsante.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Ojiambo Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I support. It is a matter of concern that has been raised before, especially the wordings of how the Treaty Making and Ratification Act is actually designed and formulated.

They bring us the treaties when they have already been discussed and approved such that, essentially, Parliament has only two options, either reject in total or rubber stamp what the Executive has already discussed and agreed. I hope, going forward, we will have a system whereby it is a participatory process that Members of Parliament, in view of Article 95, get involved in the treaty-making process just as we get involved in making critical laws and regulations that govern this country.

Hon. Temporary Deputy Chairlady, it is always safe to have defence agreements because, however much well you know, you always need a second opinion. You need to interact with your peers or countries that have superior military so that our men in the defence forces can understand and learn new techniques as they go forward.

We just hope and pray that it is not merely a visitation matter by the Kingdom of Denmark. As the Hon. Leader of the Majority Party has stated, it will help us undertake programmes and projects in this country that help vulnerable people. It is of benefit to this country. We hope that there are adequate mechanisms for checks and balances so that we do not have conflicts such as what we normally see in Laikipia with the British soldiers.

We also hope there are adequate mechanisms that when men come to Kenya and leave their seeds, they also leave funds to sustain the children they leave behind so that they do not burden the young girls who fall prey to the white skins and get carried away.

Hon. Temporary Deputy Speaker, as we discuss about defence co-operations, we also have a myriad of issues with neighbouring countries. We hope in the fullness of time the Government of Kenya will also have an arrangement with neighbouring countries. I have about 80 of my constituents who have been arrested by Ugandans in Lake Victoria and have been slapped with heavy jail terms and fines. It has now become a source of worry and stress to the families concerned.

In the meantime, I support. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuyu): I now call upon the Mover to reply. Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. The Motion is self-evident and its importance is straight forward. We had an agreement that worked very well and lapsed and it is being renewed. All we are being called upon to do is to officially ratify it. I know Hon. Oundo is concerned that we ratify things after the event. When we were looking at the framing of the Constitution, that issue came up. That Parliament should be the one to approve and do the separation of the functions. It is not an agreement between the Parliament of Kenya and the Parliament of Denmark, but it is an agreement between the Executive in Denmark and the Executive in Kenya who agreed on how they exchange their defence forces. As Parliament, if we were to ratify it before, we would be part of the agreement process and yet, we are not part of the Executive and, hence, we can only ratify after because we look at it that these two states entered into an agreement in the best interest of the two countries. If Parliament feels that the agreement is not good, it will be at liberty not to ratify until it is changed. So, it is never too late. It insulates the independence and guarantees the separation of powers between the different arms of Government. The Executive signs the agreement and Parliament comes in to

ratify it. That is in order. I am not worried that we are doing it now when it was already signed by the parties. The only thing is that it cannot take effect until Parliament has given it the nod which is why we are the most important factor regardless of what they have agreed and discussed. Until this House pronounces itself as to whether the agreement should be ratified or not, it does not take effect. So, we are good. That is the only thing I needed to respond to. I thank the Members who have contributed.

Again, as I reply, I would also wish to request the Hon. Temporary Deputy Speaker that using powers given to you in Standing Order No.53, you defer putting the Question on this matter until another day.

With those few remarks, I beg to reply. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): That is in order, Leader of the Majority Party. Putting of the Question stands deferred until when we have the business back on the Order Paper.

(Putting of the Question deferred)

Next Order.

RATIFICATION OF THE 1970 UNESCO CONVENTION ON MEANS OF
PROHIBITING AND PREVENTING ILLICIT IMPORT, EXPORT AND
TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY

THAT, pursuant to the provisions of sections 7 and 8 of the Treaty Making and Ratification Act, 2012, this House approves Ratification of the 1970 United Nations Educational, Scientific and Cultural Organisation (UNESCO) Convention on the means of prohibiting and preventing the Illicit Import, Export and transfer of ownership of cultural property, laid on the Table of the House on Wednesday, 11th May 2022.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I seek your indulgence. This is a very important Motion and agreement with The United Nations Educational, Scientific and Cultural Organization (UNESCO). I would have wished that the Chair or representation from the Committee... I do not know whether Hon. Zadoc is representing the Committee on this. If he is, I can move. If he is not, I would rather have it some other time.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Zadoc, do you have any brief from the Committee? He is looking for someone else, not him.

Hon. Amos Kimunya (Kipipiri, JP): Given the circumstances and because this is a very important thing and I know the Departmental Committee on Education and Research has been interacting with UNESCO, I would like to get their input even for the benefit of the House. So, I would like to ask that we step this down until we are able to get some representation and the voice of the Departmental Committee on Education and Research who oversee UNESCO on this matter.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): That is in order, the Leader of the Majority Party. The business on Order No. 25 stands stood down.

(Motion deferred)

Hon. Leader of the Majority Party, should we move to the next Order? Next Order.

RATIFICATION OF BILATERAL AIR SERVICE AGREEMENTS
BETWEEN KENYA AND SEVERAL COUNTRIES

THAT, pursuant to the provisions of sections 7 and 8 of the Treaty Making and Ratification Act, 2012, this House approves Ratification of the Bilateral Air Services agreements between Kenya and Czech Republic; Cyprus; Chile; Belize; Suriname; Tanzania; Austria and Barbados, laid on the Table of the House on Thursday, 2nd June 2022.

Hon. Amos Kimunya (Kipipiri, JP): Once again, I seek the indulgence of the House and yours. I tabled these agreements just last week. Hence, I would love to see the comments of the Departmental Committee on Transport, Public Works and Housing on them before we move. Since they have not reported back, I would ask that we step this down as well until such time as the Committee has also given their views on these various agreements and public participation thereon. I beg that we step the matter down.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): That is well in order, Hon. Leader of the Majority Party. I order that business on Order No. 26 be stepped down.

(Motion deferred)

With that, Hon. Members, we can call it a day.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The time being 7.04 p.m., this House stands adjourned until Thursday, 9th June 2022, at 9.30 a.m.

The House rose at 7.04 p.m.