

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 29th August 2018

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

Hon. Deputy Speaker: Hon. Members, we seem to be short of the required quorum. Therefore, I order that the Bell be rung for 10 minutes.

(The Quorum Bell was rung)

Order Members. Order Members. We now have the required quorum and, therefore, business will begin.

PETITIONS

Under this Order, we have Hon. Innocent Momanyi, Member for Bobasi.

Hon. Innocent Obiri (Bobasi, PDP): Thank you, Hon. Deputy Speaker. On this Petition, I will donate about two minutes each to my neighbouring constituency, Members of Parliament from Bonchari.

Hon. Deputy Speaker: Hon. Momanyi, you know you are completely out of order. You have absolutely no power to donate any minute. Go through your Petition and I will make a decision on whether to donate any minute.

EFFECTS OF ROCK MINING ON RESIDENTS OF NYAMONEMA, BOBASI CONSTITUENCY

Hon. Innocent Obiri (Bobasi, PDP): I, the undersigned, on behalf residents of Nyamonema in Getanga Sub-location, Nyangiti Location, Bassi Chache Ward of Bobasi Constituency, draw the attention of the House to the following:

THAT, a company by the name County 45 has been carrying out rock mining activities in Nyamonema village in Bobasi Constituency since January, 2018.

THAT, the chemical rock blasting has caused untold suffering to the residents as it is carried out next to homes in a densely populated area without putting in place any measures to ensure safety of the residents who are exposed to noise, chemical pollution and injuries occasioned by the activities.

THAT, several lives have been lost as a result of the blasting activities.

THAT, many the residential houses, institutional buildings and other valuable properties among them the Nyamonema SDA Church, Nyamonema Secondary School and the Nyamonema Primary School have been damaged as a result of the blasting activities.

THAT, excavations coupled with the use chemicals in the basting of rocks has led to serious environmental degradation in the area and negative health effect on residents.

THAT, the nearest water source, River Nyamabariri, which is the main source of water for the residents of Nyamonema, has been polluted and rendered unusable by the said activities thus subjecting the residents to untold suffering.

THAT, efforts to address the matters raised in Petition with the relevant Government agencies such the Ministry of Mining, the Kisii County Commissioner's office and the National Environment Management Authority (NEMA) have been in vain.

THAT, the issues in respect of which the Petition is made are not pending before any court of law, constitutional or legal body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources:

- (i) Investigates to establish how the company was licensed to operate without the due diligence to the environmental impact.
- (ii) Recommends forthwith the suspension of the mining activities by County 45 Company in the area and cancellation of the certificate of mining.
- (iii) Recommends that the Cabinet Secretary for the Ministry of Mining inquires into and determines the assessment and payment of compensation by County 45 Company to victims of the company's mining activities for lives lost and property destroyed, and makes any other order or direction that it deems fit in the circumstances of the case.

And your petitioners will forever pray. Thank you.

Hon. Deputy Speaker: Hon. Members, I also ask that you be alive to the fact that last week, you passed amendments to the Standing Orders where you can now also utilise Questions. Maybe you can get even better results. I will give two or three Members a chance to comment. We will start with Hon. Onyiego Osoro, Member for South Mugirango.

Hon. Silvanus Onyiego (South Mugirango, KNC): Thank you, Hon. Deputy Speaker. I join my colleague in supporting the Petition that he has presented before this House. It is, indeed, true and quite saddening to note that several Members of the public have really suffered out of the massive cracks that happen through the machinery that is being used in the very same quarry. It is important to notify this House that some women have lost pregnancies because the machines crack the rocks with a lot of weight and sound. On a very sad note, some old woman aged 93 lost her life immediately after the very first bang hit the rock at a certain season.

The Hon. Member has really tried to use all relevant avenues including negotiating with the owners of the company.

Hon. Deputy Speaker: Hon. Osoro, be brief so that other Members can also have time. You will still have enough time. When I refer it to the Committee, you will probably give more details.

Hon. Silvanus Onyiego (South Mugirango, KNC): I am most obliged, Hon. Deputy Speaker. I support the Hon. Member and I wish that we can actually create an avenue that this matter should be put to rest once and for all because people are suffering.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Let us have the Member for Bomachoge Borabu, Hon. Ogutu Abel.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Hon. Deputy Speaker, thank you for giving me a chance to make remarks on this Petition. I appreciate that the matter that has been petitioned this morning is very serious to the local communities that are affected. The efforts that have been made to address this matter have been fruitless. The NEMA has seen this country undergo a lot of costly consequences upon approval of most of the projects to be implemented. As this matter is being discussed by the respective Committee, I recommend that NEMA should also be seriously interrogated to find out why it takes too long to respond to some of the consequences that follow after the approval of specific projects. I support the Petition.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Is that the Woman Representative for Nyamira who wants to speak to this one? Hon. Jerusha Momanyi. I am trying to locate you. Your card seems not to be working. Use the one which your colleague was using.

Hon. (Ms.) Jerusha Momanyi (Nyamira CWR, JP): Hon. Deputy Speaker, thank you so much. I also support this Petition. Indeed, our people are suffering from Hon. Obiri's constituency. We have heard the cry. Women have been affected. Recently, many people died because the hole where they were digging collapsed. We are asking this House, through the relevant committee, to ventilate and come out with solutions which are going to assist our people. We have seen the havoc this mining is causing. I support.

Hon. Deputy Speaker: Hon. Tong'i.

Hon. Richard Tong'i (Nyaribari Chache, JP): Thank you, Hon. Deputy Speaker, for the opportunity to speak to this Petition. From the outset, I support the Petition which has been brought forth by my neighbour, Hon. Obiri. The people on the ground have suffered heavily. We have had a chance to witness and Hon. Obiri is on record trying to resolve the issue in a more amicable way. Actually, he was arrested and detained in police cells over the weekend because he was articulating the issues of his people which brought him to Parliament. We are concerned as a community. We appreciate that the people are making it a business, but it can be done in a more scientific way. Nowadays, technology can be used, which is less harmful. We encourage the businessperson involved to use the modern technology to harvest stones instead of using the old style of doing things. The population is high and, therefore, it is risky for them to harvest the stones with ease. We encourage them to use the modern technology. We have no issue with that, but using the old technology that they are using now is not helping the community. It is more dangerous. I support.

Hon. Deputy Speaker: Maybe, to give a more national outlook to that particular Petition, I, probably, will give a chance to Hon. Gikaria, who is abnormally well dressed this morning.

Hon. David Gikaria (Nakuru Town East, JP): Hon. Deputy Speaker, thank you very much. I am always like this these days. I rise to support the Petition. The NEMA is supposed to license and okay that kind of business to continue. The NEMA is sleeping on the job. Not only is it happening in Kisii, it is happening in Nakuru just behind the Menengai Crater. When we say that people are suffering, people take it lightly. It is important that once the committee starts looking into that, NEMA should be brought on board and be told to do their work as they should. I totally support the Petition.

Hon. Deputy Speaker: That marks the end of it. Let us proceed to the next Order.

PAPERS LAID

Let us start with the Chairperson of the Departmental Committee on Finance and National Planning. He will be represented by the Vice-Chairperson. It is difficult to locate you.

Hon. Isaac Ndirangu (Roysambu, JP): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House.

Report of the Departmental Committee on Finance and National Planning on the vetting of nominees for appointment to the positions of chairperson and members of the Salaries and Remuneration Commission (SRC).

Hon. Deputy Speaker: Let us go to the Chairperson of the Budget and Appropriations Committee.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House.

(Hon. David ole Sankok consulted loudly)

Hon. Deputy Speaker: Order! Hon. Sankok, consult quietly. Proceed.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you for the protection from Hon. Sankok, Hon. Deputy Speaker. I thought it was a Serjeant-At-Arms standing behind me when I turned, by his mode of dressing.

Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House.

Report of the Budget and Appropriations Committee on its review of the Division of Revenue (Amendment) Bill (Senate Bill No.14 of 2018).

Hon. Deputy Speaker: Let us move to the next Order.

NOTICES OF MOTION

Hon. Deputy Speaker: Let us have Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Deputy Speaker, I beg to give Notice of the following Motion:

THAT, aware that buildings in more than 100 Government secondary schools in the country have been torched this year, with many of the arson incidents being blamed on students; further aware that learning in many of these schools has been severely interfered with thus affecting the learning timetable; noting that the number of students arrested for allegedly burning or conspiring to burn school buildings around the country now stands at over 150; cognisant that these students are aged below 18 and are thus juvenile offenders; further cognisant that Article 53(1)(f) of the Constitution provides that every child has the right not to be detained, except as a measure of last resort, and when detained, to be held for the shortest appropriate period of time; and separate from adults and in conditions that take into account the child's sex and age; appreciating that Section 18(2) of the Children's Act provides that a child offender shall be separated from adults in custody; further appreciating that the Children's Act, 2001 advances the protection of children from any action deemed "hazardous or likely to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development."; deeply concerned that

delinquency trends tend to lead to adult crime and thereby a lifelong criminal career if not managed appropriately; this House resolves that the National Government puts in place administrative measures to ensure that child offenders are not remanded or incarcerated in adults' remand; and strengthens the existing rehabilitation schools in the country as a measure to ensure delinquent adolescents are effectively rehabilitated while making them accountable for crimes committed.

Hon. Deputy Speaker: Very well. Let us have the Vice-Chairperson of the Departmental Committee on Finance and National Planning, Hon. Ndirangu.

Hon. Isaac Ndirangu (Roysambu, JP): Hon. Deputy Speaker, I beg to give Notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in their Report on the Vetting of the Nominees for Approval as Chairperson and Members of the Salaries and Remuneration Commission (SRC), laid on the Table of the House on Wednesday, August 29th, 2018, and pursuant to the provisions of Article 250 (2) (b) and Section 7 (11) of the Salaries and Remuneration Commission Act, this House:

(a) approves the appointment of the following to the Salaries and Remuneration Commission:

- | | | |
|-----------------------------------|---|--|
| (i) Ms. Lyn Cherop Mengich | - | Chairperson; |
| (ii) Dr. Leah Mumbua Munyao | - | nominated by the TSC; |
| (iii) Ms. Halima Abdille Mohammed | - | nominated by the Parliamentary Service Commission; |
| (iv) Mr. John Kennedy Monyoncho | - | nominated by the Defence Council; |
| (v) Dr. Amani Yuda Komora | - | nominated by the umbrella body representing employers; |
| (vi) CPA Sophie Moturi | - | nominated by the joint forum of professional bodies; |
| (vii) Ms. Margaret Sawe | - | nominated by the Senate on behalf of the County Governments; |
| (viii) Hon. Dalmas Otieno Onyango | - | nominated by the Public Service Commission. |

(b) Rejects the appointment of Ms. Nelly Peris Ashubwe, a nominee of the umbrella body representing trade unions to the Salaries and Remuneration Commission.

Hon. Members: Why?

Hon. Deputy Speaker: Order, Hon. Members! Order, Hon. Sankok! The Vice-Chair is simply giving a Notice of Motion. You will have an opportunity to discuss, debate and make your decision. When people like Hon. Sankok here make unnecessary interjections... Order, Hon. Sankok! Hon. Vice-Chairperson, did you finalise your Notice?

Hon. Isaac Ndirangu (Roysambu, JP): I did, Hon. Deputy Speaker.

Hon. Deputy Speaker: I think you did. The Members can wait, debate and make their decision. Let us move to the next Order. You do not have to tell us what you will do. You will have the right to do it. Proceed.

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM PROVISIONS OF STANDING ORDER 40(3)

Hon. Benjamin Washiali (Mumias East, JP): Hon. Deputy Speaker, on behalf of the Leader of the Majority Party and the House Business Committee (HBC), I beg to move the following Procedural Motion:

THAT, this House orders that the business appearing as Order Nos.9 and 10 be exempted from the provisions of Standing Order 40(3) being a Wednesday morning, a day allocated for business not sponsored by the majority or minority party or business sponsored by a committee.

This is a very straightforward Motion. I want to beg Members to pay attention because this is a decision we will make as a House. Wednesday morning is for Private Members' Motions. However, we have requested the House to allow us to put the Question on Order No.9, which was debated adequately yesterday. We want to go on recess after finishing with the Third Reading. We request the House to allow us to pass this Procedural Motion, so that we can put the Question this morning and move to the Third Reading in the afternoon.

Order No.10 is a budget issue. If this House approves this Bill, it will go to the Senate for further approval, so that the Division of Revenue (Amendment) Bill that had already been passed is amended and the budget cycle can proceed. This is a very small Bill. We do not expect it to take more than 30 minutes.

(Loud consultations)

Hon. Deputy Speaker: Which Bill are you talking about, Hon. Washiali?

Hon. Benjamin Washiali (Mumias East, JP): Hon. Deputy Speaker, I was justifying why we should pass the Procedural Motion, but the Members are consulting loudly.

Hon. Deputy Speaker: I can see a few Members on my right side who are consulting loudly. There is Hon. Sankok and other Members. On the left side, I see Hon. Gladys Wanga. Please, resume your seat.

Proceed Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Deputy Speaker, if Members agree with us on this Procedural Motion, it should not take more than one hour of the Private Members' business.

Hon. Deputy Speaker, I beg to move and ask the Leader of the Majority Party to second.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Deputy Speaker. Hon. Wanga and Hon. Koros have an interest in the matter which will come in the afternoon. I want to ask the Members to pick the Report, read it and see the reasons some people have been approved and others rejected, and then from there, we can engage the House.

What the Majority Whip has said was decided in the HBC. We only have today and tomorrow as per our Calendar. Because the House is going on recess for a month, we agree to finish the businesses that are important to the House. One of them is the Division of Revenue (Amendment) Bill (Senate Bill No.14 of 2018) and the Finance Bill. We will then put the Question. The conditional grant that is in the Division of Revenue (Amendment) Bill (Senate Bill No.14 of 2018) will be approved by this House, so that our counties can access that money. The Senate has already approved it. We can even take 45 minutes to deal with the Division of

Revenue (Amendment) Bill (Senate Bill No.14 of 2018), so that in the afternoon or tomorrow in the afternoon, we can deal with the Committee of the whole House of this Bill, so that our counties can access the donor-funded conditional grants, which are provided.

I beg to second.

(Question proposed)

Hon. Members: Put the Question.

(Question put and agreed to)

BILLS

Second Readings

THE FINANCE BILL

(Hon. Joseph Limo on 23.8.2018)

(Debate Concluded on 28.8.2018)

Hon. Deputy Speaker: I have confirmed that we have the required numbers to transact this business.

(Question put and agreed to)

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

THE DIVISION OF REVENUE (AMENDMENT) BILL

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, I beg to move that the Division of Revenue (Amendment) Bill (Senate Bill No.14 of 2018) be read a Second Time.

This Bill proposes to amend the Division of Revenue Act No.1 of 2018 with an aim to introduce three more conditional allocations for county governments for the 2018/2019 Financial Year to be financed by loans and grants from donors.

The amendments arose because the proposal for these additional allocations was received by the National Treasury when the Division of Revenue Act 2018 was already enacted. The law was already in place. The donors engaged the National Treasury at a later date. It is important for the Senate, which is the origin of the Bill, and the National Assembly, to make these amendments, so that we can factor in the three different additional allocations from donors, which will be used by our counties. The first conditional grant amounts to Kshs1 billion. It will be financed by the Government of Sweden for the Agricultural Sector Development Support Programme. This programme is part of the implementation strategy of the agricultural policy for both levels of Government. It is geared towards facilitating the commercialisation of agriculture-

based enterprises. This will transform agriculture and boost our food security through enhanced livestock and fisheries production.

This programme will be implemented by the national Government's State Department for Crop Production and will benefit all the 47 counties. The top beneficiaries are Turkana, Wajir and Mandera counties. The Bill has a breakdown of the county allocations and they have been provided in Annex 1.

*(Hon. (Ms.) Gladys Wanga and
Hon. (Ms.) Rehema Jaldesa consulted loudly)*

Hon. Deputy, talk to Hon. Rehema and Hon. Wanga because they are having other business and not listening to what I am saying.

(Several Hon. Members consulted loudly)

(Hon. (Ms) Gladys Wanga walked along the gangway)

Hon. Deputy Speaker: Order Members. Let us consult in relatively lower tones. Hon. Wanga is all over. I do not know what she is up to. Whatever it is, it can wait.

Hon Aden Duale (Garissa Township, JP): The first conditional grant is Kshs1 billion from the Swedish Government. The second conditional grant is valued at Kshs880 million and is funded by the European Union for the water tower protection and climate change mitigation and adaptation programmes. The programme is aimed at facilitating implementation of the National Climate Change Action Plan, which this House passed in the 11th Parliament and the master plan for the conservation of our catchment areas. This programme will be implemented by the national Government through the Ministry of Environment and Forestry and will benefit 11 counties. Each county will receive Kshs80 million as indicated in Annex 2 of the Bill.

The third and last conditional grant is worth Kshs1.85 billion and will be financed by the International Development Agency, a subsidiary of the World Bank. It is geared towards the establishment and operationalisation of the urban arrangements such as charters, boards, administration and for the initial preparation of the urban infrastructure investment. So, it is mainly about our urban cities in terms of how to upgrade their infrastructure investments. This programme will benefit 45 counties, excluding Nairobi and Mombasa, with each county receiving Kshs41.2 million as indicated in Annex 3 of the Bill. It will be implemented by the national Government through the State Department for Housing and Urban Development.

I wish to note that the agreement for conditional loans and grants to county governments should be aligned to the Kenya budget making process. That is why we are aligning it with the Division of Revenue Bill. It is donor money and I am sure the Chair of the Budget and Appropriations Committee has tabled the Report of his Committee.

A framework for assessing performance of conditional allocation from loans and grants for effective oversight must be developed by the National Treasury in consultation with the various implementing ministries, departments and agencies. Donor money must be used for the intended purpose to benefit Kenyans. I am sure the national Government will provide an effective oversight of the programmes in collaboration with the line ministries.

The amendment we are making to the Division of Revenue Act, 2018, is to factor in the three main conditional loans and grants from donors that will benefit our county governments.

One is from the Government of Sweden on the Agriculture Sector Development Support Programme, and the second one is from the World Bank, Subsidiary International Development Assistance Department. The last one is from the European Union for the support of water towers protection and climate change for mitigation and adaptation programmes. All these programmes will be managed by the national Government through its various ministries and State departments.

With those many remarks, I beg to move and ask the Chair of the Budget and Appropriations Committee, the Member for Kikuyu Constituency, Hon. Kimani Ichung'wah, to second.

Hon. Deputy Speaker: Hon. Ichungw'ah.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Deputy Speaker, I beg to second this Bill.

The Leader of the Majority Party has articulated that this amendment Bill emanated from conditional grants and loans from donors that were not available by the time we were doing the Division of Revenue Bill earlier this year. Therefore, they had not got to the National Treasury and that is why it was necessary for the Senate to amend the Act to be in line with the County Allocation of Revenue Bill that we passed earlier this year.

(Loud consultations)

I do not know what is happening in the House this morning. The consultations are too loud.

Hon. Deputy Speaker: There is a lot of excitement which I cannot pinpoint the reason. Order Members. Allow Hon. Ichung'wah to second the Bill in peace. Proceed and ignore the decibels because there is little we can do.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you Hon. Deputy Speaker for your protection. The Member for Dagoretti South, Hon. John Kiarie tells me it is what was famously referred to 'closing day excitement' since the House is expected to go on recess tomorrow. Many of the new Members are excited because they are suffering from the closing day excitement.

As the Leader of the Majority Party pointed out, the conditional grants are three. One of Kshs1 billion, being a grant from Sweden for Agriculture Sector Development and Support Programme. The programme is part of the implementation strategy of the agriculture policy for both levels of Government; county and national, to facilitate commercialisation of agricultural-based enterprises by transforming food, livestock and fishery production. As Members will note from Annex 1, the money will go to all the 47 counties including Nairobi County, which I do not know which part of Nairobi is for agricultural production. But it benefits to the tune of Kshs21.9 million.

The second conditional grant is from the European Union for water tower protection and climate change mitigation and adaptation programme. It goes to 11 counties among them being Busia, Bungoma, Elgeyo Marakwet, Kakamega, Kisumu, Nandi, Siaya, Tana River, Trans Nzoia, Uasin Gishu and Vihiga. Each will get Kshs80 million to make a total of Kshs880 million.

The last conditional grant of Kshs1.85 billion is to be financed by the International Development Assistance, a programme of the World Bank and is geared towards the establishment and operationalisation of urban institutional arrangements such as charters, boards, administrations and for the initial preparation for urban infrastructure investments. This

programme, as was articulated by the Leader of the Majority Party, covers 45 counties with the exception of Nairobi and Mombasa counties. Each county will receive a total of Kshs41.2 million.

It is important for Member because this grant...

Hon. Ali Rasso (Saku, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it Hon. Rasso?

Hon. Ali Rasso (Saku, JP): Thank you very much Hon. Deputy Speaker. I rise on what the Chairman of the Budget and Appropriations Committee is presenting. We have a two-page Report for the Members, but he is reading a very detailed Report. Is it not in order for him to supply the House with more copies of the Report that he is presenting to the House? Thank you.

Hon. Deputy Speaker: Hon. Rasso, I thought the Report should be picked from the Table Office.

Hon. Ali Rasso (Saku, JP): It is not there.

Hon. Deputy Speaker: What is the position, Hon. Ichungw'ah?

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Rasso, being a seasoned Member of the House, knows that it is not the Chairman's work to supply the House with reports. My work is simply to table a copy of the report. It has annexures. I think the copy Hon. Rasso has or has been supplied with from the Office of the Clerk does not have annexures.

Hon. Deputy Speaker: Hon. Ichung'wah, much as I sympathise with your position because you are not the one who does that, I am really inclined to go with Hon. Rasso. When you see a Member who is really interested in getting into details, they surely deserve to have it. Now, what we should know is whether we put it at the Table Office hence available to Members. If that is the position, I would be happy.

Hon. Kimani Ichung'wah (Kikuyu, JP): The Report is at the Table Office. I would be very happy to share a copy of this as soon as I am done. I can pass it over to him.

Hon. Deputy Speaker: That would be very good. For a Member who is willing to go to the details, I think it is worth it.

Hon. Kimani Ichung'wah (Kikuyu, JP): I concur. He is unlike many of the Members who are consulting loudly without being aware of what is happening in the House. That is why I was pointing out to that conditional grant of Kshs41.2 million that is going to all the counties on urban infrastructure development. It is meant to help each county to establish charters and boards. I can report about my county of Kiambu because I have seen this happening.

(Hon. Simba Arati raised his hand)

Hon. Deputy Speaker: Again, what is it Hon. Simba Arati, Member for Dagoretti North?

Hon. Kimani Ichung'wah (Kikuyu, JP): He does not know what is going on.

Hon. Deputy Speaker: You do not to put up your hand next time. I can see your name perfectly form here.

Hon. Simba Arati (Dagoretti North, ODM): Thank you, Hon. Deputy Speaker. Is it in order for the Chairman to say that he can give his copy to Hon. Rasso whereas Hon. Rasso has just asked for the Report be provided to the House? We must be aware of the Chairman. His way of doing things in this House is wanting. Therefore, I request...

Hon. Deputy Speaker: I am not sure I agree with you at all. This is one of the very hardworking Members of the House. What you are doing is casting aspersions. You need to go

through the normal rigours of discussing a colleague Member. Anyway, what is the issue that you have, specifically? You have asked for the copy of the document.

Hon. Simba Arati (Dagoretti North, ODM): The Chairman is saying that he is going to provide Hon. Rasso with the copy of the Report, whereas it is the House which wants the copy and not Hon. Rasso.

Hon. Deputy Speaker: Well. That document was tabled, Hon. Arati. You need to go to the Table Office and you will have your copy. What is it, Hon. Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Hon. Arati has not recovered from the sugar crisis and the mercury. He is yet to come back to the House. The Report on this Bill was tabled long time ago. Hon. Arati can go to the Table Room and pick a copy. It is as clear as day and night that we are amending the Division of Revenue Act 2018 to put in the law the three conditional grants on agriculture, climate change and infrastructure investment. We cannot force Members to get a copy and read for them. If that is what Hon. Arati is expecting, it is only done in county assemblies. It is not done in the National Assembly.

Hon. Deputy Speaker: Let us sweep this under the table and proceed.

Hon. Kimani Ichung'wah (Kikuyu, JP): I appreciate the protection from the Chair and the support from the Leader of the Majority Party. If I had opportunity to cart away copies of this Report in a wheelbarrow to the Chamber, I would have done that. Probably, that is what Hon. Arati confuses. In his former life, he would cart a lot of cabbages and kales to Kawangware Market. He expects to have opportunity to do the same in this House.

Hon. Deputy Speaker: I think there is a problem there. What is it Hon. Arati?

Hon. Simba Arati (Dagoretti North, ODM): Now that the cabbage and the *sukuma wiki* has come on the Floor of the House, is it in order for the Chairman, whom we know that he has been hiding important information including even the budget-making process, to allude on the Floor of this House that...

Hon. Deputy Speaker: I am not going to allow you. We are going the wrong direction. Hon. Members, please, we are getting very personal. It is unnecessary. Just wind up, finalise your secondment and then we finalise this thing.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Deputy Speaker for that protection from Hon. Simba Arati.

I was saying that it is important for the Members to note that Kshs41.2 million is going to each county out of the Kshs1.854 billion conditional grant on the World Bank Programme for Kenya Urban Support Project-Urban Infrastructure Conditional Grants. I have had occasion to witness the establishment of what they are now calling 'municipality boards' in my county of Kiambu. What Members need to do is to guide their members of county assemblies (MCAs) and the public. It is very important. These municipality boards will be charged with the responsibility of overseeing the implementation of a lot of money coming from the World Bank. I have seen in some counties that governors are going out of their way to get their cronies and friends into these boards. They are putting in the boards people who have no capacity at all, with complete disregard of the Constitution and no provision of public participation. As we go on recess, it is important to encourage the Members to follow up with their county governments on how the boards are being established and the calibre of people who are being put in the municipality boards. The Kshs41.2 million is geared towards training the boards and helping to establish them. They will later be charged with the onerous task of implementing development projects on infrastructure within the municipalities. It is important that, as much as this is a devolved function, we take the responsibility to help in overseeing and educating the public on the

importance of the municipality boards, charters and administrations that will be set up using the conditional grants.

With that, I second this Motion and urge Members to support it. Thank you.

Hon. Deputy Speaker: Before I propose the Question, let me recognise, in the Speaker's Gallery, pupils from Rwawaitira Primary School from Gatanga Constituency, Murang'a County.

(Applause)

(Question proposed)

Hon. Sheikh, do you want to speak on this?

Hon. Mohamed Mohamud (Wajir South, JP): Do you mind giving me a chance a few minutes from now, just after one speaker or two? I am sorry. I got held up.

Hon. Deputy Speaker: Okay. Let me see somebody who can speak from the Minority side. I see Hon. (Dr.) Wamalwa has been missing in action for some time. I am told he was receiving the eternal blessings. Can you proceed and share it with the House?

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you for giving me this opportunity, Hon. Deputy Speaker. Indeed, I was away. I had spoken about the matter yesterday. I was in the Holy City of Vatican. We had an opportunity to meet the Holy Father Pope Francis and he is praying for Kenya. So, I bring greetings and blessings from the Holy City of Vatican.

This Motion on the division of revenue is very critical. The objective of the Division of Revenue Bill is to divide national revenue between the two levels of Governments, namely, the national Government and county governments. Of course, we must look for concurrence. On a Motion like this, for the new Members, it is not just the division of revenue. We only speak on the aspect that we are seeking concurrence. In this case, it is the conditional grant, namely, the two grants that the Leader of the Majority Party and the Chairman of the Budget and Appropriations Committee have spoken about.

Quickly, I want to speak about the first grant. This money is coming from the Swedish Government and we are told of Kshs1 billion that is going towards food security. The backbone of the economy of this country is agriculture. The Maputo Declaration talks about 10 per cent allocation to food security. This country has never, at any given time, allocated even five per cent of the national revenue to food security as per the Maputo Declaration where Kenya is a signatory. The Kshs1 billion we are talking about is going to add a lot of value particularly on food security which is one of the Big Four Agenda of the Jubilee Government. Food security is very critical. However, the level of corruption when it comes to matters of food security is high. Food security cuts across the entire value chain. The Government has gone to an extent of saying that they are bringing subsidised fertilisers to the farmers. When it comes to the planting season, the great farmers of Trans-Nzoia County, who feed this nation, do not get the subsidised fertiliser anywhere. Unscrupulous business people are the same people who get the fertiliser and sell it at high prices. We are told that the Kshs1 billion is being allocated and it will be implemented by the national Government yet we know that agriculture is a devolved function. We hope the national Government will subsidise the prices of fertiliser.

On the issue of the National Cereals and Produce Board (NCPB), we know very well that the great farmers have not been paid up to now. Maize is supplied to the NCPB but because of the unscrupulous business people who get maize cheaply from somewhere, supply it to the NCPB and collude with accountants and are paid, the poor farmers, who supplied their maize,

have not been paid up to now. So, we want to thank the Swedish Government, but we are calling upon the national Government to ensure that the corrupt practises will stop. We are watching the crack of Mr. Noordin Haji. We are seeing senior people in the Government getting worried. You know what has happened, that your equivalent in the Judiciary... I am praying that they do not come for you because he is targeting high ends.

Hon. Deputy Speaker: You are completely out of order, but proceed.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): As I move on, I want to talk about the Kshs 800 million from the European Union (EU) that is going towards the water tower and the climate change. We have a lot of changes as far as climate change is concerned. We are talking of things to do with afforestation. We are told that we should have ten per cent of our land on forest cover. In this country, we have three per cent forest cover. There is so much that we need to do to correct climate change. In traditional days, our great fathers and grandfathers used to prepare their farms in good time because they knew the rains would come at specific months. But nowadays, because of climate change, trends have changed. It is important that the Kshs800 million is going to add value in matters climate change. We know that when it comes to water catchment, it is very critical. It contributes towards food security. Right now, we are having issues with the Mau Forest. All these are catchment areas that must be protected.

Lastly, I want to talk about the Kshs1.85 billion that is coming from the Investment Development Agency, a programme of the World Bank. This is supposed to go to urban areas for the purposes of boards, administration and others. The management of our cities is very critical. There is no planning in some of our cities. We know that failing to plan is planning to fail. It is, therefore, important that if this money goes to the boards of the respective cities, those boards must be put in place and the planning aspect implemented. Some counties and cities do not have boards up to now. It is important that county governments move with speed so that the respective towns can have boards in place. These boards can help in the management and planning of the towns, so that there is easy accessibility. The issue of traffic jam is because of poor planning. We need to have master plans in place. These are issues we should not waste so much time on because we are seeking concurrence in some of the issues. We do not have to open the entire Division of Revenue Bill.

I thank you, and I support.

Hon. Deputy Speaker: Okay. Let us have Hon. Gichimu Githinji.

Hon. Gichimu Githinji (Gichugu, JP): Thank you, Hon. Deputy Speaker for the opportunity to contribute to the Division of Revenue (Amendment) Bill. Annexure 1 looks at the conditional grant that allocates money to all the 47 counties for improvement of agriculture, which is one of the main pillars of the Jubilee Government. Annexure 2 looks at the establishment of a conditional grant for improvement and protection of water towers and climate change, which has been a major issue in Kenya. However, although I support that conditional grant, it does not touch on the main water towers in this country like Mt. Kenya and the Aberdares, which are the main water towers in this country. Nairobi depends on water from the Aberdares and we have not seen any allocation for its protection. We have also seen that the lower parts of the country depend on water from Mt. Kenya. Kirinyaga is one of the areas that have rivers flowing, but we have not seen any allocation for the protection of these water towers.

Going forward, I believe this is a consideration that needs to be made by the Budget and Appropriations Committee when they are looking at the areas where they need to allocate funds for protection of water towers and climate change.

I appreciate the work done by the Budget and Appropriations Committee for making sure that every county gets money for urban infrastructure of about Kshs41,200,000. In my constituency, we have a headquarter, which has no tarmac and it is lagging behind in street lighting. When county governments get this allocation, we will try and balance the urban centres within every constituency to ensure there is allocation of resources to improve the urban centres in all the constituencies within the counties. It is a job well done and I believe, it will support the Government in achieving its Big Four Agenda, where agriculture and water are key players for food production.

We expect that this money will trickle down and help the *mwananchi*. We hope that corruption will not be witnessed within the counties. We expect that as we approve this conditional grant, it will not meet the recurrent or any other expenditures extraneous from what has already been proposed. We expect the Senate to use its mandate of oversight over county governments. County assemblies should also play their role and not to be part of the county government in terms of utilisation. They should be part of the county government in terms of proper oversight and utilisation of these funds.

Hon. Deputy Speaker: Let us have hon. Martin Owino, Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): I am grateful, Hon. Deputy Speaker, for the opportunity that you have given me to support the Division of Revenue (Amendment) Bill. I want to thank the people of Sweden, the EU and World Bank. Conditional grants come from taxpayers' money and we should take it very seriously. We have had occasions where funds have been misappropriated. That is very unfortunate.

Talking about agriculture, my constituency is one of the agricultural constituencies. I pray that before this money is released, we should have a structure that outlines how this money will reach constituencies after it has hit the counties. I would request that in making that structure, the disbursement should not land into the consolidated accounts of the counties, because we have known what happens when all the monies come together. I would like to see separate accounts and ways of disbursement done. The reason I am saying this...

Hon. Owen Baya (Kilifi North, ODM): On a point of order,

Hon. Deputy Speaker: Order. What is it, Hon. Yaa?

Hon. Owen Baya (Kilifi North, ODM): Hon. Deputy Speaker, I rise pursuant to Standing Order 95. I think this matter has been explained and Members are in agreement. Based on the mood of the House, it is important that we move to the next order.

Hon. Deputy Speaker: Okay, I hear you; I get what you are saying. Being a private Members' Day, I think you are saying that you do not want this Government business to take too long because you want to get back to private Members' business. But I will allow the Member for Ndhiwa to finalise then you will make your decision, Members.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Deputy Speaker. I think this is very important, even if we have to get back to private Members' business. I will be fair. We are now approving the grant that is being given to counties and we do not want to stay aloof after that approval so that when you get to the counties you look irrelevant because these functions are devolved. There should be a structure where Members of Parliament can also provide some oversight, so that we stay looped in on what goes on. The EU, in its kindness, needs to be patted on the back for conservation and environment issues. I hope this will go to appropriate centres.

Lastly, the boards are ineffective from the word go because they are selected not on competency but on favouritism. We should be very serious with how this will be done. I am just guessing that the World Bank is concerned about the management of this Fund and other funds.

That is why they want to strengthen the infrastructure so that when money is released there is capacity to do oversight and give guidance on how these monies can be used. So, I support this with the reservation that I do not know who is responsible; whether it is the Budget and Appropriations Committee or not. This thing should be itemised and the structure should be very clear. The role of Members of Parliament in providing additional oversight to this Fund should be very clear. We are not just here to approve and then we do not know what happens to these funds.

Thank you, Hon. Deputy Speaker. I support.

Hon. Deputy Speaker: I, therefore, dispose of Hon. Yaa's request.

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

(Loud consultations)

Is there anybody who is challenging that decision?

Hon. Members: Yes.

Hon. Deputy Speaker: Challenge it in the normal manner.

(Several Members stood in their places)

Hon. Deputy Speaker: The seven of you are absolutely short of the required number. Proceed.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Deputy Speaker. As much as I cannot donate, I would have wanted to donate a minute to Hon. Makali Mulu.

Hon. Deputy Speaker: You are absolutely going to be out of order. The Standing Orders are very clear.

Hon. Kimani Ichung'wah (Kikuyu, JP): I am just appreciating the eagerness of Hon. Makali Mulu and the indomitable Pukose.

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

Hon. Deputy Speaker: What is it, Hon. Makali Mulu?

Hon. Makali Mulu (Kitui Central, WDM-K): You know, Hon. Deputy Speaker, many a times we have said in this House that for us to improve debate, we need to research. It becomes very frustrating when you research on an item and just by a statement like what the Member has made...

We can also say that we adjourn this House, but we do not want to go that way. I think it is important that when people research, they are given opportunity to present their points. I plead with you. There are things which have not been said. I researched on them and I want to say them. If you give me a chance, I will say things which have not been said by anybody in this House.

Hon. Deputy Speaker: What is it specifically that has not been said?

Hon. Makali Mulu (Kitui Central, WDM-K): Can you allow me?

Hon. Deputy Speaker: No, just say what it is that has not been said. I am not allowing you to contribute. Just say what nobody has said.

Hon. Makali Mulu (Kitui Central, WDM-K): Two things which I think have not been said. The first thing, the reason we are doing this amendment is because these additional grants

came after we had gone through the Budget cycle. In terms of timing, we need to urge our development partners and the Government to do their signing of agreements on time so that we align the agreements with the Budget cycle. Who has said that?

Hon. Deputy Speaker: Nobody has said that. Proceed.

Hon. Makali Mulu (Kitui Central, WDM-K): The other point is, even after releasing this money to the county governments, we need to have a framework to monitor implementation of the projects, at the County Assembly level and at the Senate level. Who has said that?

Hon. Deputy Speaker: Thank you very much. You have said the two things that had not been said. Let us now proceed and wind the debate. The decision has been made by Members. I cannot revisit it.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Deputy Speaker, I also have something medical.

Hon. Deputy Speaker: There cannot be anything medical, Hon. Pukose, on this matter. Proceed Member for Kikuyu.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Deputy Speaker. There is surely nothing medical. I am glad that at least Hon. Makali Mulu has been able to make those two points that had not been mentioned by anybody. They are very important points because if we do not tie all the agreements for grants and loans that we need before the Budget process begins, then it means every year we will have to come back with this sort of amendment.

I want to thank the few Members who have contributed to this Bill. It is very important to ensure that the Division of Revenue Bill is in line with the County Allocation of Revenue Act that was passed this year by the Senate and agreed with by the National Assembly.

Hon. Deputy Speaker, with that, I do not need to belabour anything else. I thank Members for their contributions. I beg to reply.

Hon. Hilary Kosgei (Kipkelion West, JP): On a point of order.

Hon. Deputy Speaker: What is it, Hon. Kosgei?

Hon. Hilary Kosgei (Kipkelion West, JP): Hon. Deputy Speaker, just like Hon. Makali Mulu has said, this issue is so important but you did not allow us to ventilate. There is the issue of the water tower that is a big issue right now in the country. Nobody has talked about it. We need to ventilate.

Hon. Deputy Speaker: It is water under the bridge, Hon. Kosgei, but you have been heard anyway. Let us have Hon. Baya. What is it again?

Hon. Owen Baya (Kilifi North, ODM): Hon. Deputy Speaker, I rise under Standing Order 53(3). I think we do not have the requisite numbers to put the question. Therefore, I ask that we defer putting the Question.

Hon. Deputy Speaker: That is completely in order, so let us proceed. Your request is granted. That is it.

Hon. Hilary Kosgei (Kipkelion West, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it again, Member for Kipkelion West?

(Hon. Hilary Kosgei spoke off record)

Unfortunately, I did not hear Hon. Hilary. Is it that you really wanted to contribute?

Hon. Hilary Kosgei (Kipkelion West, JP): I was just addressing you on the issue of quorum.

Hon. Deputy Speaker: Fortunately or unfortunately, my hands are tied. Therefore, I will have to look at the number of Members in the House. Even on the face of it, when Hon. Baya raised this issue, he mentioned the same thing. So I order the Quorum Bell to be rung for 10 minutes. Nobody, including Hon. Hilary Kosgei, will walk out. Not even Hon. Nyamai. Nobody will walk out. Let the Bell be rung for 10 minutes.

(The Quorum Bell was rung)

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

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Members. We now have quorum. We shall proceed. Let us move to the next Order.

BILL

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) (No.2) BILL

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I beg to move the Constitution of Kenya (Amendment) (No.2) Bill of 2018. This Bill aims to change the elections date and that is its key objective.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Chris Wamalwa, please move for the Second Reading.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Hon. Temporary Deputy Speaker, I beg to move that the Constitution of Kenya (Amendment) (No.2) Bill be now read a Second Time.

The principle objective of this Bill is to amend Articles 101 (1), 136 (2) (a), 177 (1) (a) and 180 (1) of the Constitution of Kenya by changing the existing date of the general election for the Members of Parliament, the President, the Deputy President, Members of the County Assembly, county governors and deputy governors, from the second Tuesday of August in every fifth year to the third Monday in December in every fifth year. The Bill seeks to introduce a new date for conducting a general election that would be more favourable to the circumstances of Kenyans.

The amendment is to ensure that the date of the elections reflects the unique circumstances and traditions of Kenya. The current date of the general elections unduly disrupts the education calendar and most importantly, the conduct of the national examinations in the case of either fresh elections or a run-off or any invalidation of the Presidential election.

The tradition of reading the Budget concurrently in East Africa has been disrupted by the current election date. As you are aware, there is an arrangement between the East African countries such as to avoid speculation. Normally the Budget is read on the same day. Unfortunately, because of the circumstances, this was interfered with.

The amendment seeks to restore the tourism season because we normally have a high tourist season in August and tourism plays a very critical role to the economy of this country. Tourists normally fear because of the violence during the electioneering time. They do not come.

This Bill is not being tabled for the first time. This Bill was tabled for the first time under the late Mutula Kilonzo. It was introduced in this House in 2011. By then, he was the Member of Parliament for Mbooni. May the Lord rest his soul in peace. Subsequently, in 2015, the same Bill was introduced in this House by Hon. David Ochieng, the then MP for Ugenya. The Bill has been drafted and we know very well that a constitutional amendment Bill has to go through the 90 days to enhance the public participation. I thank the Departmental Committee on Justice and Legal Affairs which went round the country to collect views from the public. They came up with a very good report as far as the change of election date is concerned. It is a straightforward Bill.

I beg to move and request Hon. Anthony Kiai, the indomitable Member of Parliament for Mukurweini, to second.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kiai is very excited by your description and introduction. Hon. Kiai, you have the Floor.

Hon. Anthony Kiai (Mukurweini, JP): Thank you, Hon. Temporary Deputy Speaker. I am flattered by my colleague's description.

I second the Bill that the date for the national elections be changed from August to December. I am a Member of the Departmental Committee on Justice and Legal Affairs and I was involved in the public participation. We went round the country. I happened to be in the group that went to Kisumu, Kakamega, Eldoret and Wajir. In all the places we went to, the feeling of the masses was that August was a bit misplaced and the best month for elections was December. We received many replies from various groups, individuals and institutions. Most of the interviewees were of the opinion that the date should be shifted to December. When we compiled our report, 72 per cent of all those who were interviewed returned a date in favour for December.

December is a long holiday for many institutions in this country. Therefore, it is an ideal time for many Kenyans who are involved in matters of school to participate in the election. If it is done in December, the turnout is usually very high. December also happens to be a very dry month and, therefore, ideal for people to go out there and vote. August, on the other hand, happens to be a wet month and, therefore, not very ideal for people to go and vote. Traditionally in this country, we have always held elections in December. Therefore, returning the date to where it was traditionally would be the best thing to do for this country.

Finally, in some places in western Kenya where we went, we were told that August happens to be the month when young boys become men. It is a huge ceremony. Mostly, people from that region do not participate in the elections because this traditional ceremony is very important for them and, therefore, they cannot do anything else when it is happening.

I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. I support this Amendment Bill sponsored by Hon. Chris Wamalwa, who is my neighbour and the Member for Kiminini.

Moving the date from August to December is the most ideal thing. Going by the history of this country, the original drafters of the Kenyan Constitution during the Lancaster Conference fixed the date to be in December. That has been happening until the other day when we came up with the Constitution of Kenya, 2010 that now changed the date to August.

We have had our own challenges based on the previous two elections.

(Hon. Charles Njagua crossed the Floor without bowing)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order! It is not possible to do that, Hon. Member. I can tell that you have realised what you did. You cannot cross from my left side to the right side. Hon. Njagua, please, go to the Bar, bow and then cross to the other side. Please, proceed, Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. Before that interruption, I was saying that when our founding fathers came up with the Kenyan Constitution during the Lancaster Conference, the election date was fixed in December. This made it ideal for everybody to participate in the elections. Voting is a right for every Kenyan who is in the age bracket of voting. It is a one man vote. Everybody has a right to vote.

People have festivities in December. They travel to their home counties. Even buses are always full in December because people travel to be with their families. That is the most ideal time for us to vote. We have had challenges with the last two elections because they were conducted in August, which is a very rainy month. You begin your campaigns in June and July when children are in school. Most of the polling centres are schools. Therefore, it is a challenge for the Independent Electoral and Boundaries Commission (IEBC) to prepare the polling stations, so that people can vote. You even imagine where you have the tallying centre.

For instance, the Endebess Technical Training Institute is our tallying centre. The road to that place was quite impassable because of the heavy rains. This made it difficult for everybody to participate in the tallying process. This is a very wise decision. I know that we have people who are opposing the Bill for their own reasons, but majority of Kenyans support it.

From the survey that was done by our colleagues and through public participation, 72 per cent of Kenyans support the Bill. That is a very big number of people supporting it. I hope that it will be like the IPSOS Synovate survey which is not credible. The survey which was conducted by the Members is credible.

This is a very important Bill. We need to put the Question when the Members can marshal the numbers because it is a constitutional Bill. It requires two-thirds of us to support it, so that we can make an important milestone that will enable us to carry out elections in December. People will not complain that they did not vote and the turnout was low because of the rains, schools or they had other commitments.

Therefore, I want to join my colleagues in supporting this amendment. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Anthony Oluoch, Member for Mathare.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to partially support this Bill and propose an amendment. The reason for this is that we were taught that the Constitution is a living document. It looks at every aspect of the Constitution. That is the first point.

The second point is that a piecemeal amendment to the Constitution may end up destroying the architecture and basis of the Constitution 2010. I am saying this taking into account that there are various other initiatives that are in place which intend to amend this Constitution. We have Hon. Kamket's Bill, which I suspect is being processed. There are two or three other petitions which intend to affect the tenure of office of this Parliament, Governors and other elective seats, including one that proposes the extension of the term of the office of the President. We ought to put all these proposals in either an omnibus amendment or have a platform where the nation can dialogue on all the proposed initiatives, including the Building of Bridges Initiative. We do not know what process or result may come out of the Building of Bridges Initiative.

I want to support the proposals in the Bill partially. I want to state that in relation to the proposal to amend Article 136 of the Constitution, any proposed amendment must be read together with Article 255 of the Constitution. It says that if you are going to make any amendments that will affect the tenure of office of the President, then you have to go to the referendum. In respect of this, I agree that there is need to stagger our elections, so that our other elective seats elections can take place in December. However, in respect of the election of the office of the President, it should remain in August because the President was gazetted on 31st October 2017. Another President must be in place on 31st of August 2022. The General Elections are proposed to be in December. This will extend the tenure of office of the current President.

I will propose an amendment which I have already given notice of. I support the other parts of the amendment about staggering the other elective seats election to December. Thank you, Hon. Temporary Deputy Speaker.

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

Hon. John Mutunga (Tigania West, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill that intends to amend the Constitution. I support the previous speaker who has alluded to the fact that there are many initiatives that intend to amend the Constitution. It will be useful for Kenyans and Members of Parliament to bring these initiatives together to try and see the extent which we are trying to amend the Constitution.

I rise to support this particular initiative, even though we are saying that we should amalgamate all of them. First and foremost, August is not a very good month because it is at the point when the financial year of the Government has ended. Therefore, so many factors may not have been factored in the financial year. We cannot project the outcome of an election. We cannot tell exactly what we need to plan for before the election is done.

On the other hand, if we look at the last election last year, we had many issues that affected the election process and systems and procedures in this country, especially the education system. We had a problem with examinations. There was so much tension with students because they did not know whether they would sit for their exams in time or not. The need for assurance had to be there. There is need for us to anticipate that anything can happen after an election. Therefore, it is good for us to hold the General Elections in December. I propose that it comes in early December, so that it coincides with the onset of the festive season. I believe that if we do it at that time, people will be ready to vote and the campaigns will be done in a better environment. We shall have a better date and thereafter the celebrations will be merged. December is generally a celebration period. Therefore, people will move on well.

I would also like to agree with the fact it is a low season in tourism business and other businesses. It is time Kenyans released themselves to processes that make them relax. Therefore, it is time we did a lot better than the situation right now. The current election date came in after the adoption of the Constitution 2010. If we change it, we will go back to our tradition. We will have December as a transition month because everybody aims at a new year when he or she does new things. It will also be good for us to start a Government in the New Year with new things. It also comes after the first quarter of a financial year when we would probably have adjustments that will enable us to move in tandem with the requirements of the time.

Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us now have Hon. Osotsi Godfrey.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this Bill.

I join my colleague, Hon. Anthony Oluoch, in saying that I partially support this Bill. Whereas I agree with the very valid reasons given to justify why we need the elections in December and not in August, we must also be alive to the fact that this Constitution is highly integrated. One section of the Constitution affects many other parts. Any attempt to amend part of the Constitution affects many other parts of the Constitution. As my colleague, Anthony Oluoch has said, there are many requests and proposals to amend the Constitution.

When we passed the Constitution in 2010, we were told that after ten years we would have an opportunity to reflect back and audit what has been implemented to see how it has worked and then on the basis of that audit, we would determine what to change. It is now eight years since we passed the Constitution. This is an opportunity for Kenyans to reflect on what has been implemented, what has worked and, what has not worked. It is only after having a structured process of implementation of the Constitution and an audit of what has been implemented we can determine what needs to be changed and what needs to be maintained. If we encourage piecemeal amendments to the Constitution, we will go back what we had initially. You remember the Independence Constitution went through numerous amendments to the extent that it became unfavourable to the country. That is why Kenyans started the process of total overhaul of the Constitution. So, we do not want to get back to where we have come from as a country.

I have a copy of the Report by the Committee. Reading through it, it is clear that we had almost equal view points on whether to support or not, the change the of the elections date. Even in the Committee, one of the Members, Hon. Peter Kaluma, gave a dissenting opinion. He is a very distinguished constitutional lawyer. He raised very fundamental issues. One of the issues he raised is that one of the amendments proposed is likely to change the term of office of the President. The change of term of office of the President is one of the grounds for a referendum. Therefore, it means that these amendments will have to go through a popular vote: referendum. It will not be the domain of the National Assembly and the Senate alone; it will also require the voice of Kenyans.

Whereas I totally agree with the reasons why we need to change the elections date because of the school calendar and because of budgetary issues, it is important that we look at changes in the Constitution in a holistic manner rather than in the piecemeal manner which we are trying to advance. We should also start thinking of how to live with the August date. The reasons given for its change are more administrative. The school calendar is an administrative issue. It is not constitutional. We can reconfigure the dates for schools.

My viewpoint, as it has been alluded to by Hon. Oluoch, is that we consolidate all the constitutional review initiatives; take them through a very structure people driven process; come up with recommendations; pass them through a referendum where necessary; and, have a new elections date. But, the efforts to carry out piecemeal amendments of the Constitution may be very costly. As I said, every part of the Constitution is key and it is intertwined with other parts. For example, as alluded to by Hon. Kaluma, this amendment affects the term of office of the President which is key. It means that Hon. Uhuru Kenyatta will be in office up to December, 2022. The political, legal and constitutional dynamics will be too huge for the country to handle.

I partially support the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Gitonga.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker, for allowing me to support this Bill. As a Member of the Departmental Committee on Justice and Legal Affairs, I participated in the public hearings that gave us the Report which has been tabled and which has been referred to by Hon. Osotsi. I wish to confirm that the Committee went round the country and took views from all corners as representative of the Republic. Ninety per cent of all persons who gave their views support it. So, it is not true for the Member to state that there was almost equal division in terms of pros and cons.

I also wish to confirm that out of the Committee of more than 19 Members, only one gave a dissenting opinion and he was entitled to do so and he had his reasons.

It is important to note that constitutional amendments may not be brought through an Omnibus. They are brought as and when it becomes necessary to amend the Constitution. It happens like that everywhere in the world and that is why Americans are very keen on trying to number them right from the First Amendment, the Fifth Amendment and all the way to whatever number they have. Laws are not made in one day, but progressively as life goes on. We were given quite a number of reasons as to why the citizens of the Republic felt that the date should be changed. The most common one was that the school calendar must be respected. The national exams, which are normally ordinarily done in October and November, should be respected and given some sanity when they are being done instead of being embroiled in political disputes, especially when there is a rerun and the numerous petitions that take place. It was felt that we should have the elections in December, when life is calm, children are out of school and every citizen is in a festive mood.

What we were told to compare is what happens when elections are done in December and when they were in August. The turnout was better in December than it was in August. The second reason were given is that August is so close to the end of the financial year, especially now that we have to work with the famous Integrated Financial Management Information System (IFMIS). In August, there may be problems in accessing funds to finance the elections. However, when this is done in December, there is sufficient time to organise and ensure that the funds set aside for elections are actually utilised. The only problem that Hon. Chris Wamalwa will have is to marshal the requisite numbers that are required to pass a constitutional amendment. Of late, you have seen what is happening in terms of members being in the House. Therefore, quite some lobbying will have to be done so that this is done by the two-thirds majority.

There are many other constitutional petitions that are pending. Some of them seek to amend various Articles of the Constitution. Unfortunately, they are all not at the same stage. Unless this House resolves that we shelve every petition, Bill and Motion that comes before this House, until we raise the requisite number, we cannot do this in an omnibus manner. Therefore,

my opinion is that each amendment will have to be dealt with at the appropriate time when it comes in the manner that is designated by the Constitution. Where the Constitution says this can be done by the Houses of Parliament, then we will have to go by that procedure. If the Constitution requires the public initiative, which is a referendum, again, we will have to go that way.

There are consequences of every legislation that we pass here. If we pass this one, which says that elections will be held in December, there will be some slight addition in the term of the elected Members of the two houses of Parliament, county assemblies, governors and the presidency. That is a consequence of the law that we will enact, and we have to live with it. It is not so grave, if the citizens of Kenya feel that it is to their advantage.

With those remarks, I support this Bill and pray that we marshal the requisite numbers so that we pass it as the first amendment of the Constitution of Kenya, 2010.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Can we have Hon. Wanyonyi Kevin?

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, I take this opportunity to thank Hon. Chris Wamalwa for coming up with this constitutional amendment. Having participated---

(An hon. Member spoke off record)

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, can you protect me from this neighbourhood? My neighbourhood is disrupting me.

The Temporary Deputy Speaker (Hon. Christopher Omulele): You are certainly protected.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, first and foremost, as outlined and as expected, the Committee went round the country. You can see from the outcome of that exercise, the opinion of the people out there, which made us come here. Ninety per cent agreed to change the date from August to December.

Those of us, who have voted at least three times, know that December has a very good voter turnout. Mostly, people vote because they are at home. As you know, in August people will mostly be working. It is inconveniencing for families to leave Nairobi, Mombasa and even overseas to travel home and participate in elections. December is very ideal for elections because, with the climatic changes that we have witnessed, is a very dry month. People come to enjoy their holidays and, at the same time, to elect their leaders.

Thirdly, for some of us from Western Kenya, August is a time when we have all sorts of ceremonies, including circumcision of our youth and it becomes very difficult. Suppose the elections were to be held this month, it would be very disruptive. Also, all of us present here, apart from the nominated Members, took part in the last general election, which was held in August. The turnout was very poor. In my case, it became so difficult to get people to vote because it was raining heavily. On the Election Day, it rained the whole day. Therefore, only a few people, who support you, would turn up for the elections on such a particular day. Even counting of the votes became very difficult. Even transporting the election materials to the polling station was also an issue.

In my constituency, two trucks got stuck on the road with the election materials until around 10.00 p.m. We had to send tractors to pull them out.

(An hon. Member spoke off record)

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): You listen! Why are you interrupting me? You will have a chance to speak.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Order! Order! What is happening with your neighbour?

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, next time I will not be sitting here because this *Mheshimiwa* is very loud. He does not consult in low tones.

Fourthly, Hon. Oluoch talked about having two different elections separately, where we would have Members of Parliament, members of county assembly and governors being elected in December and the president being elected on another date. It becomes very difficult. If the presidential election is conducted in August and the elections for members of parliament, members of county assembly and governors are conducted in December, whoever will have been elected president would have influence on those participating in the elections in December. Therefore, we should have the elections conducted in the manner proposed by Hon. Chris Wamalwa – a general election from the president down to members of county assembly being conducted on the same day.

Amending the Constitution is not a problem. As the last speaker mentioned, constitutions are changed when the need arises. There is nothing wrong with us amending the Constitution so long we raise a two-thirds majority of this House, which is possible. We will amend the Constitution in this House and have the Senate voting for this amendment. We have done so many amendments in this House. This is an ideal situation, if we are to be serious.

In 2017, we lost a lot of money because tourists could not come to this country. That was the wrong time. Of course, people fear the outcomes of such elections anywhere in Africa. For example, Zimbabwe had problems. Even the Republic of South Africa, which is thought to be a very advanced democratic state in Africa, has problems.

So, let us have the elections on the date proposed by Hon. Chris Wamalwa. The best time to hold elections in this country is December. Let us not have sideshows on this Bill. I urge the Members of this House to turn up in large numbers and form a two-thirds majority to amend the Constitution for the convenience and prosperity of this country.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Deputy Speaker. That is a hiccup in technology and since we are a digital nation, we have made a comeback. Thank you very much for giving me this opportunity. Hon. Wanyonyi was a bit worked up by Hon. Oyoo. Hon. Wanyonyi, Hon. Oyoo is a professional noisemaker and does not worry about it.

(Loud consultations)

Hon. Temporary Deputy Speaker, protect me.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Sankok! What is it, Hon. Oyoo Onyango, Member for Muhoroni?

Hon. Onyango Oyoo (Muhoroni, ODM): Thank you very much, Hon. Temporary Deputy Speaker. The Standing Orders inhibits Members from casting aspersions against others.

Hon. Sankok is a nominated Member who is disabled and does not have full use of his entire body is casting aspersions on an old Member. This is very bad.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Order Hon. Onyango! Hon. Sankok, you know, you could say the same thing differently. Members are allowed to consult. Maybe they should consult in low tones.

Proceed, Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker. Before I was rudely interrupted by my great friend, I was saying that an election in August is really disruptive on our calendar and particularly on our school calendar. In the previous election when we had a re-run of election, some of us said that our children will not die if elections are postponed. That shows the country how elections were disrupting our school calendar. It is not only about the school calendar. August is normally one of the highest seasons for tourists visiting our country. It is always two months after the Budget is read and it is probable that IFMIS is not opened up, there are no enough funds, the activities of State Corporations during the month of August are normally enhanced, that is the time they are budgeting and setting up their performance contracting.

In addition, August is the month harvesting in our country. We harvest maize, barley and wheat. It is generally a busy season. At that time, there is electioneering fever and it disrupts farmers. You do not necessarily farm in Nairobi because you live in Nairobi, your farm could be in Narok or Baringo, but you live in Nairobi. At that time you are busy harvesting and it is an election day. It is normally the second Tuesday of August which is in the middle of the week. Some people are on duty on Monday and are required to be on duty on Wednesday yet they registered as voters over 1000km away. Some civil servants are transferred on daily basis. Probably you are registered as a voter in Kisumu and you are transferred to Mandera and you are required to have one single day to travel from Mandera to Kisumu to vote and come back. That is what explains the low voter turnout during the August elections. During December elections, most of us are relaxed, most private companies give their employees holidays, people have finished harvesting, our children are at home; it is normally a festive season and probably will enjoy voting. I support the moving of election date from August to December.

I want to congratulate Hon. Chris Wamalwa for bringing this Bill. I know he is a ranking Member and we have learnt a lot from him. That is why in his intellect and wit has seen it necessary to bring such a very important Bill on amendment to our Constitution, whose fault we realised immediately after its promulgation. After the first election in the new Constitution, Kenyans complained about elections being held in August.

We are lucky to be in a House that has distinguished lawyers who will guide us where necessary during this amendment. They include Hon. Otiende Amollo, Hon. Kaluma, Hon. Cheboi, and Hon. Murugara who will guide us in making sure that we are within the law. We also have people like Hon. Duale who have a lot of experience. We are luckier that we have the leadership of the Speaker, Hon. Muturi who has been elected as the Chairman of CPA. I know Hon. Muturi is a mobile encyclopaedia, so we will gain from his intellect.

I was perturbed by what Hon. Osotsi said.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Tom Oluoch, you seem to have an intervention. What is it?

Hon. Anthony Oluoch (Mathare, ODM): Hon. Temporary Deputy Speaker, is the Hon. Sankok who is a very good friend of mine in order to insinuate that some of us are less of

lawyers in this House. We are also ranking lawyers Hon. Sankok. Are you in order to insinuate that Hon. Oluoch may not rank somewhere there?

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Sankok, do you want to get to the unchartered waters?

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, if he really wants to be recognised, I recognise him. You have your day, I am sure you are smiling. You know some of these things are not necessarily demanded, they are earned. Those I recognised like Hon. Chris Wamalwa have earned my recognition. Now that you have demanded, I have decided to recognise you.

Before I was rudely interrupted and I hope I will not be interrupted again, we are lucky to be in this House which will amend this Constitution. I was referring to a statement by Hon. Osotsi. He said he partially supports the amendment. This issue of becoming a watermelon and being in the middle is not good. Members should either support or reject. Some of us come from a background of being supporters of people who presume to be watermelons. We are not talking of the total amendment of our Constitution. There was a time that we repealed for the independence of the Constitution in Article 2 (A) which has assisted this country. If the amendment of the law will assist this country, so be it. We cannot say that there will be other petitions and other proposals. Let them come. We shall deal with them as they come. Now we have a proposal in front of the House. Ours is to marshal enough support so that we can make sure it goes through for the benefit of Kenyans. We support any amendment that is for the benefit of Kenyans. That is because we may not necessarily understand where you belong.

Thank you very much, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Before I get to my left, let me give an opportunity to Hon. Wetangula Wanyonyi, Member for Westlands.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Temporary Deputy Speaker. I also want to contribute to this Bill. While I wish to support this amendment, I look at it differently. As a Member of Parliament from Nairobi, December is very dangerous because there is a migration of people to rural areas. So, Nairobi will be empty and you can easily lose an election. The other time we held an election in March and it was just as good. So, I believe if we move away from August, March will be an appropriate date.

This Constitution has been in existence for eight years. It is now time to audit it because there are provisions which are not practical. We need to bring them to the real situation in Kenya so that we move forward. We need to remove the 20 per cent that was alluded to during the Referendum in 2010. It was said that 20 per cent was not good and 80 per cent was good. We have seen where the 20 per cent is, including the election date.

When the makers of this Constitution, in their own wisdom, picked the date in August, they were looking at many things. But we overlooked things like interfering with school calendar, the Budget cycle and many other things. December is appropriate as has been said, but as a Member of Parliament from Nairobi, it is also dangerous for us because it will require us to make sure that people do not go home at that time. The electioneering period for elections in August also interferes with learning and the economy. That is the time when those who engage in agriculture harvest. I believe it is the highest time we looked at how to amend the Constitution and have some of these provisions revised.

We need to come up with comprehensive amendments so that we do not have piecemeal amendments that will keep on popping up, some of which may require a referendum, especially when it extends the term of office of the President. I support because this is the right thing to do.

I believe elections in December will give all of us a good time to participate. Schools will have closed and people will be in a holiday mood. I know the turnout will be high. Previously, that is what has happened when we held elections in December, until we got this Constitution.

Hon. Temporary Deputy Speaker, I support the amendment to the Constitution.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill that seeks to amend the Constitution by taking into consideration the other issues that have been raised by other Members like Hon. Anthony Oluoch. This issue has come on and off since 2013. As indicated earlier by other Members, Hon. Mutula Kilonzo was the first to come up with this amendment. At that time, there was even a Cabinet Committee that was set up to look at the date of the election and the proposal was that it should be in December. That came to Parliament and somehow it did not pass. I was not in Parliament then.

In the last Parliament, Hon. David Ochieng' came up with the same amendment. Now we are informed that there has been public participation. What that means is that there is need for the amendment. People have realised that there is an issue with the date. So, this is the time that we should look at it seriously.

In all these attempts, the reasons have been the same - schools calendar and exams, synchronised budget day for the five countries of the East African Community, the issue of tourism, the issue of farmers and the issue of traditional ceremonies such as circumcision. Again, it shows that this is a matter that we are keen to have it sorted out. However, the real constitutional consideration is not simply changing the date. As we have seen in the Bill itself, once we look at the date of election, it touches on all other parts of the Constitution, including the extension of terms of offices, including that of the President.

We are also aware that there are very many initiatives going on, including the committee of 14 working on the building bridges effort. All these initiatives are in the offing. We know that there are Members that have proposed Bills that may be coming, proposing to amend the Constitution. So, there is need to look at a comprehensive way of taking into consideration all these initiatives and what is considered as the need to change the date of elections to December. So, I support it because we really need to bring this to a conclusion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Nyikal. What is it, Hon. Waititu?

Hon. Francis Waititu (Juja, JP): Thank you, Hon. Temporary Deputy Speaker. I can see we are all supporting the Bill and we are almost going on recess. If we could, at least, get five minutes each rather than the required time, we could go to the other Bills before we go on recess.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Waititu, you are basically appealing to Members. The Chair may not make a determination. What is it, Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, Hon. Waititu is in order, but he should have done it after the Mover and Seconder spoke and question proposed. He should have stood on a point of order at that time. Now, procedurally, he cannot purport to change the course of the river like Hon. Waititu, his namesake, wants to do.

(Laughter)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Leader of the Majority Party, you are saying exactly what I was saying. Hon. Waititu, you can only appeal to Members. Your

appeal is not binding on them. If you would have raised it at the right time, it would have happened.

Hon. Nyikal, please proceed.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Speaker, I was basically coming to the end. I support this but we need to realise that there is definitely going to be an issue of referendum because of the many issues that this is likely to touch. With that, I support. We should conclude this matter once and for all.

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

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. I stand to contribute to this Bill. This is the same Bill that Hon. David Ochieng' proposed in this House in the 11th Parliament. Hon. Wamalwa seeks to amend Articles 101 (1), 136 (2) (a), 177 (1) (a) and 180 (1) of the Constitution of Kenya relating to all those offices. This is because we must deal with the election of the President, MCAs, governors and MPs. All these are inter-related. You cannot say that a constitutional amendment Bill is unconstitutional.

I need to raise a number of issues regarding this Bill. The House should note that this Bill has been introduced in the House pursuant to Article 256 of the Constitution, which is amendment by parliamentary initiative. That is how it has found itself on the Floor of the House today. You can amend the Constitution of Kenya either through a parliamentary initiative or through a referendum. This Bill has been scheduled for Second Reading today, Wednesday 29th August 2018, during the Morning Session. For this Bill to pass, it requires to garner the support of not less than two-thirds of the Members in both the National Assembly and the Senate, pursuant to Article 256 (1) (d) of the Constitution. If passed by the two Houses as contemplated in that Article 256 (1) (d) of the Constitution, the implication of this Bill shall be to extend the term of office of both the President and Parliament. That is the intent and purpose.

Pursuant to Article 255 (1) (f) of the Constitution, any Bill to amend the Constitution whose end result is to extend the term of the President must be subjected to a referendum for approval. This is the issue that I must raise. In essence, this Bill is extending the term of the President and if you want to extend the term of the President, you must subject it to a referendum. That power only lies with the people of Kenya. It does not lie with this House. What am I trying to say? Coming from a background of a pastoralist, before we shift our homesteads, we go out and make sure there is water and pasture and that the place is free of animal diseases. I am just trying to tell Hon. Wamalwa that the road ahead is very bumpy and expensive. What you are trying to do, Hon. Wamalwa, is not a walk in the park or a birthday party. It is good that you prepare yourself. This is because Article 255 (1) (f) of the Constitution, which I have just read, says that an amendment whose end result is to extend the term of the President must be subjected to a referendum for the people of Kenya to have their say.

So, in view of the above, the passage of this Bill shall have cost implications given the need for a referendum required for its approval. Even when it is passed with that threshold in both Houses, it is the President to set the ball rolling for a referendum. I am sure as the Leader of the Majority Party, being a very good friend of Hon. Wamalwa, I am ready to lobby and make sure that the two-thirds threshold is reached. So, the passage of this Bill shall have cost implications given the need for a referendum. So, what am I saying? The Bill cannot be amended by the House and has to be passed as it is without any alteration.

Another very key point is that a constitutional amendment Bill cannot be amended. It is either you reject it in totality or you approve it in totality. There will be no amendment that can

be brought in any constitutional amendment Bill. It has to be passed as it is without any amendments or alteration whatsoever and in line with the previous ruling by the Speaker. I really want Members of this House, particularly the new Members and even the old Members, to pick the ruling of Speaker Muturi dated 20th August 2015. I have a copy here because this is a House of records. After I finish I can table it. It is a very good ruling that the Speaker made relating to the same Bill in the last Parliament. What the Speaker said about a similar Bill by the Member for Ugenya, Hon. David Ochieng', is here.

In summary, the two issues that the Speaker addressed were that he would not allow any amendment to the Bill proposed by Member for Ugenya or, indeed, any other Member or other four published Bills proposing to amend the Constitution and that the determination as to whether the Bill proposing to amend the Constitution requires the approval by a referendum in terms of Articles 255 and 256 of the Constitution is, therefore, the purview of the Speaker.

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

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

I have talked to Hon. Wamalwa. It is about the interpretation of the Constitution. Different people view it differently. However, I felt I had an obligation as the Leader of the Majority Party to set the record straight so that as my friend, Hon. Wamalwa, prepares on this journey, he knows the pitfalls and where the challenges are and as he goes into Mau or Boni forests, he carries enough water and food to sustain him for the long haul.

I beg to give my views.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Member for Kilifi North, Hon. Baya.

Hon. Owen Baya (Kilifi North, ODM): Thank you very much, Hon. Temporary Deputy Speaker. I like what the Leader of the Majority Party has said; that he begs to give his views.

Hon. Temporary Deputy Speaker, constitutional amendment is a constitutional right that Kenyans have and this Parliament has powers, as bestowed in the Constitution, to amend it. Therefore, we cannot in any way be swayed from exercising that constitutional right. Kenyans need to exercise their rights as enshrined in the Constitution. Therefore, this is an opportunity that Kenyans should not let go. The United States (US) has had 27 amendments on her Constitution. That Constitution was passed around 1787 and by 1789, they introduced the first amendment. Two years after the promulgation of the US Constitution, amendments were introduced. For us to say that we cannot introduce an amendment because we want to have a whole constitutional overhaul 10 years after is actually not doing what tradition demands of us in terms of constitutional amendments. A constitution can be amended any other time because the same constitution gives the people the right to amend it.

Therefore, riding on that tradition that great democracies have had amendments to their respective constitutions without any upheavals or political temperatures, Kenya has reached that threshold of democracy. Kenya has matured as a democratic country and, therefore, it should be able to pass a constitutional amendment without any ruckus in this country. The amendments should be passed here in Parliament and the referendum should not be politicised. Hearing the Leader of the Majority Party telling us that this journey is bumpy and long and all that he is alluding to are the

old methods of constitutional amendment. We know that whenever there is a call for constitutional amendment or constitutional overhaul in this country, you have the whole country ignited into political campaign mode or mood. We have reached a situation in this country where we cannot run away from. We do not have to go that way. We can still maturely sit down as a country to make constitutional amendments without political ruckus. This country requires this amendment to ensure that elections come at an appropriate time when everybody is ready for an election; not because of the dictates of saying that this Article will affect that Article. It will do that, but the country and the Constitution itself allow us to amend the Constitution until we get to the Canaan that we want for this country.

Therefore, we should prepare, as a country, to change our minds that the constitutional amendments will become “them” versus “us”. That is what we have heard. In the past, when we wanted to change the whole Constitution, it became “them” versus “us” and the whole country was torn into two pieces. It became a political war and determined the following elections. We can run away from that by ensuring that we pass this constitutional amendment so that we get an election that does not disenfranchise other Kenyans.

The election in August disenfranchised many Kenyans. My constituency had 120,000 registered voters. Those who voted were around 70 per cent. If you find out why, they will tell you that the date was not good for them to come home to vote yet they had taken a voter’s card from the village. Looking at August and the upheavals that surround it, it disenfranchised many Kenyans. Probably, if we had held an election in December, the results of that election would have been different because many people would have gone to their polling stations to vote. Therefore, it is very important for us to consider, not only school dates and examinations, but also to look at whether we are enfranchising more Kenyans to come out and vote or setting a date that disenfranchises them. Like my good friend Wanyonyi Wetangula has said, probably the reason is to keep people in Nairobi to vote for the Nairobians. That is what he alluded to.

We want people to go out there and exercise their democratic right. When they vote for a President, they should also vote for the occupants of other offices. Looking at the statistics, you will realise that the presidential votes cast were more than those cast in the other elections. The reason is that many people stayed in Nairobi to vote for the President, but did not know who to choose as a councillor in the city. The only change they had was in the village where they would have voted for a Member of Parliament (MP). Therefore, to give every person an opportunity to exercise that rare moment to elect the leaders of this country, we have to ensure that we have an appropriate date. That appropriate date comes in December when everybody is available to exercise that right. My friend, Waititu, would like to say something.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Waititu, what is out of order?

Hon. Francis Waititu (Juja, JP): Thank you, Hon. Temporary Deputy Speaker. My good friend is a very good friend of the members of the county government. Currently, they are not called councillors. I want you to continue with the friendship. They are now called Members of County Assemblies (MCAs).

Hon. Owen Baya (Kilifi North, ODM): Thank you for the information, my good friend. We need to give every Kenyan an opportunity to elect every leader. There was an issue whereby there were six ballots, but somebody voted for only one ballot. If you disenfranchise people, they end up not electing quality leaders because the minority that is available will conduct the election. Therefore, there are many people that have been elected by minorities.

The finances of this country cannot dictate democracy. Democracy gives an opportunity for finances to be properly apportioned. Therefore, you need quality leaders to do that job. That can only come when the right date is set. I come from the school of thought which states that when the principle is right, then everything follows in that path. If the principle is wrong, then everything that follows after it is wrong. If you have the wrong date to hold an election, you end up having a wrong election for this country. I urge this House to push this country to go the whole hog even if we must go for a referendum, but this date must change for the democratic gains of this country to be achieved wholesomely.

I support the Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very good contributions. It is noted that you have said – and Members seem to agree - that if elections had been held in December, then the results could have been different. It also means that many of the Members here would be different.

Hon. Members, allow me to give the next chance to the Chair of the Departmental Committee on Justice and Legal Affairs who has just walked in as we all can see. He has something to say to this and it is important as he comes from that particular Committee.

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill. I take this chance to thank Hon. Wamalwa for coming up with this proposed amendment to the Constitution to change the date of the elections from August to December.

I chair the Departmental Committee on Justice and Legal Affairs. This Bill was referred to my Committee. I want to inform the House that this proposed amendment received overwhelming support from Kenyans. We split the Committee into three groups. One group went through the Western and Nyanza parts of our country. Another group undertook public hearings in Nairobi, Machakos and Mombasa. Another group went to Northern Kenya. I want to inform the House that we covered the entire country for two good weeks, listening to Kenyans giving their views on the proposed amendment. In the interest of time, I just want to summarise our findings.

Out of the various public hearings, 1,845 persons and 59 institutions or groups appeared before the Committee during the public hearings in various parts of our country. It is very important for this House to know because the consumers of the amendment of this law changing the date to December are the Kenyan people. It is the voters themselves who will use that date to choose their leaders. Among the institutions which submitted their views to the Committee are some which have huge memberships. For example, Amani National Congress Women League in Mombasa, Centre for Human Rights and Democracy, Centre for Enhanced Democracy and Good Governance, Centre for Multiparty Democracy, Centre for Rights and Awareness and the Chamber of Commerce. Just imagine the membership of the Chamber of Commerce. It is a huge institution with a big population.

There was also the Council of Imams, Council of Elders of Isiolo and Borana and the Federation of Women Lawyers. Those are very serious institutions. There was also the Kenya Girl Guides Association, the Kenya National Union of Teachers (KNUT), Maendeleo ya Wanawake, Political Parties Liaison Committee, Transparency International and the United Green Movement. I do not want to read all of them but I want to confirm to the House that we received very overwhelming support from those institutions and others that I am not able to mention.

Hon. Temporary Deputy Speaker, out of those institutions, 26 supported these amendments while eight did not. In summary, 71 per cent of the institutions and individuals who appeared before the Committee supported these amendments while 28 per cent did not support them. The Committee observed that a big percentage supported the amendments. It is important for us to appreciate the fact that if we go to Kenyans to seek their views and majority of them support the amendments, this House has no option but to go with their wishes. That is my humble view. After all, we are here, courtesy of Kenyans, to exercise their sovereign will. When I say that we do not have an option, I do not gag the House.

Hon. David ole Sankok (Nominated, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Sankok, what is out of order?

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, is the Chairman of the Committee in order to insinuate that this House has no option and yet, he has brought these amendments so that we can debate them? It means that we are doing work that we do not have any option on.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Sankok, that is a point of argument. Let the Chair finish his contribution because it is important. These are views of Kenyans. They went out there and sought them. It is important for the House to know the views of Kenyans on the Bill.

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Temporary Deputy Speaker. I want to make my colleague happy and comfortable because I am a peacemaker. I am saying that what should persuade this House to agree with these proposed amendments is the overwhelming support of Kenyans. Hon. Sankok is my good friend. So, I want us to move together with him. I want to refer Members to Volume II of the Report. It has all the points I have raised.

Let me finalise because I want more Members to have more time to contribute to this Bill. Those who supported the proposed amendments did so for some reasons. The December election date will be less receptive to the academic calendar for secondary and primary schools. This has been a major argument in support of the proposed amendments. The election date of December will be convenient and increase voters' turnout. The Member who spoke before me confirmed that he has 130,000 voters, but only 70 per cent voted because August is not convenient for most voters. The December election date was historically sound. It has been successfully tried and tested many times before. Most of Kenyans are used to the December election date.

There are two elections we did in August. Most Kenyans are historically conversant with the December election date. This has been tested. This date is ideal due to favourable weather conditions unlike August, when it is rainy and farmers are engaged in agricultural activities. This may sound very casual but it is true that most parts of the country receive rain in August. Announcement of election results takes even three or four days. My constituency is not expansive but because of rain, our roads become impassable. Sometimes the results, which should be announced within a day or two, take three days. That is the reality on the ground. As leaders of this country, we should appreciate all these issues and change this law.

It is also important to inform this House some of the reasons Members did not support these proposed amendments. Those who are against the date say that the August election date is ideal because it is in tandem with the commencement of the Government financial year, which

commences in July. That is a good point. Those who registered as voters in the rural areas normally travel for holidays. There are reasons which we were given by the public. All said and done, the arguments in support of the proposed amendments are more convincing and practicable compared to the ones that are given not in support of the proposed amendment.

There is something which Hon. Duale said a few minutes ago. As the Chair of the Committee, I feel it is important for me to raise this issue before I conclude my submission on this matter. I want to reaffirm what the Leader of the Minority Party has talked about. On 20th August 2015, through a Communication from the Chair, the Speaker guided that no amendments should be proposed to a Bill which seek to amend the Constitution, unless there is something extraordinary in the Bill that would require application of extraordinary measures. This is a House of records and procedure. The Communication that you issued then should be respected. It must guide the House, as we deal with our business. That is something which has not been done in this Parliament. But in the previous one, in which I also served with Hon. Wamalwa, who is introducing these amendments, we do not want to depart from our traditions which are already established. In view of Hon. Speaker's ruling, the Committee did not adopt further amendments based on public views. So, we were alive to that ruling. That is why we could not adopt any other amendments as a Committee.

The members of the public who appeared before the Committee to present their views supported overwhelmingly the proposal on change of date to December. This is a very important issue which I wanted to raise. The Constitution we are dealing with now was passed by Kenyans in 2010. The Committee considered the various reports that were prepared during the constitutional review process, including the Report of the Committee of Experts on Constitution Reforms. The final Report of the Committee on Review of the Constitution did not elaborate the rationale for changing the date of the general election from December to August. We should also be guided by previous submissions. We tried to look at the rationale behind the change of the date from December to August when the Constitution of Kenya, 2010 was promulgated. We did not come across any justifiable reason, apart from the issue that those in Nairobi and other cities had to remain behind, so that they could vote for their candidates. As the Chair of the Committee, after looking at the process through which the Constitution of Kenya 2010 was made, I am satisfied that there were no justifiable grounds to change the election date from December to August. My appeal to my colleagues is that we are here to make laws and amend the Constitution, when we feel that it is necessary, in a manner that will benefit Kenyans.

One of the Members said that we should delay these amendments until the committee of 14 members comes forward with proposals on this particular issue. Hon. Wamalwa, in his position as the Member for Kiminini, spent time and energy to come up with this Bill. Public resources were used when we went round the country for two weeks. As a House, we cannot delay these amendments because of the other arrangements being undertaken. That will be dealt with at another time. We do not need to delay the proposed amendments by Hon. Wamalwa because of the Building Bridges Initiative Committee.

Hon. Temporary Deputy Speaker, we want to move as a House and deal with our matters as they come. If there will be other proposed constitutional amendments, we will deal with them as and when they come.

It is, therefore, my humble request to Members to support the Bill so that we change the date from August to December as supported by majority of Kenyans who appeared before the Committee. I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, there is a lot of interest in this matter. We have 27 requests of Members who want to speak to it. I, therefore, urge Members to be considerate to others. We all seem to be sailing in the same direction. I will follow the order Members have made their requests. The first one on my list, considering both sides, is Hon. Martin Owino, Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Thank you very much Hon. Temporary Deputy Speaker. I am grateful for the opportunity. First of all, I thank Hon. Chris Wamalwa who is a great friend of mine and the Committee that went out to collect the views from the public.

I oppose the Bill. Allow me to do so with the following reasons. The problem is not only on the dates. Changing a date will not solve this problem. No single bullet will solve a problem in Kenya. Our problem is electoral malpractices. Even if we move the date to December and there are malpractices in the election, the battles, wrangles and going to the streets will go on until January, February, March or whatever date it takes. What Members should push for are electoral reforms. This is one of the items in the irreducible minimum agenda of National Super Alliance (NASA).

Talking about roads, if you cannot reach a polling centre because it is raining in August, why do we not use the money we are proposing to use in a referendum to fix the roads? I support the Leader of the Majority Party only that he was shy of saying that he opposes the Bill. The points he raised are heavy stuff. First of all, this constitutional amendment Bill will need a lot of money. We are now operating on a budget deficit. We do not even have the money. As I said, it is not changing a date that will make it right; it is having election reforms.

Secondly, Nairobi metropolis and other urban areas where people migrate to from rural areas will have to abstain from it because the security of every Member are the voters. So, we are not going to get the two-thirds we really need.

Lastly, the school issue which has been cited here as a factor is right. My constituency was very volatile in the last elections. Schools were interrupted for several months but, not because of the date, but because of the malpractices and lack of transparency and accountability in our voting system. So, I want to emphasise not on changing of the election date, but look into why people fight when they have voted or when their votes are counted and they do not agree with the results. If we can be as transparent as we should be, and if we can organise voting material logistics and transportation and if the vote which is meant for Hon. Owino is counted for him and announced as it is, then we will take very few hours in the voting centres and it is done. So, the problem is not the date. The problem is the way we conduct our elections.

Thank you, Hon. Temporary Deputy Speaker. I categorically oppose the Bill.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Gichimu Githinji, Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, JP): Thank you Hon. Temporary Deputy Speaker for giving me an opportunity to support the Constitution of Kenya (Amendment) Bill. I thank Hon. Wamalwa for the good thought to save Kenyans from trouble. I support the month of December. In Kenya, December is considered to be a holiday month, especially from the third week. So, this is an opportunity where most Kenyans will have a chance to vote or exercise their democratic right of voting for their leaders from the Member of the County Assembly to the President.

The other reason why I support the Bill is because of the day. Monday is a very convenient day. As Kenyans, we know we work up to Friday and others up to Saturday. So, there is a preceding day which is a Sunday that would enable Kenyans to travel to various parts of the country so that they can vote on a Monday. The way it was before, a Tuesday would require

someone to work on a Monday and may lack an opportunity, especially for companies that do not give their workers permission, to go and vote. So, one will lack an opportunity to exercise that very important democratic right.

There has also been an argument from some Hon. Members that pushing the date to December would change the life of the Presidency. That is not correct according to my interpretation of the Constitution. I thank the drafters and the Committee of Experts of the Constitution because in their wording, they indicated that the election shall be in the fifth year and not after five years. So, they had anticipated a situation whereby the date of the election can be changed, but it remains within the year. So, when the date is changed from one month to another but within the year, does not extend the life of the Presidency. Articles 101, 136, 177 and 180 to be amended say the fifth year. So, when we move the date from the second Tuesday of August in the fifth year to the first Monday of December of the fifth year, we have not changed the life of the Presidency. A change of a life or period of the Presidency changes when a specific time has been given. So, my interpretation is that so long as the date is within the fifth year, it has not been changed.

So, I support this Bill in its entirety. It will be a considerable and important consideration of this House to save the agony of our pupils, students and teachers so that it can be very convenient for the learning fraternity in this country.

The other reason I would like to support this Bill is because it has also, as has been indicated by the Chair of the Departmental Committee on Justice and Legal Affairs, won the support of the majority of Kenyans. It has already met the threshold in the Constitution of having gone through public participation. That has been done. If Kenyans have agreed, who are we as a House to refuse to agree with what they want? I have gone through my constituency. I was seeking their opinion on this Bill. A majority of them are agreeing with the amendment. If I am here representing the people of Gichugu and that is what they require, I am in order to support. I represent them when I support. They want that date to be moved to December. For avoidance of doubt, I repeat that there is nowhere we are extending the life or period of the presidency, in my interpretation of the Constitution. It falls within the fifth year.

Thank you, Hon. Temporary Deputy Speaker. I support. Hon. Wamalwa, you should not be intimidated by anyone. I also urge the House and Members to come in large numbers when we will be passing this. That is so that we can meet four out of five per cent of the Members that are required to pass this Bill. I support in entirety.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Gichimu, there was never a doubt that you are representing the people of Gichugu. Nobody can take that away from you. You are representing them and you are representing them ably. Hon. Angwenyi, you have just walked in. I understand you are saying you are the Leader of the Majority. Hon. Serem, you are also much lower in the order of things here. Order, Hon. Serem. The Temporary Deputy Speaker was just speaking to the oldest Member of the House. I have not given him the opportunity to speak. I was just engaging him. In all events, the opportunity is going to this side. The opportunity to speak is now for Hon. Mukhwana Khamala, Member for Lurambi.

Hon. Titus Khamala (Lurambi, ANC): Thank you, Hon. Temporary Deputy Speaker. Being a preacher, I am sure the Holy Spirit has spoken to you.

(Laughter)

I rise to support the Hon. Members for Kiminini in the amendments that the election date be moved from August to December as in the amendment. I do not want to repeat. I want to take a very short time because I know there is a lot of interest in this. Mine is just to say that I concur with fellow Members that there is so much that we interfere with when we have an election in August, especially the school calendar and so many activities of children, schools and exams. If there is a re-run, we pull that into the national exams. So, it is going to be very good if we can change. I was listening to the Leader of the Majority Party and I wish he was here so that I could speak to him. I know he is more senior in this House. He has been here longer than I have been but, I want to believe that we represent Kenyans. The reason we are here is because all Kenyans cannot be here. We cannot have 40 million Kenyans sitting in this House. So, we sit here on their behalf. What we say here is on their behalf. I am so happy to hear the Chairman of the relevant Committee say that having gone out to conduct public participation, the views of the majority of Kenyans is that we change the date. That is a traditional date. December has always been there and it has been very good. Think about August and the primaries or nominations. They begin around April. The campaigns for the nominations begin in January. We have a whole year running politics and blaring speakers out there with sound systems, hence interfering with the learning of students. It goes on. The election cycle is like a whole year. While we are here, we do not want to think that we are just speaking on our behalf; we are not just speaking. Like, I am not just speaking like Titus Khamala. I speak for the people of Lurambi Constituency. I speak for the people in Kakamega. When I go back to them, they will say our Member of Parliament (MP) spoke what we would have spoken if we had an opportunity to be in that House.

As I finish, I want the Members of this House to know that they speak for Kenyans. I want them to know that they are here because 40 million people cannot sit in this honourable House. That is why they brought us here. When you are a leader, you are not supposed to be that kind of person who usually goes back to the people and say: "My people, tell me what to do! My people, show me the way! My people, show me this and that." God has put you there to lead. So, through the Holy Spirit, he guides you with some anointing to lead correctly. I support the Member of Kiminini. God bless you. Hallelujah.

(Laughter)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Khamala, you are absolutely right. That is why we are called the representatives of the people. You are here to represent all those people who cannot be in this House. So, your views are the views of Kenyans. They must count.

I will give this opportunity to Hon. Serem, Member for Aldai, although he is sitting on this side.

Hon. Cornelly Serem (Aldai, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to air my views on this Motion. One, when I heard comments from my respected Member from Garissa Township, I became very concerned. For all Members in this House, we are equal before the guys who elected us from our constituencies. That is even if you have different opinions. You have only one vote in this House. If anyone had a different opinion, the same Bill came before this House. It was committed before a Committee. If anyone has a different view, they should have appeared before the Committee and expressed their views – not to intimidate Members of this House.

As I support this Motion, I have a lot of respect to Article 118 of our Constitution. That is where public participation is paramount.

(Hon. (Ms.) Odhiambo-Mabona consulted Hon. Andrew Mwadime)

Hon. Temporary Deputy Speaker, the consultations are very high.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Millie Odhiambo, your consultations are a bit loud.

Hon. Cornelly Serem (Aldai, JP): Hon. Mwadime, give me an opportunity to articulate my point of view.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order.

The Temporary Deputy Speaker (Hon. Christopher Omulele): What is out of order, Hon. Millie Odhiambo?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. Hon. Mwadime wants to verbally challenge me from where he is sitting. I think that is un-procedural. It is on the issue of ranking. As Members of the Commonwealth and our Speaker has just been elected the Chair of the Parliamentary Association of the Commonwealth (PAC), the practice of ranking is guaranteed. That is why I am not even complaining when the Chair of the Departmental Committee on Justice and Legal Affairs has come and found us here and yet he has spoken and left. When I came here for the first time, we all knew how to give preference when we saw people like Hon. Martha Karua, even when we had been sitting there. We would say: "Oh my God", and you move on for another day. I am not speaking for myself because I know there are many other ranking Members here. I know I am not likely to get a chance.

When Hon. Angwenyi comes in the House, he is the most ranking Member and we ought to take cognisance of that. I will not argue because we are praying for Hon. Members who are here for the first time to come next time so that they can be ranking Members. If you do not give me a chance, give Hon. Angwenyi. He is the most ranking Member. We need to take that into consideration.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Order, Members. There is nothing out of order. You will allow Hon. Serem to finish making his contribution. Hon. Member for Mwatate, there is nothing out of order. You do not need to raise your hands. The issue of ranking is not a matter that is before this House. It is an extraneous matter to the Bill that is before this House. The only person who is on the Floor speaking is Hon. Serem and he is in order to do so. Hon. Serem, please, proceed.

Hon. Cornelly Serem (Aldai, JP): I wish to remind Members that my constituents are happy that I am here to articulate my views. Article 118 of the Constitution recognises the guys that elected us to this House. The Committee went ahead and met the citizens of this country. They have expressed their views that elections should be moved to the third week of December around 19th, 2022 on Monday morning. There are enough reasons why we should move the election date. I appeared before my electorates in the last election and we actually saw the challenges that anyone in this House experienced, unless you were nominated and most likely you are the ones who are opposing. They do not have the experience of elections. Our children

are so important to us. Their examination is equally important. An election in August messes up with their programmes. Tourism in this country is so important. I was in Maasai Mara last week and I can tell you we require tourism and the revenue it brings in this country. Having an election in August will always destabilise the country and nobody would want to come during election time. We also experienced heavy rains in August and it reduced the number of people who wanted to vote.

I heard an honourable Member say that election is very expensive. Who said election or justice is cheap? It is always expensive to get it right. I want to remind a few Members that are of the opinion that we should not change the election date because it is expensive, should table the figures before the Justice and Legal Affairs Committee so that we can articulate them. When we talk of an extension of a term of presidency, I am surprised that we are concerned if the Members of this House discuss about extending an election date, but have no problem with the Chief Justice and a few judges extending an election by nullifying it. If the election in 2022 will have an issue, the judges can nullify it and that means they will be held on a different date. It could be two months after. That is like an extension. If we have a problem about extension, then we should have a referendum to allow judges to extend an election. A reason will give us an extension. So, whether we like it or not, if there will be a dispute or nullification of an election, definitely that election will be extended. We do not have to go to a referendum. I do not buy that narrative. My point of view is that we support this Bill. The Leader of the Majority Party was in Parliament when Hon. Ochieng' tabled the same Bill. He never objected it. It went till the voting day. So, let us give an opportunity to Hon. Wamalwa to articulate this Bill to the far end and we will see the merits. Let the Members vote one way or the other on this Bill. I can assure you, I will support it.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Angwenyi.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Thank you, Hon. Temporary Deputy Speaker and thank you my sister, Hon. Millie. I rise to support this Bill by Hon. Wamalwa. It is a very important Bill. I support it on these grounds. Firstly, when we hold our elections in August, we distract our pupils and students in schools for about three months. Secondly, we use the schools as polling stations. This means, when the schools are being prepared for elections, our pupils cannot access education. Thirdly, August is a period when Kenyans are involved in productive work. December is a holiday period and so, we can use the holiday to do our elections and avoid distracting Kenyans from their productive work in August. You cannot say that you will extend the life of the Presidency and therefore the life of this House. It is still on the 5th year. So, we should accept that. The people I represent...

(Loud consultations)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Mlolwa, you are holding a different parliamentary session there. Let Hon. Angwenyi make his contribution.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): The Kenyans I have talked to support elections in December. Some of them told me to take Hon. Wamalwa to them so that they can have a look at him. Hon. Wamalwa, you are very popular because of this Bill. My colleague said that we should continue to hold our elections in August to avoid extending the period of Presidency and the Parliament. In the last elections, elections were held on the 26th of October when our students were doing exams. This added two months to the Presidency of

Uhuru. We are, therefore, increasing it by two more months only, going by what happened in the last elections. There is a Member of Parliament who said this cannot help us unless we make serious reforms. We can make reforms at once or we can do them one by one. We have started the election reforms by changing the election date next week. Let that MP bring another reform that will help the Kenyans and we will support.

I know many Members want to speak to this Bill and, therefore, I will end my contribution here so that someone else can enjoy making theirs. Thank you.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, debate on this Bill started at 11.02 a.m. The time of debate on the Bill is three hours. We have, therefore, debated it for two hours. There is a balance of one hour, which will be available when the Bill is again listed for deliberation in the House.

The time being 1.00 p.m., this House stands adjourned until today at 2.30 p.m.

The House rose at 1.00 p.m.