



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. II NO. 90**

## THE HANSARD

Wednesday, 11<sup>th</sup> October 2023

The House met at 2.30 p.m.

*[The Speaker (Hon. Moses Wetang'ula) in the Chair]*

PRAYERS

QUORUM

**Hon. Speaker:** Serjeant-at-Arms, ring the Quorum Bell.

*(The Quorum Bell was rung)*

Serjeant-at-Arms, do we have quorum? Clerk-at-the-Table? Not yet? Where are the Whips of the Majority and the Minority Parties?

**An Hon. Member:** Our Whip is here!

*(Hon. Speaker consulted with the Clerk-at-the-Table)*

**Hon. Speaker:** Order, Hon. Members! We now have quorum to transact business.

*(An Hon. Member consulted with Hon. Rose Mumo)*

The Member talking to Hon. Museo, take the nearest seat.

### COMMUNICATION FROM THE CHAIR

#### ROLL-OUT OF DIGITAL HUBS AND PUBLIC WIFI IN THE COUNTRY

**Hon. Speaker:** Hon. Members, I have a short Communication.

Hon. Members, I wish to report to the House that I have received a request from the Cabinet Secretary for Information, Communications and the Digital Economy seeking to engage Members of this House on the planned roll-out of digital hubs and public Wi-Fi countrywide. The programme is part of the Government's initiative to create a digital super highway intended to give visibility to innovators and micro, small and medium enterprises to widen their market. Appreciating the importance of the planned programme in accelerating development, I have acceded to the request by the Cabinet Secretary.

In this regard, I wish to invite you to the Speaker's *Kamukunji* tomorrow, Thursday, 12<sup>th</sup> October 2023 at 11.00 a.m. in the National Assembly Chambers. This is intended to facilitate the engagement between the Cabinet Secretary and you, Members, so that you can be apprised with what the Ministry and Government are doing and what role you can play for the people you represent. The House is, therefore, accordingly guided. I invite each and every one of you to come and participate, so that you do not raise questions later that you would have got answers.

Thank you.

(Applause)

Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker, for that Communication. I am not on a point of order. I want to request that you direct the Clerk's Office to circulate the information in the usual manner, through WhatsApp and text messages, to Members. As you are aware, some Members have attended the Turkana Cultural Festival today and others have attended a colleague's parent funeral in Murang'a. Therefore, many may not be here. The Clerk's Office can circulate that message to Members.

**Hon. Speaker:** Excellent. Clerk-at-the-Table, make sure you circulate this information through the usual channels of communication. The leadership of the House, both Leader of the Majority Party and whoever is acting for Hon. Wandayi, inform your Members too that this is an important *Kamukunji*. It is the first in my tenure. I hope it will bear fruit thereafter.

(Applause)

## PAPERS

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. Public Procurement Regulatory Authority Report on Performance of the Special Groups (Youth, Women and Persons with Disabilities) under the 30 per cent Preference and Reservation Scheme for January-June, 2023.
2. Report of the Auditor-General and financial statement for Kisii Teaching and Referral Hospital for the year ended 30<sup>th</sup> June 2022 and the certificate therein.
3. Report of the Auditor-General and financial statement for Kitutu Chache North Constituency for the year ended 30<sup>th</sup> June 2022 and the certificate therein.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Leader of the Majority Party.

Next Order.

## COMMUNICATION FROM THE CHAIR

### RE-SCHEDULING OF CABINET SECRETARIES' APPEARANCES TO RESPOND TO QUESTIONS IN PLENARY

**Hon. Speaker:** Hon. Members, as you all know, our Wednesday Afternoon Sittings start with appearances of Cabinet Secretaries to answer your Questions. I have a short Communication to make on today's Order Paper on re-scheduling of Cabinet Secretaries' appearances to respond to questions in Plenary of the National Assembly.

As you are aware, the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, and the Cabinet Secretary for Investments, Trade and Industry were scheduled to respond to questions during today's Afternoon Sitting as indicated in the Order Paper. You may recall that there was a realignment of ministries and state departments on 4<sup>th</sup> October 2023 which affected the two ministries among others.

I wish to inform the House, therefore, that I am in receipt of a request from the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs requesting for a re-

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scheduling of his appearance before the House to answer questions to a later date due to official commitments abroad. The Cabinet Secretary for Investments, Trade and Industry—while expressing her earnest intention to appear before the Plenary to answer questions—has also requested for more time to familiarise herself with the new assignment.

With these new developments, I wish to allow Leader of the Majority Party to liaise with the Cabinet Secretaries with a view to re-scheduling their appearances to another date that is convenient to the House. However, Question Time for next Wednesday stands as scheduled. Leader of the Majority Party will advise the Clerk and House on which Cabinet Secretaries will appear next.

Thank you.

**Hon. Omboko Milemba** (Emuhaya, ANC): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Milemba.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker, for the Communication about the Cabinet Secretaries appearing before Parliament. I totally agree with you. I am aligned. However, I see a danger in future where Members will be ready to deal with their questions and Cabinet Secretaries will have already sought permission not to have them listened to.

Possibly, you can also further give the House direction on how, in the event such a situation is going to occur, the Members can get the information early enough, so that the House is guided.

Thank you.

**Hon. Speaker:** I think not, Hon. Milemba. When a matter is listed on the Order Paper, it becomes alive when it is called out. That is the time that such a Communication can be made.

Secondly, you know that the House has taken a very dim view on the Cabinet Secretaries who have absented themselves from coming to the House. For the Prime Cabinet Secretary and the Cabinet Secretary for Foreign and Diaspora Affairs, the Chair is aware that he is out of the country, somewhere in Europe. For the gracious lady who has moved from the Ministry of East African Community, ASALs and Regional Development to the Ministry of Investments, Trade and Industry, it is only fair that we give her a week.

I direct Leader of the Majority Party that subject to the return date of the Prime Cabinet Secretary, priority goes to the Cabinet Secretary for Investments, Trade and Industry for next Wednesday. If the Prime Cabinet Secretary is back, he must also appear on the same date.

Thank you.

Yes, Hon. Oundo. Is it on the same issue?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): It is a small part.

**Hon. Speaker:** Which small part?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): A very small one, Hon. Speaker.

*(Laughter)*

Government is in perpetuity. Indeed, while the reasons given might look plausible, we, as a House, should not entertain them. It is not the Cabinet Secretary who prepares those responses. They are prepared for. They can sit down one afternoon, apprise themselves on them and get to the same level of understanding. Since you have already ruled and Hon. Speaker can never be out of order, I just want go on record that Government is in perpetuity. They should not use an excuse, that they were appointed yesterday, to fail to come to answer questions in the House.

Thank you, Hon. Speaker.

**Hon Speaker:** I hear you. If the Speaker cannot be out of order, then you are.

*(Laughter)*

*(Applause)*

Hon. Deputy Speaker.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Thank you, Hon. Speaker. I want to give some information to Hon. Oundo. It is only natural that work had already begun in that Ministry for almost a year now. Obviously, there are things that have begun and are halfway. Certain strategies and plans are already in place. It is only normal for any self-respecting technocrat to get a handover report from the previous person. That was happening this morning and it is public knowledge. I think you are being mischievous. Hon. Speaker, I think you are right to hold him out of order.

Thank you, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Bady Twalib. Your microphone is dysfunctional.

## QUESTIONS AND STATEMENTS

### REQUEST FOR STATEMENT

#### DEMISE OF STUDENT THROUGH FIRE TRAGEDY AT GODOMA BOYS SECONDARY SCHOOL

**Hon. Bady Twalib** (Jomvu, ODM): Thank you, Hon. Speaker, for giving me this opportunity to seek a Statement regarding the passing on of a student through a fire tragedy at Godoma Boys Secondary School in Kilifi County.

Pursuant to Standing Order 44(2)(c), I request a Statement from the Chairperson of the Departmental Committee on Education regarding the passing on of a Form Two student, Mr. Fadhili Mushahali, through a fire tragedy at Godoma Boys Secondary School in Kilifi County on Tuesday, 10<sup>th</sup> October 2023.

A fire tragedy occurred at Godoma Boys Secondary School during the wee hours of Tuesday, 10<sup>th</sup> October 2023 at 4.00 a.m. when all the students were in preps. It is of concern that Mr. Fadhili Mushahali was allegedly the only one who was affected as he was in the dormitory alone. It is regrettable that the Government of Kenya has poor fire safety standards and emergency procedures for schools and other public buildings.

Fire attacks are not a new issue in boarding schools in Kenya. The deadliest school arson in Kenya took place 20 years ago, killing 67 students in Machakos County in southeast of Nairobi. The fires are particularly dangerous because they are usually lit in dormitories, as was the case in Lillian's School. You may also recall that 25 girls perished in an unexplained blaze at a school in Bombolulu near the coastal city of Mombasa in 1998. Since then the Government has taken no action to mitigate such occurrences.

Therefore, I seek the indulgence of the Ministry of Education, through the Departmental Committee on Education, to make available a Statement explaining the circumstances that led to the passing on of the innocent Form Two student, Mr. Fadhili Mushahali, through a fire tragedy in Godoma Boys in Kilifi County.

I thank you, Hon. Speaker.

**Hon. Speaker:** Is the Chairman of the Departmental Committee on Education or the Vice Chair, Hon. Malulu Injendi, in the Chamber?

**Hon. Malulu Injendi** (Malava, ANC): Hon. Speaker, the Chairman is not in the House but I am. I think we can give a response to this in two weeks' time.

**Hon. Speaker:** Thank you. Bring a Statement in two weeks. Pass our collective condolences to the family of the young student.

**Hon. Bady Twalib** (Jomvu, ODM): Thank you.

**Hon. Speaker:** Thank you.

Hon. Members, allow me to acknowledge the following institutions in the Public Gallery and the Speaker's Gallery before we move on to the next Order. In the Public Gallery, we have:

1. Maville Academy from Nyali in Mombasa.
2. Joy Gardens School from Embakasi West in Nairobi.
3. Leaders of Matungu University Students Association from Matungu in Kakamega.
4. Teremi High School from Kabuchai in Bungoma.

On your behalf, and mine, I welcome the students, their teachers, and whoever is accompanying them to the House of Parliament. I dare say that Teremi High School from Bungoma is the school where yours truly attended from Form One to Form Four.

*(Applause)*

Thank you.

Member for Kabuchai, you have requested me for a chance to welcome your school. You can speak on behalf of all Members from whose jurisdictions we have visitors.

**Hon. Majimbo Kalasinga** (Kabuchai, FORD-K): Thank you very much for allowing me to welcome these very important institutions to our Parliament. Last week, I checked the board of scores when I was in Teremi Boys High School. You were position one that year. Then, you joined Friends School Kamusinga.

*(Applause)*

It cannot be unmarked that this is an institution from which, last year alone, took 376 students straight to university. As they sit up there, I know one of them will be the Speaker of the National Assembly one time. I also thank the President of the Republic of Kenya and you for maintaining the National Government Constituencies Development Fund (NG-CDF). The NG-CDF has really assisted this institution. We are doing very well with it.

Thank you very much, Hon. Speaker.

**Hon. Speaker:** Thank you. Hon. Robert Mbui.

### POINT OF ORDER

REPLACEMENT OF HON. SABINA CHEGE  
AS DEPUTY WHIP OF MINORITY PARTY

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Hon. Speaker.

I rise on Standing Order 20A, which is about the designation of party leaders and whips. The Azimio la Umoja-One Kenya Coalition Party had a meeting early this year. We made a decision to remove the then Deputy Whip of the Minority Party, Hon. Sabina Chege. You gave us advice when that decision was brought to the House. The advice you gave was that we needed to have a replacement because we could not proceed with the action of removal without a replacement. We sat later. We, as a coalition, forwarded the name of Hon. Mark Mwenje to be our Deputy Whip of the Minority Party.

The matter ended up in court immediately after that. In your wise counsel, you also indicated that you could not decide then because the matter was in court. The court has made its decision as we speak. The case that had been taken to court against us is no longer active. I seek your guidance and assistance. As you have heard the Member for Kabuchai says, you were a top student from Form One to Form Four. I know you are a very wise leader. I am sure you are going to tell us that Hon. Mark Mwenje can immediately assume office and start carrying out the duties of the Deputy Whip of the Minority Party.

Over to you, Hon. Speaker. Thank you.

**Hon. Yusuf Hassan** (Kamukunji, JP): On a point of order.

**Hon. Speaker:** Is it on the same issue, Hon. Yusuf?

**Hon. Yusuf Hassan** (Kamukunji, JP): Yes.

**Hon. Speaker:** Proceed.

**Hon. Yusuf Hassan** (Kamukunji, JP): That is not a true statement. In fact, this case is continuing. The Political Parties Disputes Tribunal has already registered Hon. Sabina Chege and Hon. Kanini Kega as leaders of the Jubilee Party. This issue has multiple phases and should be handled the way it has been handled. Court cases come and go. This one registered in Kiambu was just a recent one. It is not representative of the true picture of the Jubilee Party which is represented by a majority of the Members of Parliament.

Therefore, you should be judicious and careful in making any changes or decisions on that matter.

**Hon. Speaker:** Thank you. Yes, Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you for your indulgence, Hon. Speaker. Having listened to Hon. Robert Mbui and the rejoinder from the Member of Kamukunji, I also seek to advise our colleagues in the Azimio la Umoja-One Kenya Coalition Party. They should first sort their leadership issues outside the Floor of the House before bringing them to you and to us on the Floor of Parliament. Jubilee Party is the third largest political party. When Hon. Yusuf Hassan speaks, he does so as a Member of Jubilee Party, the third largest political party in ranking in terms of parliamentary political parties. The Jubilee Party is even larger than Wiper Democratic Movement (WDM). Therefore, it is not possible that the third largest parliamentary political party can be forced to act in a manner that does not favour the membership of that party. From the Majority Party, we have absolutely no interest in this matter. We can only pray that there be peace in the Azimio Coalition because their peace means a more cohesive Minority Party.

*(Loud consultations)*

As much as it is not my business to bring together the parties within the Azimio Coalition, I know that as individual Members, we have our own conscience to guide us in making a choice. Therefore, I implore the leadership of the Minority Party to bring together all the parties in the Azimio Coalition, sit together and arrive at an amicable solution to this matter. This is because even going to court to resolve party matters in a coalition is not right. Some Members here were in this House when Bills on political party coalitions were pushed here. We know many Members who were forced into the Azimio Coalition against their will. Therefore, understandably, with all the coercion that happened in the last regime, there are Members who may feel that they are not in the right place. We must understand them.

Hon. Speaker, like Hon. Yusuf Hassan has said, I would also plead with you to be quite judicious in considering all these issues. I also appeal to the leadership of the Minority Party, more so the party leadership of the Azimio Coalition – which was a coalition by coercion not a coalition of the willing like in Kenya Kwanza Coalition – to solve this matter amicably. That is why in this coalition of the willing, in Kenya Kwanza, parties willingly joined the coalition.

Even after the election, other parties like Pamoja African Alliance (PAA), United Democratic Movement (UDM) and Grand Dream Development Party (GDDP) willingly joined the Kenya Kwanza Coalition. In a coalition of coercion, where people are coerced to join a coalition, problems are often bound to be.

Today it is Jubilee. Tomorrow it will be another party. I caution Hon. Robert Mbui that as he sits pretty today as the Deputy Leader of the Minority Party in the Azimio Coalition, things may change tomorrow. Hon. Speaker, there is a phrase that you own the copyright and intellectual property rights to that I want to use to caution Hon. Robert Mbui. Hon. Mbui should know that if things go the way they are, soon he will be saying: 'Things will get messy and noisy.' I know your elder brothers within that Coalition. So, I beg you to handle your friends in Jubilee Party with tender and caring hands as you would expect them to handle you when your time comes. This is because the time is nigh; it is coming.

*(Applause)*

**Hon. Speaker:** Order, Hon. Members. I believe that is in jest. We will take it that way.

*(Hon. Mark Mwenje spoke off the record)*

Order, Hon. Mwenje. You have no locus in this matter.

*(Laughter)*

Hon. Members, specifically Hon. Robert Mbui, the Deputy Leader of the Minority Party, you are aware that when this matter came up, I gave a ruling based on fact and law. Some of you conducted yourselves in a manner not to be remembered because it was very uncivil. But that is behind us. Now that you have told the House what you have said, I have consulted with the Clerks-at-the-Table and they have not received any court order to indicate what you have said. So, I can only make my comment, direction and ruling upon receipt of the court order that you have referred to. You are so guided.

*(Applause)*

Next Order.

## **BILL**

### *Second Reading*

THE NATIONAL CONSTRUCTION AUTHORITY (AMENDMENT) BILL  
(National Assembly Bill No.59 of 2022)

*(Moved by Hon. David Gikaria on 4.10.2023 – Afternoon Sitting)*

*(Debate concluded on 4.10.2023 – Afternoon Sitting)*

**Hon. Speaker:** Order, Hon. Members.

*(Hon. Kangogo Bowen and Hon. Joseph Makilap  
consulted along the gangways)*



Order, Hon. Bowen and Hon. Makilap. Take your seats. Hon. Members, this matter on Order No.8 was concluded. It is now for the Question to be put.

*(Hon. Speaker consulted the Clerks-at-the-Table)*

*(Loud consultations)*

Hold on Members. Withdraw your ‘Ayes.’

*(Laughter)*

I am sorry, I had moved to Order No. 9. Hon. Members, Order No.8 does not require calling of the Leader of the Majority Party. We are dealing with the National Construction Authority (Amendment) Bill (National Assembly Bill No.59 of 2022). I will now put the Question.

*(Hon. Kimani Ichung’wah walked along the gangways)*

Order, Leader of the Majority Party. Take your seat. I now put the question on Order No.8.

*(Question put and agreed to)*

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

**Hon. Speaker:** Next Order.

## MOTION

### CONSIDERATION OF REPORT ON THE NATIONAL RATING BILL

THAT, this House do agree with the report of the Committee of the whole House on its consideration of the National Rating Bill (National Assembly Bill No. 55 of 2022).

*(Moved by Hon. Silvanus Osoro on 5.10.2023)*

*(Debate concluded on 5.10.2023)*

**Hon. Speaker:** There we are, Hon. Members.

*(Hon. Kimani Ichung’wah rose in his place)*

Leader of the Majority Party, take your seat first. I now put the Question.

*(Question put and agreed to)*

## BILL

*Third Reading*THE NATIONAL RATING BILL  
(National Assembly Bill No.55 of 2022)

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move that the National Rating Bill (National Assembly Bill No.55 of 2022) be now read a Third Time.

I request Hon. Pauline Lenguris to second.

**Hon. Speaker:** Give Hon. Pauline the microphone. If you bow, it cannot be recorded. You have to say 'I second.' There is a microphone next to you.

**Hon. Pauline Lenguris** (Samburu County, UDA): Thank you, Hon. Speaker. I second.

**Hon. Speaker:** Thank you. Hon. Members, I now propose the Question.

*(Question proposed)*

**Hon. Members:** Put the Question!

**Hon. Speaker:** I will put the Question. Hon. Members, I have confirmed that the House is properly constituted for purposes of decision making. We have quorum. I now put the question.

*(Question put and agreed to)*

**Hon. Speaker:** Hon. Anthony Oluoch. Can you approach the Chair?

*(Hon. Anthony Oluoch consulted with the Speaker)*

Hon. Members, before we go to the next Order, allow me to draw you back to Order No.7 and indulge Hon. Anthony Oluoch of Mathare to make a statement on a matter that relates to World Mental Health Day, which was celebrated yesterday. Was it celebrated or observed?

**Hon. Members:** It was observed, Hon. Speaker.

**PERSONAL STATEMENT**

## WORLD MENTAL HEALTH DAY

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Speaker, pursuant to Standing Order 43, I wish to make a statement on the World Mental Health Day that was observed on Tuesday, 10<sup>th</sup> October 2023.

As we reflect upon the Mental Health Day, we must recognise that mental health is a universal human right. However, it is the reality that access to comprehensive mental health care still remains a luxury for many Kenyans. This iniquity demands our immediate attention. According to a World Health Organisation (WHO) report, one in every four Kenyans seeking health services may experience mental illness. These statistics is a reminder of the perverse yet very often ignored mental health challenges that plague Kenyans.

Mental health and wellness cannot be separated from the escalating cost of living. The economic pressure on our nation has far reaching consequences and our children, youth and university students find themselves grappling with unprecedented challenges which make them resort to using dangerous drugs and substances. This directly contribute to the deterioration of mental health, and the underlying frustrations are primarily driven by the high cost of living.

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As the Government conducts survey to collect accurate data on mental health, it is imperative that it also conducts an audit concerning the interplay between cost of living and its debilitating effects on mental health.

Hon. Speaker, I, therefore, implore upon the Government to prioritise health of our citizens and act to ring-fence spending on mental health services, engage in collaborative efforts with relevant stakeholders to enhance mental health care and institute policies and programmes aimed at raising awareness of mental health issues within the society.

Thank you.

**Hon. Speaker:** Thank you, Hon. Oluoch, for your concern for the less fortunate in our society. That is the spirit we encourage. Hon. Anthony Oluoch, the lead Clerk tells me that you engaged her and distracted her from reading the Bill the Third Time – the Bill whose Question I have just put. Next time, avoid doing so.

Clerk, go ahead and read the Bill the Third Time. When an order is called out, try Hon. Members, to avoid coming to the Clerks-at-the-Table because you cause them some distraction. You can talk to them after they have finished reading out the order.

Go ahead, Clerk.

## BILL

### *Third Reading*

THE NATIONAL RATING BILL  
(National Assembly Bill No.55 of 2022)

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

**Hon. Speaker:** Thank you, Clerk. Let us proceed to the next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Speaker (Hon. Moses Wetang'ula) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Chairman (Hon. Omboko Milemba) in the Chair]*

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL  
(National Assembly Bill No.60 of 2022)

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Members, we are in the Committee of the whole House to consider the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.60 of 2022).

## SCHEDULE

THE JUDICATURE ACT (CAP. 8)

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*Section 7(1)*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Members, take your positions.

Let us proceed, Mover.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Hon. Temporary Chairman, the Departmental Committee begs to drop the amendment.

**The Temporary Chairman** (Hon. Omboko Milemba): On which page is it? Please, come again.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): It is on page 1392 in the Order Paper.

As Members would know, the Judicature Act provides a capping for the number of Court of Appeal Judges at a maximum of 30. The amendment proposal that is contained in the Statute Law (Miscellaneous Amendments) Bill is that we increase that capping from 30 to 70 judges. The justification is that there is a big backlog of cases at the Court of Appeal. The Committee initially felt that we should reduce the proposed 70 judges to 45 judges but wisdom has prevailed upon consultation and we now drop our amendment so that the Court of Appeal can have a maximum of 70 judges for purposes of clearing the backlog and opening of new Court of Appeal stations in the Republic of Kenya.

We beg to drop our amendment.

*(Proposed amendment by Hon. Mwengi Mutuse dropped)*

**The Temporary Chairman** (Hon. Omboko Milemba): Leader of the Majority Party.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Hon. Temporary Chairman, I support the Chairman’s dropping of that particular amendment. There were concerns that an increment from 30 to 70 – an addition of 40 judges – might be too heavy a burden considering the state of our economy.

The reason why the Departmental Committee Chairman has dropped the amendment, as he has said, is the understanding after further consultation that the 40 judges are not to be hired at once, but rather are to be hired incrementally over the years. So, if we need another ten judges in the next financial year, you can add and if you need another ten in another three years, you can add instead of all the time having to come back to Parliament to change the law. That makes it look quite untidy. This will be through a consultative process between the Judiciary, the Departmental Committee on Justice and Legal Affairs, and the Executive in terms of budgetary proposals because the Departmental Committee on Justice and Legal Affairs oversees the Judiciary’s budget.

Thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. Yes, Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Temporary Chairman. There is a big case backlog at the Court of Appeal, which is holding back necessary developments in terms of appeals that need to be determined. We need to increase the number of judges through more appointments. The Leader of the Majority Party has made a very important point. The proposed amendment is not to have 70 or 75 judges. The wording states: “not more than 70 judges”. The increase will be based on the state of the economy and other considerations. I believe that the Judiciary will be in constant consultation with the Executive in terms of the budget allowance as they implement that provision.

I support the amendment.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. Deputy Speaker.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Thank you, Hon. Temporary Chairperson. I also support the dropping of the amendment to allow the increase of the set

number of judges to 70. This has come sooner than we expected. I was the Chief Registrar of the Judiciary when we increased the number of judges to 30. At that time, we requested the House to increase the number of judges to 30 to give us a 10-year plan to reach 70. That projection was contained in the Judiciary Transformation Framework.

Therefore, this amendment is important so that the Judiciary does not keep coming back to the House to increase the number of judges. However, the House will still oversee the Judiciary in terms of budgetary provisions for each increase in human resources within the Judiciary.

With those few remarks, I support the amendment.

**The Temporary Chairman** (Hon. Omboko Milemba): We have heard from enough Members. That should suffice.

*(Section 7(1) agreed to)*

*(Provisions relating to the Judicature Act  
(Cap.8) agreed to)*

APPELLATE JURISDICTION ACT (CAP.9)

*Section 59(7)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Hon. Temporary Chairman, I beg to move:

THAT the Schedule to the Bill be amended—

(b) by deleting the proposed amendments to the Appellate Jurisdiction Act (Cap. 9).

The upshot of the amendment is that the proposal is non-existent. There is no Section 59(7) in the Appellate Jurisdiction Act (Cap. 9) of the laws of Kenya. Therefore, you cannot amend what does not exist.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well.

*(Question of the amendment proposed)*

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

*(Section 59(7) as amended agreed to)*

**The Temporary Chairman** (Hon. Omboko Milemba): Let us move to Section 73. Mover.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Hon. Temporary Chairman, the Order Paper contains Section 146 of the Penal Code (Cap. 63).

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Mover. Let me give you a little time.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): I would like to seek clarity. I am moving an amendment to Section 146 of the Penal Code, but you have called for Section 73 of the Appellate Jurisdiction Act.

**The Temporary Chairman** (Hon. Omboko Milemba): Do you not have an amendment to Section 73?

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Of which Act?

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Members, give us one more minute.

Section 73 does not have an amendment. Mover, you are correct.

*(Hon. (Dr) Robert Pukose spoke off the record)*

Hon. Members, Section 73 does not have any amendment.

*(Loud consultations)*

*(Section 73 agreed to)*

*(Hon. (Dr) Robert Pukose spoke off the record)*

Hon. Pukose, there are amendments to various Acts. Do not disturb the Clerk. Just take your position. Hon. Members, you are correct to indicate that there is further work that we need to do on this Act.

*(Provisions relating to the Appellate Jurisdiction Act  
(Cap. 9) as amended agreed to)*

THE VEXATIOUS PROCEEDINGS ACT (CAP. 41)

**The Temporary Chairman** (Hon. Omboko Milemba): There are no amendments on this one. So, I will put the Question.

*(Section 4 agreed to)*

*(Provisions relating to the Vexatious Proceedings Act  
(Cap.41) agreed to)*

PENAL CODE (CAP.63)

**The Temporary Chairman** (Hon. Omboko Milemba): Mover. There is an amendment and therefore the Mover will speak on this.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Thank you, Hon. Temporary Chairman, I beg to move:

THAT, the Schedule to the Bill be amended-

(c) in the proposed amendments to section 146 of the Penal Code (Cap. 63) by deleting the expression “persons with mental disabilities” and substituting therefor the expression “person suffering from mental disorder”.

**The Temporary Chairman** (Hon. Omboko Milemba): Some justification.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): For the benefit of Members, the proposal is to harmonise the terms that are used in the Penal code with the terms that are used in the Mental Health Act. You realise that the amendment here uses the term “persons with mental disabilities” while the Mental Health Act uses the term “person suffering from mental disorder”. Therefore, we are deleting the former to substitute with what is in the Mental Health Act so that there is harmony in the two pieces of legislation.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well.

*(Question of the amendment proposed)*

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

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

*(Provisions Relating to the Penal Code (Cap.63)  
as amended agreed to)*

THE CRIMINAL PROCEDURE CODE (CAP. 75)

**The Temporary Chairman** (Hon. Omboko Milemba): There is no amendment on this one.

*(Section 2 agreed to)*

*Section 83(1)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover. I think we have an amendment on this one. Hon. Mutuse.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Hon. Temporary Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(d) in the proposed amendment to section 83 of the Criminal Procedure Code (Cap. 75) by inserting the words “Principal Prosecution Counsel” immediately before the words “the Senior Prosecution Counsel,” appearing in the proposed new section 83(1);

The purpose is to include the position of Principal Prosecution Counsel in the law. You realise Section 83(1) is listing the different categories of prosecution counsels under the Office of the Director of Public Prosecutions and there was an omission of an existing position which is the Principal Prosecution Counsel. Our amendment is for purposes of inclusion of that particular position.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. If you want to speak on it allow me to propose the question.

*(Question of the amendment proposed)*

**Hon. Charles Nguna** (Mwingi West, WDM): Thank you, Hon. Deputy Chairman, based on what the Chair has proposed, I think it is totally in order to include the Principal Prosecution Counsel in this manner.

**The Deputy Chairman** (Hon. Omboko Milemba): Thank you.

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

*(Section 83(1) as amended agreed to)*

*(Sections 93(3), 123(1), 131(2), 137, 184 and 186 agreed to)*

*(Provisions Relating to the Criminal Procedure Code (Cap. 75) as amended, agreed to)*

EXTRADITION COMMONWEALTH COUNTRIES ACT (CAP. 77)

*(Section 7, 8, 9 and 10 agreed to)*

*(Provisions Relating to Extraditions Commonwealth Countries Act (Cap. 77) agreed to)*

EVIDENCE ACT (CAP. 80)

*(Sections 3 and 78(1) agreed to)*

*The Evidence Act (Cap. 80) Section 125 (2)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover, there is an amendment on this one.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Hon. Temporary Chairman, I beg to move:

THAT, Section 125(2) of the Evidence Act be amended by deleting the expression “a person with a mental disability” and substituting therefor the expression “a person suffering from a mental disorder”.

This is similar to what we did to Section 146 of the Penal Code. The purpose is basically to align the expressions with what is contained in the Mental Health Act.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover, you could also direct Members on the page that we are on because some Members are saying they are not following us. It is important that we move together.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Hon. Temporary Chairman, we are on Page 1393 of the Order Paper.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you very much. We are on page 1393 of the Order Paper for those Members who were not apprised.

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

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

*(Section 125 (2) as amended agreed to)*

*(Provisions relating to the Evidence Act (Cap.80) as amended agreed to)*

THE NATIONAL FLAG, EMBLEMS AND NAMES ACT (CAP. 99)

*The National Flag, Emblems and Names Act, Cap. 99, Section 6*

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*(Section 6 agreed to)*

*(Provisions relating to the National Flag, Emblems and Names Act (Cap. 99) agreed to)*

THE PUBLIC HOLIDAYS ACT (CAP.110)

*The Public Holidays Act, Cap.110, Schedule*

*(Schedule agreed to)*

*(Provisions relating to the Public Holidays Act (Cap.110) agreed to)*

THE OFFICIAL SECRETS ACT (CAP.187)

*The Official Secrets Act, Cap. 187, Section 10(1)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover, you could also tell us the page as you proceed.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Hon. Temporary Chairman, we are on Page 1393, Paragraph (f).

I beg to move:

THAT, the Official Secrets Act be amended by deleting the proposed amendments to the Official Secrets Act (Cap.187).

Practically, we are proposing to delete the amendment as contained in the Statute Law (Miscellaneous Amendment) Bill, 2022 because it seeks to delete sections that are not part of the Act.

*(Question of the amendment proposed)*

Do you want to speak on this one? Proceed, Hon. Member.

**Hon. Robert Mbui** (Kathiani, WDM): Hon. Temporary Chairman, this is the second time it is coming out that these miscellaneous amendments had amendments that are not even relevant to any statute. It is very unfortunate, because this is one of the ways through which people sneak in legislation. It is unfortunate that they have attempted to sneak in until they have gone overboard and tried to change things that are not even in law. That is what the Chairman has told us twice. It is unfortunate, but I support.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well.

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

*(Section 10(1) as amended agreed to)*

*The Official Secrets Act, Cap.187, Section 49(1)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Hon. Temporary Chairman, just to confirm that we are on the same page.

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**The Temporary Chairman** (Hon. Omboko Milemba): Yes, we are on Section 49(1).

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Which is speaking to which statute?

**The Temporary Chairman** (Hon. Omboko Milemba): This is Cap.187, Section 49(1). You were seeking to delete the whole section.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): It is an amendment that we have already moved on the Official Secrets Act. We have given the justification.

**The Temporary Chairman** (Hon. Omboko Milemba): So, are we already done with it?

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): We have already done it.

*(Question of the amendment proposed)*

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

*(Section 49(1) as amended agreed to)*

*(Provisions relating to the Official Secrets Act,  
(Cap.187) as amended agreed to)*

THE GENEVA CONVENTIONS ACT (CAP.198)

*(Section 3(3) agreed to)*

*(Provisions relating to the Geneva Conventions  
Act (Cap.198) agreed to)*

THE PHARMACY AND POISONS ACT (CAP.244)

*(Section 40(4) agreed to)*

*(Provisions relating to the Pharmacy and  
Poisons Act (Cap.244) agreed to)*

THE MENTAL HEALTH ACT (CAP.248)

*(Section 42(5) agreed to)*

*(Provisions relating to the Mental  
Health Act (Cap.248) agreed to)*

THE LAND CONSOLIDATION ACT (CAP.283)

*(Section 14(6)(b) agreed to)*

*(Provisions relating to the Land Consolidation  
Act (Cap.283) agreed to)*

THE LAND ADJUDICATION ACT (CAP.284)

*(Section 33 agreed to)*

*(Provisions relating to the Land Adjudication Act (Cap.284) agreed to)*

THE MARINE INSURANCE ACT (CAP. 390)

*(Section 91(3) agreed to)*

*(Provisions relating to Marine Insurance Act (Cap.390) agreed to)*

THE LOCAL MANUFACTURERS (EXPORT COMPENSATION) ACT (CAP.482)

*(Section 10(2) agreed to)*

*(Provisions relating to the Local Manufacturers (Export Compensation) Act (Cap.482) agreed to)*

THE CAPITAL MARKETS ACT (CAP. 485A)

*(Section 38 agreed to)*

*(Provisions relating to the Capital Markets Act (Cap.485A) agreed to)*

THE ARCHITECTS AND QUANTITY SURVEYORS ACT (CAP. 525)

*(Section 3(3) agreed to)*

*(Provisions relating to the Architects and Quantity Surveyors Act (Cap.525) agreed to)*

THE PREVENTION OF FRAUD (INVESTMENTS) ACT (NO.1 OF 1977)

*(Section 27(3) agreed to)*

*(Provisions relating to the Prevention of Fraud (Investments) Act (No.1 of 1977) agreed to)*

HIGHER EDUCATION LOANS BOARD ACT (NO.3 OF 1995)

*(Section 24 agreed to)*

*(Provisions relating to the Higher Education Loans Board Act (No.3 of 1995) agreed to)*

RETIREMENT BENEFITS ACT (NO.3 OF 1977)

*Section 54(1)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover, the Chair of the Departmental Committee on Finance and National Planning. I saw him here. Proceed.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT the Schedule to the Bill be amended—

- (a) in the proposed amendments to the Retirement Benefits Act by deleting the expression “54(1)” and substituting therefor the expression “54A (1)”;
- (b) in the proposed amendment to Commission on Revenue Allocation Act by deleting the proposed amendment to Section 23 and substituting therefor the following—

s. 23            Insert the following new subsection immediately after subsection (1)—

(1A) The Commission shall submit the annual report in subsection (1) to the President and Parliament within three months after the end of the year to which it relates.

- (c) in the proposed amendments to the Controller of Budget Act by deleting the proposed amendment to Section 19 and substituting therefor the following—

s. 19            Insert the following new subsection immediately after subsection (2)—

(2A) The Controller of Budget shall submit the annual report in subsection (2) to the President and Parliament within three months after the end of the year to which it relates.

This provision is amended so that it is in line with Section 54A (1) and Section 54 (1). This is just an alignment because the section prescribed in the Bill is not in existence.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): I can hear you, *daktari*.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairperson, whereas we cannot oppose if we are removing what is not in the Bill, that is automatic, we are noticing something. I think something has to happen. We cannot have a Bill that has gone through all the processes, it comes to the House and we find that it is proposing an amendment removing sections that do not exist. We have always complained that we do need to have huge miscellaneous amendments to Bills because these omnibus Bills are just meant to correct small things like commas and so on. Now, we are using them to amend whole Acts. We are amending even things that do not exist. What action are we going to take to make sure that we do not go even to the Committee of the whole House before that is noticed? I have said before that people do not read them because of the way they are and the many laws they affect. That is the truth. It goes through all the processes and committees, comes to Second Reading and nobody notices that we are amending what does not exist.

We cannot oppose that it passes, but something needs to be done about that.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you, Hon. Nyikal. I think the Leader of the Majority Party has also taken note of that. Let me hear from the Chairperson of the Departmental Committee on Finance and National Planning.

**Hon. Kuria Kimani** (Molo, UDA): I cannot agree more with my senior. For example, we are currently processing the National Tax Policy. It is amazing how people do not do anything. The National Tax Policy is supposed to be a 2023 document, but what we have come to notice is what was done in 2022. Someone just edited the names of the people doing it and the dates. It is really baffling how some people do not take time to do their job. I really agree with the honourable *Daktari*. Please, we really need to have Government officials do their work. Otherwise, so many errors are finding their way to this Floor. This needs to be corrected.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well, Hon. Chairman. You both concur.

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

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

*(Section 54(1) as amended agreed to)*

*(Provisions relating to the Retirement Benefits Act  
(No.3 of 1977) as amended agreed to)*

CO-OPERATIVE SOCIETIES ACT (NO.12 OF 1997)

*(Section 94(3) agreed to)*

*(Provisions relating to the Co-operative Societies Act  
(No.12 of 1997) agreed to)*

THE CENTRAL DEPOSITORY ACT (NO.4 OF 2000)

*(Section 63 agreed to)*

*(Provisions relating to the Central Depositories  
Act (No.4 of 2000) agreed to)*

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT (NO.3 OF 2003)

*Anti-Corruption and Economic Crimes Act,*

*(Sections 25A(1) and 37(6) agreed to)*

*Section 62*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover, there is an amendment on this one. Let us get all of them and deal with them at once. Give us the page. You know we have taken some time before getting to you.

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**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Hon. Temporary Chairman, we are still on page 1393, paragraph (g), in the Order Paper.

I beg to move:

THAT, the Schedule to the Bill be amended—

(g) in the proposed amendments to the Anti-Corruption and Economic Crimes Act, 2003 (No.3 of 2003) by deleting the proposed amendments to Section 62.

We are proposing to delete the proposed amendment to Section 62 for threefold reasons. For Members' understanding, the proposal is that if the Ethics and Anti-Corruption Commission (EACC) is investigating a State officer, he or she should leave office. Under Article 260, you are aware that State officers include Members of Parliament, the President, all elected leaders, and holders of independent offices. We found this to be a misnomer. For elected leaders, for example, there is a procedure of removal from office. It goes further to even say such cannot vote or do official duties. What happens if a Member of Parliament is under investigation by the EACC? Does this mean that the rights of people who voted for you to represent them here are affected when you are not representing them?

The whole doctrine of presumption of innocence provides that you are presumed innocent until proven guilty through a competent court of law. This is also a misnomer. We propose that we delete the entire section because it is ill-motivated and emotional to some extent. The EACC has adequate powers to fight corruption. As it is today, nothing under the current law prevents the EACC from moving to court to seek orders that enable it to do its work when dealing with State officers. Therefore, we propose to delete the entire Section 62.

**The Temporary Chairman** (Hon. Omboko Milemba): That is clear.

*(Question of the amendment proposed)*

Yes, Deputy Leader of the Minority Party.

**Hon. Robert Mbui** (Kathiani, WDM): Thank you, Hon. Temporary Chairman. The reality is that this was an unfortunate amendment. You are aware that most busybodies are constantly trooping into Government offices to take all manner of accusations. For example, when a project is being initiated, if there are about 20 to 30 people who want to oppose you, they just go to the EACC. We cannot allow an accusation to become a presumption of guilt. If someone is accused, then the EACC can carry out investigations. The law provides that when someone is convicted, then they can leave office. Otherwise, we would have everybody taking the case for the removal of the Kenya Kwanza administration from office unfairly, which is not acceptable.

I agree with the Vice-Chairperson of the Committee.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Chairman. I rise to support the Vice-Chairperson on this particular amendment. Members should bear in mind that this Bill was published in 2022. You can all remember what regime we were operating under and what pervaded then. Several State officers, including sitting governors, were illegally barred from accessing their offices under the pretext that they were under investigation. I agree with the Vice-Chairperson that the EACC and the Directorate of Public Prosecutions (DPP) can as well go to court and seek injunctive orders for specific officers under investigation to be barred from accessing their offices. Allowing such a provision in law provides a fertile ground for witch-hunt.

As much as the Kenya Kwanza administration believes in the rule of law and does not use the criminal justice system to fix its politics, enacted laws remain law even beyond the term of this administration. If those who were in power before came back to power, you can only imagine what kind of abuse such a provision existing in law would be used against those they

do not agree with politically. I agree with the Committee that this provision must be deleted and completely expunged from this Bill. We should forget that there was ever such a proposal because it is dangerous. I am sure Hon. (Dr) Nyikal agrees with me.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. (Dr) Nyikal, you have one minute because all Members want a bite on this.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, we always go back and forth when it comes to corruption. We need to carefully read this section. This is not as absolute as indicated. It reads –

“(6A) Notwithstanding the provisions of any other law, where a State officer is under the investigation for, or has been charged with corruption or economic crime, the Commission may by an *ex parte* application in the High Court, seek for an order barring the officer from accessing his or her office or exercising the powers of that office including participating in decision making, voting and supervising staff.”

The only excess thing here is “exercising the powers of that office including participating in decision making, voting and supervising staff.” This should happen when one has been dismissed. The first part of it is just barring one from accessing the office. In (6B)—

“The provisions of sub-section (6A) shall apply where the Commission upon preliminary investigations has established grounds to reasonably suspect that the public or State officer is likely to –

- (a) Conceal, alter destroy or remove records, documents or other evidence;
- (b) Intimidate, threaten or otherwise interfere with witnesses; or
- (c) Interfere with investigations in any other matter.”

In my view, the only bit that should have been removed or if we agree we further amend is “exercising the powers of that office including participating in decision making, voting and supervising staff.” This is...

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): On a point of order.

**The Temporary Chairman** (Hon. Omboko Milemba): There is a point of order.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Hon. Temporary Chairman, we have a responsibility to inform and not misinform the country. Hon. (Dr) Nyikal has read what the Bill stipulates. However, he over-emphasised the word “may” like another gentleman from Homa Bay over-emphasised it. He forgot to emphasise the words “by an *ex parte* application” which means that the person being charged is not being listened to in court. Unless you want us to use “*inter parte* application” then you are denying the person who is presumed innocent that opportunity.

I know Hon. (Dr) Nyikal is a great doctor and I am not a lawyer. Nevertheless, I have dealt with good lawyers like Hon. Makali, the Member for Kanduyi, and Hon. Mwengi Mutuse from Makueni. These lawyers are burning to explain to Hon. (Dr) Nyikal the difference between *ex parte* and *inter parte*.

(Laughter)

**The Temporary Chairman** (Hon. Omboko Milemba): Order Members. Let us hear Hon. (Dr) Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, my further amendment would have been to remove the word “*ex parte*” and “exercising the powers of that office including participating in decision making, voting and supervising staff” and leave the rest intact. This achieves what we all desire. When you are being tried, you should not have the opportunity to interfere with the investigations. If you remove the word ‘*ex parte*’ then obviously that is replaced with “*inter parte*.”

I cannot do much to this proposed amendment because if I were to add a further amendment, I need to seek the permission of the Mover to do so. It is quite apparent that that cannot be done although it would have been the best thing to do. I rest my case.

**The Temporary Chairman** (Hon. Omboko Milemba): Lastly, let me hear, Hon. Makali. You have the microphone now.

**Hon. John Makali** (Kanduyi, FORD-K): Thank you, Hon. Temporary Chairman. We must fight corruption. It is our duty as a House to fight corruption, but we must do so within the confines of the law and in obedience to our Constitution. One of the critical concepts in our Constitution is the presumption of innocence. We cannot allow EACC to get an *ex parte* order on the basis of an investigation. This is contrary to the rules of natural justice; you must hear the other party. The EACC should not bar one from accessing an office or even voting on a matter that a Member of Parliament cannot represent his constituents because they are under investigation.

In the past, investigations have been weaponised for political purposes. If we allow the statute to remain as it is, we will make EACC the investigator and the judge in its course. We cannot allow that. This amendment ought to be thrown out because we cannot allow them to say that they have reasonable grounds. If they have reasonable grounds, there is an institution that is created by the Constitution of this country, that is, the courts of law that have to find a person guilty or otherwise. I, therefore, support this amendment, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. That is very clear.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): On a point of order.

**The Temporary Chairman** (Hon. Omboko Milemba): What is your point of order, Hon. Shakeel?

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairman, I am the Chairman of the African Parliamentarians Network Against Corruption (APNAC). My point of order is that this flies totally in the face of Chapter 6 of the Constitution and allows impunity by a person who can misuse that office. The assumption of being innocent until proven guilty is in our statutes, but as you understand, corruption is a very wild and dangerous issue. If we allow this provision, not only will it affect our stance worldwide on the fight against corruption... We are already on the grey list. I urge the presenter to kindly include the presentation made by Hon. Nyikal. It is a very sensible one. I think it will cover us on this issue. When we go to international conferences and we are on the grey list, it affects us greatly. Currently, China...

**The Temporary Chairman** (Hon. Omboko Milemba): You had just one minute and you know that we need short comments similar to other Members' contributions. Please conclude.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): I speak on behalf of the anticorruption movement in this Parliament. As much as we can make amendments to this statute, let us not delete the provision altogether. Let us make amendments and be of service to our country.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you.

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

*(Section 62 as amended agreed to)*

*(Provisions relating to the Anti-Corruption and  
Economic Crimes Act as amended, agreed to)*



## THE SEXUAL OFFENCES ACT (NO.3 OF 2006)

*Section 40*

**The Temporary Chairman** (Hon. Omboko Milemba): We have no amendments on this.

*(Section 40 agreed to)*

*(Provisions relating to the Sexual Offences Act (No.3 of 2006) agreed to)*

## THE NATIONAL MUSEUMS AND HERITAGE ACT (NO.6 OF 2006)

*Section 57(2)*

**The Temporary Chairman** (Hon. Omboko Milemba): I have a letter here relating to the fact that the Chairperson of the Departmental Committee on Sports and Culture has allowed Hon. Waqo to present this amendment. You may proceed.

**Hon. Naomi Waqo** (Marsabit County, UDA): Hon. Temporary Chairperson, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the National Museums and Heritage Act (No.6 of 2006) by deleting the proposed amendment to Section 57(2) and substituting therefor the following new amendment:

Delete subsection (2) and insert the following new subsection—  
(2) The Director of Public Prosecutions may appoint a heritage warden appointed under subsection (1) as a prosecutor for purposes of prosecuting offences committed under this Act.

The amendment is necessary to expressly provide that the Director of Public Prosecutions shall be the person responsible for appointing the heritage wardens as prosecutors. This amendment seeks to bring clarity to the provision as well as to align the Act with Article 157(9) of the Constitution which gives the Director of Public Prosecutions powers to instruct persons to act as prosecutors. The amendment further seeks to align the subsection with Section 29(1) of the Office of the Director of Public Prosecutions Act (No.2 of 2013), which provides that the Director may appoint any qualified person to prosecute on his or her behalf.

*(Question of the amendment proposed)*

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

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

*(Section 57(2) as amended agreed to)*

*(Provisions relating to the National Museums and Heritage Act (No.6 of 2006) as amended, agreed to)*

THE LABOUR INSTITUTIONS ACT (NO.12 OF 2007)

*Section 35(1)(k)*

**The Temporary Chairman** (Hon. Omboko Milemba): We have no amendments on this.

*(Section 35(1)(k) agreed to)*

*(Provisions relating to the Labour Institutions Act (No.12 of 2007) agreed to)*

THE ACCOUNTANTS ACT (NO.15 OF 2008)

*Section 43*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon Members, we have no amendments on this.

*(Section 43 agreed to)*

*(Provisions relating to the Accountants Act (No.15 of 2008) agreed to)*

THE INTERNATIONAL CRIMES ACT, 2008 (NO.16 OF 2008)

**Hon. Temporary Chairman** (Hon. Omboko Milemba): There are no amendments on all these sections, Hon. Members.

*(Sections 19(2), 19(3), 21(1)(b), 23(2), 24, 25(3)(a), 26(1), 26(2), 76, 77(2), 78, 79, 84, 85(4), 86, 87(1), 88, 89, 90, 91, 92, 93(2)(b), 94, 95, 96(1), 96(2), 102(2), 102(3), 103, 104, 105, 106, 107, 108, 109, 110, 111, 112(1), 112(3), 112(4), 113(2), 113(3), 114(1), 114(2), 115(1), 116, 118(2), 119, 120, 121(b), 122, 124, 126, 127(6), 129, 153(1), 153(2), 154, 155, 156, 157, 158, 159, 160, 168 and 171 agreed to)*

*(Provisions relating to the International Crimes Act, 2008 (No.16 of 2008) agreed to)*

THE BIOSAFETY ACT, 2009 (NO.2 OF 2009)

*(Section 53 agreed to)*

*Provisions relating to the Biosafety Act, 2009 (No.2 of 2009) agreed to)*

**Hon. Temporary Chairman** (Hon. Omboko Milemba): Proceed.

THE MERCHANT SHIPPING ACT, 2009 (NO.4 OF 2009)

*(Section 16 agreed to)*

*(Provisions relating to the Merchant Shipping Act, 2009  
(No.4 of 2009) agreed to)*

THE VETTING OF JUDGES AND MAGISTRATES ACT, 2011 (NO.2 OF 2010)

*(Section 18(1) agreed to)*

*(Provisions relating to the Vetting of Judges and Magistrates Act, 2011  
(No.2 of 2010) agreed to)*

THE PREVENTION OF ORGANISED CRIMES ACT, 2010 (NO.6 OF 2010)

*Sections 14 and 14(3)*

**Hon. Temporary Chairman** (Hon. Omboko Milemba): Mover. There is an amendment on this one. Who is the Chairman? Proceed. Give Hon. Raso the microphone.

**Hon. Ali Raso** (Saku, UDA): Thank you very much, Hon. Temporary Chairman. We are on page 1394 of the Order Paper and on page 1471 of the Bill.

**Hon. Temporary Chairman** (Hon. Omboko Milemba): Thank you.

**Hon. Ali Raso** (Saku, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Schedule to the Bill be amended —

(a) in the proposed amendment to the Prevention of Organised Crimes Act, 2010 (No.6 of 2010), by—

- (i) deleting the proposed amendment to section 14; and,
- (ii) deleting the proposed amendment to section 14(3).

Hon. Temporary Chairman, on amendment to Section 14, as a Committee, having had a very thorough discussion, we feel that this amendment does not sit well in what you call an omnibus Bill. It is a fundamental and substantive change to the principal Act. The original proposal was to enhance the penalty for obstruction of justice under the Act from Ksh500,000 to Ksh10 million. However, no evidence or empirical data support such a major amendment to an existing law. That is why we propose to delete that amendment from the omnibus Bill. It could be re-introduced through an amendment to the substantive law so that it can be properly interrogated.

The (3) that appears in the Schedule is a syntax error. We felt that it should be deleted so that the amendment is captured as Section 15(3). The proposed amendment seeks to replace the current 30 days with 90 days. In our current law, when the investigating body feels that a particular matter needs an extension for consideration, it goes before the High Court to seek an extension until the matter is concluded to the benefit of the prosecution and the defence. For that matter, we felt that the 90-day provision was subject to abuse considering the current status of our legal system and judicature.

I beg to move.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Hon. Temporary Chairman, there is a general theme running throughout all these amendments. There is a feeling that the proposed amendments were too harsh, particularly on crime. Therefore, we are moderating them. That is a bad sign. I will not say that I oppose it, but I wanted to point it out.

The Mover has pointed out something very important. I see many inconsistencies in our legislative process. His first comment was that major amendments to Acts should not come to the House through omnibus Bills. However, we have made major amendments to Acts through omnibus Bills. Hon. Temporary Chairman, you are presiding over this Committee and you will present our concerns to the Speaker's Panel. From now on, we have to be very careful about the contents of miscellaneous amendments in omnibus Bills.

We also have to be very careful not to say that the penalty of Ksh10 million was too high. If we completely remove it, those who were worried will breathe a sigh of relief. Perhaps it should have been reduced, but not completely removed. The emerging trend is that we are becoming more lenient on corruption, which is not good. I will allow Members to vote in whichever way.

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

*(Section 14 and 14(3) as amended agreed to)*

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairman, I wish to lodge a complaint.

**The Temporary Chairman** (Hon. Omboko Milemba): I will allow the Member to speak. What is your complaint?

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairman, I represent the anti-corruption lobby in this House. I have been sitting here waiting to speak. Why does the Temporary Chairman want to fast-track this very important issue? It appears you have no regard for what we want to say and that the anti-corruption lobby of this House has no say in this issue.

Hon. Nyikal has made it very clear that these are the kinds of things that will tarnish our country's image in the fight against corruption. He has said something very important. I do not see why you would not recognise the representative of the anti-corruption caucus. The anti-corruption caucus is an official caucus of Parliament yet you will not allow us to put our point forward. No other person wished to speak. I made a request to speak, but you ignored it. That is not fair.

**The Temporary Chairman** (Hon. Omboko Milemba): I have heard you, Hon. Member. With a lot of respect, I will give you a chance.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): What is the point of closing the stable door after the horse has bolted?

**The Temporary Chairman** (Hon. Omboko Milemba): Order, Hon. Member. I have not even put the Question on this matter. It is coming. Please, hold your horses.

*(Section 17(9) agreed to)*

*(Provisions relating to the Prevention of Organised Crimes Act, 2010  
(No.6 of 2010) as amended agreed to)*

THE COUNTER-TRAFFICKING IN PERSONS ACT 2010 (NO.8 OF 2010)

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*Section 19(2)(e)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Ali Raso** (Saku, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(b) by deleting the proposed amendment to Section 19(2)(e) of the Counter-Trafficking in Persons Act, 2010 and substituting therefor the following new amendment—

Written law	Provision	Amendment
Counter-Trafficking in Persons Act, (No. 8 of 2010)	19(2)(e)	insert the following new paragraph immediately after paragraph(e)— “(ea) the Director of Public Prosecutions”

The amendment proposes to substitute the Attorney-General with the Director of Public Prosecutions, taking into consideration the functions of those two offices. One office is responsible for prosecution of cases while the other offers legal advice. Section 19 of the Counter-Trafficking in Persons Act on the establishment of the advisory committee clearly states that the Attorney-General is a member of that committee. Therefore, we seek to retain the Attorney-General and add the Director of Public Prosecutions.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Let me hear from Members. Proceed.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you, Hon. Temporary Chairman. I have been rather disappointed with earlier amendments. I cannot say the same about this. This one we support because this is in line with the desire of this country to put a stop on this type of activity which is also another part of corruption. This one I support but not the earlier ones.

**The Deputy Chairman** (Hon. Omboko Milemba): Thank you.

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

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

*(Section 19(2)(e) as amended agreed to)*

*(Provisions relating to The Counter-Trafficking in Persons Act, as amended agreed to)*

JUDICIAL SERVICE ACT, 2011 (NO.1 OF 2011)

*Section 38*

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**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Judicial Service Act, 2011 (No.1 of 2011)—

(h) by deleting the words “the National Assembly” appearing immediately after the words “President and” and substituting therefore the word “Parliament”;

What we are doing is that many of us, even those who are not lawyers, are aware of the doctrine of the supremacy of the Constitution. Our Constitution in Article 2 also proclaims its own supremacy. Article 254 of the Constitution talks about reporting by commissions and independent offices. It is an express provision of the Constitution that commissions where the Judicial Service Commission is one of them, shall report to Parliament. What we are doing is to make sure that the Judicial Service Act is consistent with the Constitution because the Judicial Service Act talks about the National Assembly while the Constitution talks about Parliament. Therefore, we are just substituting the word “National Assembly” with the word “Parliament” so that the reports of the Judicial Service Commission come to both our chambers of Parliament. Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): There being no interest on this... Yes, Hon. Member.

**Hon. Zamzam Mohammed** (Mombasa County, ODM): Asante sana Mheshimiwa Mwenyekiti wa Muda. Ninataka niweze kumuunga mkono huyu ndugu yangu aliyezungumza. Sio kila kitu vile kinavyokuja basi sisi ni kusema *aye, aye, aye, aye*. Tumekuja hapa kuwakilisha watu wetu lazima tuchunguze na tuangalie kwa kina kitu gani ambacho tunazungumzia. La sivyo tutapitisha vitu ambavyo vitakuja kututesa sisi pamoja na watu wetu. Kwa hivyo, lazima tuchunguze Waheshimiwa.

**The Temporary Chairman** (Hon. Omboko Milemba): Order Hon. Member. You need to speak on this. That is the intention of this chance we are giving you. Proceed and speak on this and not making general comments. You speak on Section 38.

**Hon. Zamzam Mohammed** (Mombasa County, ODM): Kunazo manake hukunipa nafasi ndio maana ninasema Mheshimiwa.

**The Temporary Chairman** (Hon. Omboko Milemba): I have given you a chance. Proceed.

**Hon. Zamzam Mohammed** (Mombasa County, ODM): Tusiwe tu tunapitisha “Aye” bila kuangalia. Asante.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you, Hon. Members. In the Committee of the whole House you speak on that particular item that is on the Floor.

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

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

*(Section 38 as amended agreed to)*

*(Provisions relating to the Judicial Service  
Commissions Act, 2011 (No.1 of 2011) as amended agreed to)*

## INDEPENDENT ELECTORAL AND BOUNDARIES ACT, 2011

*(Section 24(1) agreed to)*

*(Provisions relating to the Independent Electoral and Boundaries Act, No.9 of 2011 agreed to)*

## SALARIES AND REMUNERATION COMMISSION ACT, 2011

*Section 24*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover. Where is the Chairperson? Very well. Chairperson for the Departmental Committee on Labour. You can tell us the page if you are privy to it. Thank you. Proceed.

**Hon. Mwangi Mutuse** (Kibwezi West, MCCC): I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendment to the Salaries and Remuneration Commission Act, 2011 by deleting the words “the National Assembly” appearing in the proposed new subsection (1A) and substituting therefore the word “Parliament”.

The justification is that the amendment is necessary to align the Act with the provisions of Article 254(1) of the Constitution which mandates commissions and independent offices to submit reports to the President and Parliament. The SRC Act of 2011 talks about the “National Assembly”, but Article 254 (1) of the Constitution talks about “Parliament”.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well.

*(Question of the amendment proposed)*

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

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

*(Section 24 as amended agreed to)*

*(Provisions Relating to the Salaries and Remuneration Commission Act, 2011 (No.10 of 2011) as amended agreed to)*

## KENYA NATIONAL COMMISSION ON HUMAN RIGHTS ACT, 2011 (NO. 14 OF 2011)

*Section 53*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Muchangi Karemba** (Runyenjes, UDA): Thank you, Hon Temporary Chairman. I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendment to Section 53 of the Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011) be amended by deleting the words “the National Assembly” appearing immediately after the words “President and” and substituting therefore the word

“Parliament”.

The rationale is the same as the rationale for the amendment on the Judicial Commission Act, 2011 as well the Salaries and Remuneration Commission Act, 2011. We want to align the Statute with the provision of the Constitution so that the reporting is to both Houses of Parliament and not to the National Assembly because that is not what the Constitution anticipates.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well.

*(Question of the amendment proposed)*

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

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

*(Section 53 as amended agreed to)*

*Provisions Relating to the Kenya National Commission  
on Human Rights Act, 2011 (No.14 of 2011) as amended agreed to)*

THE NATIONAL GENDER AND EQUALITY COMMISSION ACT, 2011

*Section 53*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover. Now we have the Chair of the Departmental Committee on Social Protection.  
Proceed.

**Hon. Alice Ng’ang’a** (Thika Town, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendment to Section 53 of the National Gender and Equality Commission Act, 2011 by deleting the words “the National Assembly” appearing in the proposed new subsection (1A) and substituting therefor the word “Parliament”.

The justification for the amendment is that Article 254(1) of the Constitution requires all constitutional commissions to submit their reports to the President and Parliament. Therefore, the amendment seeks to align the Act to be in sync with the provision of Article 254(1) of the Constitution.

Thank you.

*(Question of the amendment proposed)*

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

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

*(Section 53 as amended agreed to)*

*Provisions relating to the National Gender and Equality*

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*Commission Act, 2011 as amended agreed to)*

THE COMMISSION ON REVENUE ALLOCATION ACT, 2011(No.16 OF 2011)

*Section 23*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(b) in the proposed amendment to Commission on Revenue Allocation Act by deleting the proposed amendment to section 23 and substituting therefor the following—

s. 23 Insert the following new subsection immediately after subsection (1)—

(1A) The Commission shall submit the annual report in subsection (1) to the President and Parliament within three months after the end of the year to which it relates.

This proposed amendment seeks to reduce the number of months for the submission of reports by the Commission on Revenue Allocation from six months to three months. This will enable Parliament to have adequate time for deliberations on this report.

Thank you.

*(Question of the amendment proposed)*

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

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

*(Section 23 as amended agreed to)*

*Provisions relating to the Commission on Revenue Allocation Act, 2011(No.16 of 2011) as amended agreed to)*

THE ETHICS AND ANTI-CORRUPTION COMMISSION ACT, 2011 (NO.22 OF 2011)

*(Section 27(2) agreed to)*

*Provisions relating to the Ethics and Anti-Corruption Commission Act, 2011 (No.22 of 2011) as amended agreed to)*

THE TOURISM ACT, 2011(No.28 OF 2011)

*(Section 116 agreed to)*

*Provisions relating to the Tourism Act, 2011(No.28 of 2011) as amended agreed to)*

THE NATIONAL POLICE SERVICE COMMISSION ACT, 2011 (NO.30 OF 2011)

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*Section 26(2)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

**Hon. Ali Raso** (Saku, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Schedule to the Bill be amended —

(c) in the proposed amendment to the National Police Service Commission Act, 2011 (No. 30 of 2011), by deleting the proposed amendment to Section 26(2).

Looking at that amendment, we seek to remove the proposed extension of time for submission of annual reports by the National Police Service Commission from three months to six months. Article 254(1) of the Constitution requires each Commission and each holder of an independent office to submit a report to the President and Parliament as soon as it is practicable after the end of each Financial Year.

Further to that, in the National Police Service Commission Act, Section 26 on Annual Report says that the Commission shall submit the annual report to the President and the National Assembly three months after the end of the year to which it relates. For that case, we see no reason for moving it to six months. The Commission came to us again to say that the three months suffice.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Hon. Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, Hon. Temporary Chairman. If I heard correctly, the Vice-Chair of the Departmental Committee on Administration and Internal Affairs is talking of reducing the period from six months to three months. Or is it increasing it from three months to six months? He needs to come out clear on that.

**The Temporary Chairman** (Hon. Omboko Milemba): Vice-Chair, can you clarify that before Hon. Pukose can speak on this amendment?

**Hon. Ali Raso** (Saku, UDA): Thank you very much, Hon. Temporary Chairman. What the omnibus Bill had proposed was to move it from three months to six months. However, as a Committee, we sat through it and we found that three months suffices for the Commission to file its report at the end of every financial year, so, we rejected the six months and retained the three months.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Pukose, are you fully satisfied? Yes, Hon. Member for Kisumu.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairman, this is just to confirm that it is a maximum of three months. That is what it originally says so that it is in line with the performance requirements.

**The Temporary Chairman** (Hon. Omboko Milemba): There is more interest on this amendment. Yes, Hon. Oundo; one minute.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I support the amendments moved by the Chairman because, in any case, it is a running commission and therefore, if you submit the report after six months, it would have been overtaken by events. I need to catch your attention. I hope that we have been consistent throughout. I am sorry that I came in a bit late, and I do not know how you have treated the Ethics and Anti-Corruption Commission and the rest. We should be consistent, from six to three months. It will look slightly inconsistent if one commission says three and the other says six months.

Thank you.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well, Hon. Wilberforce Oundo. It is your business to be in the House.

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

*(Section 26(2) deleted)*

*(Provisions relating to the National Police Service Commission  
Act, 2011 (No.30 of 2011) as amended agreed to)*

**Hon. Shakeel Shabbir** (Kisumu, Independent): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Let me get that point of order, because participation is very important.

**Hon. Shakeel Shabbir** (Kisumu, Independent): Hon. Chairman, as much as we are trying to follow, there is a *kamukunji* going on there, and they are very loud. Could they kindly consult in low tones?

**The Temporary Chairman** (Hon. Omboko Milemba): The County Woman Representative for Mombasa, the *Kamukunji* is slightly too loud, but you have been a very good contributor. Just take your seat and continue participating.

THE NATIONAL LAND COMMISSION ACT (NO.30 OF 2011)

*The National Land Commission Act (No.30 of 2011) Section 33*

*(Section 33 agreed to)*

*(Provisions relating to the National Land  
Commission Act No.30 of 2011 agreed to)*

THE LEADERSHIP AND INTEGRITY ACT (NO.19 OF 2012)

*The Leadership and Integrity Act (No.19 of 2012) Section 12 (A)*

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Hon. Temporary Chairman, I beg to move:

THAT, Section 12 of the Leadership and Integrity Act of 2012 be amended by deleting all the proposed amendments to Section 12A.

Hon. Temporary Chairman, our reasoning is as follows: First, the new amendment proposes that once all persons applying for public offices are shortlisted, the list is sent to the Ethics and Anti-Corruption Commission (EACC) for vetting purposes. That is an excellent provision because that is the current practice.

*(Loud consultations)*

Hon. Temporary Chairman, some Members are consulting very loudly.

**The Temporary Chairman** (Hon. Omboko Milemba): Order, Members at the back. Is that Hon. Peter? Hon Peter Opondo, deal with that situation because you are the leader around

there. Just make sure that Members there are silent. Order, Hon. Millie Odhiambo! Just consult in low voices. Proceed.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Thank you. To start with, the upshot of the proposed amendment is that, once the shortlisting of those who apply for jobs in any public entity is concluded, the list is sent to EACC for vetting. The Commission will give its opinion on every applicant, and then the public body shall continue the recruitment process. The opinion of the EACC shall inform their decision. This is a very good provision, but a very substantial one that should not be brought through the omnibus legislation. It needs to come as a stand-alone amendment to the Leadership and Integrity Act so that the public and this House have enough time to do justice to the proposed legislation.

Secondly, before this House is another piece of legislation - the Conflict of Interest Bill – and the same provision is contained in it. For purposes of legislative harmony, the Committee thought to drop it and then deal with it substantially through the Conflict of Interest Bill. Those are the two reasons we propose to drop the amendment because, in practice, the same is happening. We also think it may present a practical challenge where everybody, including an assistant chief, is employed in Kisumu Town.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you. You are very clear.

*(Question of the amendment proposed)*

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I agree with the Chairman of the Committee. We have complained unceasingly about this since the last term that, such a fundamental amendment to an Act of Parliament should not come through the Statute Law (Miscellaneous Amendments) Bill. I sincerely thank the Committee for seeing the light and agreeing with us.

Secondly, I disagree with him on the issue of the Conflict of Interest Bill. You cannot anticipate debate.

**The Temporary Chairman** (Hon. Omboko Milemba): He is doing a very good job.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Yes. As a newcomer, he has done relatively well.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you, Hon. Wilberforce Oundo. He has been doing a very good job and has been here persistently. Hon Peter Kaluma.

*(Laughter)*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Temporary Chairman. This provision is too substantive for a Statute Law (Miscellaneous Amendments) Bill. I commend the Vice-Chairman of the Departmental Committee on Justice and Legal Affairs Committee for flagging it out. I wish other Chairpersons would also do the same thing. Even if these provisions were to be brought substantively, they would still be objectionable. Chapter 15 of the Constitution of Kenya creates too many commissions with their respective mandates. They do their things. On matters of employment, we have the Public Service Commission. We cannot move that mandate through the back door and make the EACC the body that recruits after shortlisting. That will be obnoxious.

Secondly, the EACC is now a religious house; Bishop Wabukala finished the mass and Bishop Oginde took over. Nothing is happening there. We must leave this mandate within the Public Service Commission. Even if it was brought substantively, we will still oppose it. I recommend that you return to the sector and tell them that this provision can never see the light of day when I am seated in this House with the Leader of the Majority Party.

Thank you. I oppose.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. Hon Shakeel Shabbir.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you, Hon. Temporary Chairman. I am concerned about these mischievous miscellaneous amendments. Being a Member of the African Parliamentarians Network Against Corruption (APNAC), Hon. Kaluma also had some mischievous amendments which went through.

I accept and agree that this amendment should not come through the omnibus Bill. However, it is very important to understand the roles of those organisations. We are talking about leadership and integrity. If you destroy any other controls like Hon. Kaluma seems to suggest... He has already said he would shoot it down. Let him come to the House, and we will talk about it then. Currently, the Public Service Commission and the EACC have their jobs. It is sad, Hon. Kaluma. As an advocate and senior counsel at your level, you are mocking the EACC as a religious house. You should withdraw and apologise to the Chairperson of EACC.

**The Temporary Chairman** (Hon. Omboko Milemba): You did not stand on a point of order, Hon. Shakeel, to deal with the matter that Hon. Kaluma had prosecuted.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): I have stood on a point of order.

**The Temporary Chairman** (Hon. Omboko Milemba): You should not have discussed his statement but Section 12A.

*(Hon. Shakeel Shabbir spoke off the record)*

Order Hon. Shakeel.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Kaluma, what is out of order?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, you know Hon. Shakeel heads some useless thing called APNAC, which does not know how to fight corruption.

**The Temporary Chairman** (Hon. Omboko Milemba): Order, Hon. Kaluma. You know you have been accused of the use of language.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I withdraw, Hon. Temporary Speaker.

**The Temporary Chairman** (Hon. Omboko Milemba): Proceed.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Shakeel heads a useful body called APNAC. He should understand that fighting corruption is more than shouting that you are doing so. We will fight corruption in a better way. He cannot bring my conduct into a discussion without a substantive Motion. If he believes he can discuss me and my willingness to fight corruption, he should do so. I will confirm that he has not fought corruption better than me.

I thank you, Hon. Temporary Chairman.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): On a point of order, Hon. Temporary Chairman.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Pukose, on a point of order. Order, Hon. Shakeel. Contribute for one minute.

*(Loud consultations)*

Let us be orderly. You have one minute.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Firstly, I laud the Committee for proposing that the issue be dealt with substantially. It must be dealt with in the decorum and manner that is required of this position.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Point of information, Hon. Temporary Chairman.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Whom do you want to inform, Leader of the Majority Party? Firstly, let me give the opportunity to Hon. Pukose, who is on a point of order.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Hon. Temporary Chairman, my initial point of order was on what Hon. Oundo had said concerning the Vice-Chairman, who is a new member...

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Pukose, you will take us back to where Hon. Shabbir had taken me. Hon. Oundo has spoken, and he has finished. Can you contribute to Section 12A? Proceed.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Yes. Thank you, Hon. Temporary Chairman, for that guidance. I thank Hon. Mutuse and the team for work well done to recognise that this issue needs to be a substantive Bill but not in this omnibus Bill.

There were issues with clearance by the EACC for somebody to access any employment opportunity. That will be putting a lot of blocks. When somebody applies for a job, and then you tell him he must be cleared first by EACC before the Public Service Commission or any other institution can employ him, we will make it very hard for Kenyans to apply for job opportunities.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. Leader of the Majority Party before I go to Hon. Millie.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, let me begin by saying this provision is good. I hear from many Members that it sits in the wrong Bill.

Many of these provisions will find their way into the Conflict of Interest Bill that is before this House. Therefore, I support the Chairman in deleting it from this Bill because of the substantive nature of the proposals. However, that does not mean it is a bad amendment. We must empower EACC to check the integrity of public officers before they assume office. That should not be taken for granted. EACC is not taking over the work of the Public Service Commission. They are not seeking to recruit. EACC is simply working in line with the Leadership and Integrity Act and Ethics and Anti-Corruption Act to check on corruption matters. As a country, it does not serve us any good to hire and recruit into our Public Service people who are already known to be corrupt.

We have been accused, in the past, that Parliament - let me not say the National Assembly - or political leadership becomes a laundromat for the corrupt. If you work in the Executive and amass enough public resources, you get into political leadership to clean yourself up. That is why institutions that fight corruption must have teeth to bite. You do not bite when people are corrupt. You prevent people from looting public resources. How many are taking up public offices today, having looted our county governments dry? Without casting any aspersions on anybody, some people have risen from very junior officers in our county governments after the advent....

**The Temporary Chairman** (Hon. Omboko Milemba): Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Let me finish, Hon. Temporary Chairman.



**The Temporary Chairman** (Hon. Omboko Milemba): You have already spoken on the Bill. Order! We want you to talk about this amendment, and then we conclude so that we can move on. We still have a lot of business. Give him the microphone.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Chairman. I support the amendment. However, I wanted to buttress that it is a critical provision that must find itself in our laws to give EACC powers to bite. It may not be this law, but the time is coming, which is not far away. Conflict of Interest Bill has already been published - *Mambo ni matatu*.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. Let me hear Hon. Millie.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Chairman. I support the amendment. As a House, we should not be in the habit of bringing substantive issues through miscellaneous bills. That is a basis that somebody can go to court to challenge a Bill that is passed because then we have not given the public ample time.

One of the other issues that concern me and why we also need to look at this Bill separately is that we will need a law to oversee the one who performs the oversight role. The Leader of the Majority Party has said that we should ensure that we give teeth to EACC. What of a situation where the EACC or Director of Criminal Investigations (DCI) is corrupt? That is becoming extremely prevalent. The people who are mandated to oversee ask for bribes instead of doing their work. How do we deal with situations like that? We need another body to oversee them. I support the amendment.

*(Laughter)*

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. Thank you. When the Conflict of Interest Bill comes before the House, there will be a lot of interest.

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

*(Section 12A as amended agreed to)*

*Section 19(6)*

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Mutuse, we are on Section 19(6).

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Let me ask just for clarity. It is 19(6). Of which Act?

**The Temporary Chairman** (Hon. Omboko Milemba): We are on the Leadership and Integrity Act No.19 of 2012. We are on page 1393.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Yes. We have already moved our amendment to delete the entire Section 12A. We do not have further amendments.

**The Temporary Chairman** (Hon. Omboko Milemba): There is a further amendment of 19(6), which you had proposed to delete. It is down there. Proceed.

*Amendment to Section 19(6)*

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Yes, okay. Thank you very much. Hon. Chair, I beg to move:

THAT the Schedule to the Bill be amended—

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(j) in the proposed amendments to the Leadership and Integrity Act, 2011 (No.19 of 2012)—

(ii) by deleting the proposed amendment to Section 19(6);

*Question of the amendment proposed)*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): On a point of order, Hon. Temporary Chair

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): We have the text of the Bill, but the Mover has not explained the amendment so that we can have a grasp of it. That is unfortunate. We should have justification. It is presumed that we have already read the amendments as proposed, but we have not. Could he give us the gist of that amendment?

**The Temporary Chairman** (Hon. Omboko Milemba): Mover, can you give any justification for that deletion?

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Thank you. Hon. Kaluma is a seasoned legislator and my senior in the legal profession. However, please allow me to point out that the amendment refers to an expression that does not form part of the text of the section. It is misplaced and unnecessary. We are deleting it to make the drafting neater.

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): That being the amendment proposed by the Chair of the Committee, I fully support it. It is for cleaning out the Bill so that we do not refer to laws that do not exist. I, therefore, support and thank the Chair of the Committee for the explanation.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you, Hon. Members

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

*(Section 19(6) agreed to)*

*(Section 40 agreed to)*

*(Provisions relating to the Leadership and Integrity  
Act (No.19 of 2012) as amended agreed to)*

THE TEACHERS SERVICE COMMISSION ACT 2012 (NO. 20 OF 2012)

*Teachers Service Commission Act 2012, Section 41*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover, the Chair of the Departmental Committee on Education.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Chair. I beg move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Teachers Service Commission Act, 2012 (No.20 of 2012), by deleting the words “National Assembly” and substituting therefor the word “Parliament”.

This is to realign the section to the Constitution. We need to know that independent commissions and the President always report to Parliament, not the National Assembly. As it stands, we have two Houses of Parliament - the Senate and the National Assembly. We have



used the word Parliament to denote that the TSC has to make reports to the National Assembly and the Senate. Therefore, “Parliament” is the right word. Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Hon. Member.

**Hon. Charles Nguna** (Mwingi West, WDM): Thank you very much for giving me this opportunity. I rise to support because it is not the National Assembly alone that legislates on education. We also have the Senate. I support.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well-spoken.

Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I thank you very much, Hon. Temporary Chair.

The TSC mandate is in the Constitution. The TSC deals with the human resource component of the education sector at the national Government level. The TSC employs and manages matters of teachers in primary and secondary levels of education, not Early Childhood Development Education (ECDE). That is a matter for counties. Unless there has been a change to the law in that aspect to the extent that ECDE teachers are now being employed and managed by the Commission, the law is right as it is, requiring reporting only to the National Assembly.

I thank you. Therefore, I oppose.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Oundo, I will bring the Chair last.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): I also find the amendments by the Departmental Committee on Education curious. They have no relationship at all with the provisions of the Constitution and the way things are. Even if the TSC submitted reports to both the National Assembly and the Senate, the report to the Senate would be superfluous. The report is of no value to the Senate because it will not touch on anything dealing with the mandate of counties. Of course, it looks neater to include Parliament. However, it is of no value to the Senate.

Thank you, Hon. Temporary Chair.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Chair, these are very serious sentiments. Let us hear from the Chair.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Chair. First, the assertions by the two Members are very reckless in the sense that the TSC does not look at teachers' affairs at the national level only. The TSC looks into the policy and development of the teaching service across the country. We are not only talking about the national Government when you are talking about the policy framework. As you know very well, policy emanates mainly from the national government and goes down.

Secondly, when reporting, the TSC reports to the two Houses of Parliament. Even the President does the same.

Thank you.

**The Temporary Chairman** (Hon. Omboko Milemba): Let me give Hon. Kaluma a bite on this. Proceed.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): The Chair of the Departmental Committee on Education is misleading the House. If you look at the Fourth Schedule to the Constitution, where the functions of the national Government and the county government are delineated, matters of policy and curriculum are matters that are falling within the remit of the national Government. In as much as the TSC is dealing with them, it does so because they are matters for the national Government.

The Chair needs to explain without misleading the House how the due exercise of the mandate of the TSC, which the current law requires to be reported to this House, should be reported to the Senate. There is no link on matters of curriculum, education policy, primary, secondary and university education concerning the counties in which the Senate will be involved. Hon. Chair, I stand to oppose. My point of order is that the Chair is not right to mislead the House.

**The Temporary Chairman** (Hon. Omboko Milemba): Let me hear from Hon. Pukose, and then we can close there because we want to put the question.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): I just wanted to seek clarification from the Departmental Committee on Education Chair. It is whether the TSC deals with policy and standards for ECDE institutions in counties. That can give us relevance as to whether this Bill should be dealt with at the Senate and whether that report should be submitted there.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Chair, right to reply.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Chair. I want to put it right and on record that all independent commissions serve Kenyans, both Houses of Parliament, and all levels of government - county governments and national Government.

Regarding the standards of ECDE, the TSC has a role, especially in setting standards on who the teachers will be. It has a role to guide the county governments and tell them which qualified teachers should teach in those schools. In this case, the Commission is not stepping on the mandate of the county government but the national Government. It is an independent commission and, therefore, it has a right to oversee the teachers and give direction.

I thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you. We have had enough of the Members' comments and still have business. Hon. Nyikal, you are the last person on this.

**Hon. (Dr) James Nyikal** (Seme, ODM): You are right. Section 254(1) says that: 'As soon as practicable after the end of each year, each commission and each holder of an independent office shall submit a report to the President and to Parliament'. I am saying that so that you put the matter to rest.

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

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

*(Section 41 as amended agreed to)*

*(Provisions relating to the Teachers Service Commission  
Act 2012 (No.20 of 2012) as amended agreed to)*

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT (NO. 33 OF 2012)

*Section 16*

**The Temporary Chairman** (Hon. Omboko Milemba): Chairperson of the Departmental Committee on Transport and Infrastructure, proceed.

**Hon. George Kariuki** (Ndia, UDA): Hon. Temporary Speaker, I beg to move:

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THAT, the Bill be amended in the Schedule in the proposed amendments to the National Transport and Safety Authority Act by deleting the proposed amendments to Section 16.

The proposed amendment seeks to increase the term of the Director-General of the National Transport and Safety Authority (NTSA) from the current three years, renewable once, to a five-year term, renewable once. The Committee rejected the increase, noting that there has not been any cogent reason to support the increase. Furthermore, the practice goes against the governance parameter and practice under the Mwongozo Code of Governance of State Corporations.

*(Question of the amendment proposed)*

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

*(Section 16 agreed to)*

*(Provisions relating to the National Transport and Safety Authority Act (No.33 of 2012) as amended agreed to)*

THE CONTROLLER OF BUDGET ACT (NO. 26 OF 2016)

*Section 19*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover! Chairperson of the Departmental Committee on Finance and National Planning.

**Hon. Kuria Kimani** (Molo, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Controller of Budget Act by deleting the proposed amendments to Section 19 and substituting therefor the following—

Insert the following new subsection immediately after subsection (2)—

(2A) The Controller of Budget shall submit the annual report in subsection (2) to the President and Parliament within three months after the end of the year to which it relates.

This proposed amendment seeks to provide the time needed for the Controller of Budget to submit the reports to the National Assembly from six to three months so that it gives Parliament adequate time to review those reports.

*(Question of the amendment proposed)*

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

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

*(Section 19 as amended agreed to)*

*(Provisions relating to the Controller  
of Budget Act (No.26 of 2016), as amended agreed to)*

THE BRIBERY ACT (NO. 47 OF 2016)

*(Sections 1 and 4 agreed to)*

**The Temporary Chairman** (Hon. Omboko Milemba): Let us go to the next one.

*Section 5*

**The Temporary Chairman** (Hon. Omboko Milemba): Proceed, Hon. Mutuse.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, the Bill be amended in the Schedule in the proposed amendments to the Bribery Act by deleting the proposed amendments to Section 5 and substituting therefor the following amendment—

Delete the word “who” appearing immediately after the words “another person” and substitute therefor the words “if the person offering, promising or giving”.

This is just another amendment that the Committee is proposing for purposes of cleaning the draft. The way the amendment is proposed in the Bill does not create sense and is not concise. The Committee thought it was necessary to clean it up so that it makes sense and is easy to interpret.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Are there interests in this? Hon. Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): I want to support this because we are talking of replacing ‘who’ with ‘if the person offering, promising or giving’. We have seen in most cases where policemen receive bribes, the person giving the bribe is not arrested.

So, this one is now taking care of the one giving. So that even the one giving or offering will also be charged. It is a good amendment to the Bill.

Thank you.

**The Temporary Chairman** (Hon. Omboko Milemba): Okay. Let us hear from Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, I oppose the amendment as moved by the Justice and Legal Affairs Committee Chairperson. I support the Bill as drawn. Hon. Pukose has not considered the amendment, but he is speaking to the amendment as per the Bill. The Chair of the Justice and Legal Affairs Committee seeks to exclude the word 'knows' from the amendment proposed in the Bill. You ought to have explained it that way. You see Section 5...

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Kaluma, just come up again.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Section 5 already says delete 6 to remove 'who' and replace it with 'if the person offering, promising or giving knows'. That is what Hon. Pukose and I believe the Hon. Members support. The amendment by the Justice and Legal Affairs Committee Chairperson does away with 'knows', and seeks to end at 'if the person offering, promising or giving.' The word 'knows' is being removed.

I want to explain that this amendment by the Justice and Legal Affairs Committee should be rejected and the amendment in the Bill be supported as drawn because there are offences which are not in law - what we call 'strict liability offences' - but they require your conviction only if you knew whatever you were doing is an offence in law. So, the word 'knows' here is intentionally put to cover a person who could be doing this without knowing that he is engaging in corruption.

Thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well. Hon. Shakeel.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairman, I am not a lawyer. Ignorance of the law is no excuse whatsoever. So, whether he knows or does not know, if it is against the law, he should be charged. So, I am surprised that I hear this from a seasoned lawyer. We may need to look at it from its perspective. But the point of the law that I understand is whether you know or do not know is not an excuse.

**The Temporary Chairman** (Hon. Omboko Milemba): Very well, Leader.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, I think Hon. Kaluma has a point. After consultation with the Chairman, the amendment is not even intended to remove the word 'knows'. We will probably ask the Chairperson to move a further amendment or move the amendment again.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Chair, I am sure you have consulted enough. Proceed.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Thank you, Leader of Majority and Hon. Kaluma. In fact, Hon. Kaluma, your fears are founded but unfounded because what you were moving is exactly what we are saying. You will get the full text if you go to Page 1539 of the published Miscellaneous Amendments. What we are doing is to remove the word 'who.' We are not removing 'knows'. We are not in any case amending to remove the word 'knows'. So, we are on the same page.

**The Temporary Chairman** (Hon. Omboko Milemba): Now, move it as you say. Just take your time.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): A person commits the offense of giving a bribe if the person offers, promises or gives a financial or other advantage to another person. We are removing that 'who' and replacing it with 'another person'. 'Who' is appearing immediately after the words 'another person' and substituting with the words 'if the person offering, promising and giving knows'. We are emphasizing a person commits the offence of giving a bribe if the person offers, promises, or gives another person a financial or other advantage.

**An Hon. Member:** The Chair is confused.

**The Temporary Chairman** (Hon. Omboko Milemba): He is not confused.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): If you allow me, Hon. Temporary Chairman, let me consult for a minute.

**The Temporary Chairman** (Hon. Omboko Milemba): Meanwhile, we can hear the sentiments of Oundo. Do you want to speak to this?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, as they consult, they need to come out clearly. What is the importance of the amendment? Is it as Hon. Kaluma has put it? At times, you can give financial inducement, not knowing whether it constitutes a bribe or not. Or are we making it expressly clear that any form of inducement to a person for services would amount to a bribe? That is what we need to come out very clear. The text in the main parent Act seems to relate to that thinking to the extent that you must have known that it constitutes a bribe. It is not an offence if you did not know that it was a bribe. But here now, the import is to remove 'knows' to mean that, as Hon. Shakeel has put it, ignorance of the law is no defence. That line must be drawn. The concept of ignorance of the

law is no defence or the concept that we expressly outlaw it. What is it? It needs to come out very clearly. What do we intend to achieve?

Thank you.

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Leader.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, I get it. If Members would look at the Bill...

**The Temporary Chairman** (Hon. Omboko Milemba): We go to the Bill.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Yes. If you go to the Bill, Page 1539, we are substituting just the word 'who' with that clause 'if the person offering, promising or giving'. The term 'knows' is still in the Bill. It is still there. It is retained.

The amendment, as has been moved by the Chairperson is quite in order. It will read that "a person commits the offense of giving a bribe if the person offers, promises or gives a financial or other advantage to another person." instead of 'who knows'. You remove 'who' and it will read: 'If the person offering, promising or giving knows or believes the acceptance of the financial or other advantage would itself constitute the improper performance of the relevant function or activity'. Therefore, Hon. Kaluma's fears are well addressed.

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Hon. Nyikal.

**Hon. James Nyikal** (Seme, ODM): If we go by what Kaluma is saying, you will have the word 'knows' twice. Therefore, one 'knows' is being removed. Simply that.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you *Daktari*. Kaluma on the right of reply, and then we finish with the Chairperson.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, indeed, I do not have a right of reply but a contribution to matters. We requested clarity so that the amendment by the Justice and Legal Affairs Committee perfects the law. The Leader of the Majority has done well to read the whole text together with the amendment. With the reading, it is clear we can now fully support the amendment.

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

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

*(Section 5 as amended agreed to)*

*(Sections 7(1)(a)(v), 7(1)b(i), 10, 14(1) and 15(1) agreed to)*

*(Provisions relating to the Bribery Act, 2016  
(No.47 of 2016) as amended agreed to)*

THE PUBLIC SERVICE COMMISSION ACT, 2017 (NO.10 OF 2017)

**The Temporary Chairman** (Hon. Omboko Milemba): There are no amendments on this one.

*(Section 90(1) agreed to)*

*(Provisions relating to the Public Service Commission Act, 2017  
(No.10 of 2017) agreed to)*



**Hon. Peter Kaluma** (Homa Bay Town, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): What is out of order, Hon. Kaluma?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, the matter has already been agreed to and so, it may be too late to raise it. Why are we changing the reporting time from three months to six months with respect to the PSC, while for other commissions, we were changing from six months to three months? Now that that amendment has been passed, I would like to inform the Leader of the Majority Party that amendments that may appear simple like changing from six months to three months or changing words like “and/or” could be very fundamental in terms of the text of the substantive law that remains. In as much as there is no amendment to that Section, I request that you allow the Leader of the Majority Party to say something about the provisions as the proponent of the Bill.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Kaluma, this matter has been executed. You are a seasoned and ranking Member of this House. The Leader of the Majority Party says he has not heard what you have said. You are a Member who is known to be a sharp communicator.

*(Hon. Peter Kaluma spoke off the record)*

What are you saying, Hon. Kaluma? Give him the microphone.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, my point was that we have been changing the reporting period for commissions from six months to three months. Concerning the PSC, we are moving from three months to six months. That is the amendment proposed in the Bill.

My point was that where there are inconsistent provisions, in as much as there is no amendment, the Leader of the Majority Party needs to explain why that is so or the intended achievement as the Mover of the Bill.

**The Temporary Chairman** (Hon. Omboko Milemba): That matter has already been executed. Let me hear from Members before I allow the Leader of the Majority Party. Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I had raised that matter earlier. If we set the reporting time for independent commissions at six months, let it be the same across all commissions. Some commissions should not report after three months, while others do so after six months. I had raised that point much earlier, but the Leader of the Majority Party was not in the House to pick it up. After his chat with Hon. Kaluma, he will pick it up so that we can clean it up over time.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you. I have heard you. Could we move? Yes, Leader of the Majority Party.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): Hon. Temporary Chairman, just for the benefit of Hon. Kaluma, we amended the reporting periods for two commissions, that is, the Commission on Revenue Allocation (CRA) and the Office of the Controller of Budget. That was about financial reports. The PSC does not generate financial reports. They generate reports to do with their ordinary course of business. Since it will take them time to get returns from the entire civil service in the country, they may need more than three months to prepare a report at the end of a financial year.

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover.

*(Several Members spoke off the record.)*

What do you want to say, Chairperson of the Departmental Committee on Education? Give him the microphone. Meanwhile, as you give the microphone to the Chairperson of the Departmental Committee on Education, let us have Hon. Kaluma.

**Hon. Julius Melly** (Tinderet, UDA): I want to commend Members, especially on this Miscellaneous Amendments Bill. Certain issues are brought to the House through Miscellaneous Amendments Bills that should come as stand-alone Bills. That allows for public participation to discuss and exhaust all the views.

Therefore, it gives it the necessary meat that carries out the Bills in the House. So, Hon. Deputy Chairman, I support the Statute Miscellaneous Amendment Bill. However, we need to note certain areas that we need to amend and those that need to stand alone.

Thank you, Hon. Deputy Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Temporary Chairman. Hon. (Dr) Nyikal, who has become a guru in parliamentary procedure, was raising the same issue that the Chair of the Department and Committee on Education raised. He was asking that, in as much as the House has been quorating and we have dealt with this with the utmost dedication for which he thanks the Members, is it possible, in terms of our parliamentary procedure, that the Title of the Bill may be amended so that we say the Statute Law Amendments Bill? But that has passed.

Hon. Temporary Chairman, the point I wanted to make is that... I have confirmed to Hon. (Dr) Nyikal that you would be right to amend if you wanted to and if the House carries it. That amendment would be carried and go into publication. There is no problem with it because the House makes the ultimate decision. As one of the Leaders of the House, I wanted to make the point that we are proceeding to the Committee of the whole House barely at the Quorum level. We are just barely over 50 Members to transact this business. We are barely over 50 and so, we have pulled through. I thank the Members who have sat through.

Hon. Temporary Chairman, if you look at the situation we have and, more so, outside the House... I want to use this occasion as we wait for the Mover to move to remind the Members and, more so, my colleagues in the first term, that this is the legislation stage. If you hear that Parliament's first role is to legislate, the Committee of the Whole is the stage of legislation. At this time, Hon. Deputy Chairman, the Bill is re-read clause by clause, word by word, punctuation by punctuation and what, indeed, comes out is what becomes the law.

I am registering my regret, Chair, in as much as we proceeded with Quorum, but there is a large bulk of Members of Parliament who are very useful to these parliamentary processes elected by the people and who, instead of being here and joining these quorate Members, are drinking tea all over. I am requesting, particularly those Members who are honing their skills in legislation, to be in the House and, more so, a time like now.

**Hon. Julius Melly** (Tinderet, UDA): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): There is a point of order! Yes, Chair of the Departmental Committee on Education and Research.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Chairman. Is it in order for Hon. Kaluma to insinuate that Members are taking tea and yet they are consulting? They are not taking tea. Members are in their caucuses and discussing very serious



parliamentary issues. We need to make it right before Kenyans that Members do not go and take tea; they are consulting in caucuses and are doing parliamentary processes.

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you. It can never be better than the way you have put it. Hon. Kaluma, conclude, please.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Deputy Chairman, I am corrected and a good beneficiary of the great wisdom of the Chair of the Departmental Committee on Education and Research. Being a former educationist, he knows better. The point I am making is that, in as much as we can consult outside of the House, there are times when the business being transacted in the House requires us to consult within. At the Committee of the whole House, you can consult within. You have a lot of freedom. You can consult behind the Hon. Speaker. There are Chambers all over, and even across the aisles. It is allowed.

The point I was making, Hon. Temporary Chairman is this: You remember we had a meeting as leaders just a short while back and the presence of all Members when critical business of the House is being transacted was mentioned. That is why I was complimenting these Members who have stood through to ensure the House has Quorum as we transact the Committee of the whole House.

Even today, at the start of the House, the bell had to be rung, and the substantive Hon. Speaker was seated here. The Members were eating. Members were consulting over food. Let me say it differently. In as much as we can consult over a meal or tea, we can consult all over the precincts of Parliament. There are times when the business of Parliament requires any consultation we are engaged in to be undertaken here. Even today, when we began transacting the Committee of the whole House, I found the corridors full.

The Hon. Speaker just left the room, and you came in. Members who should be transacting business here are all over the corridor bothering the Secretary of the Hon. Speaker, wanting to see the Speaker. The Hon. Speaker left here so that you can transact business, and the Hon. Speaker needs to be following the debate. But Members are interrupting him instead of undertaking debate here.

**Hon. Irene Mayaka** (Nominated, ODM): On a point of order, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Mayaka, what is your point of order? Is it that he has mentioned the new Members or what is it? Give Hon. Mayaka a microphone.

**Hon. Irene Mayaka** (Nominated, ODM): Hon. Deputy Chairman. I want to tell my Senior Hon. Kaluma that his concerns are well noted. However, it would be wise for him not to blanket-accuse. He can say some first-time Members, but not just blanket-accuse all of us. Those of us who have future aspirations of coming back here as elected Members are being watched back at home by our people, and they know that we take matters of legislation very seriously. That is why we are here. So, even if we are portraying our concerns and airing them, please let us avoid blanket-accusing Members,

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Kaluma conclude so that we can move on.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Deputy Chairman, Hon. Irene is a nominated Member of Parliament under a party in which I also serve, the Orange Democratic Movement (ODM) Party. Let me go on record as excluding her from the condemnation she mentioned about. Her consistency in the House and, more so, at this stage, is commendable. Beside that Hon. Chair, if you have noted, any time Hon. Irene makes presentations, she has moved very fast from being the daughter of Raila activist she was to a very solid legislator, and I commend her for that. The point I am making is that even the leaders of the House are not there. We have matters concerning Committee Chairs, but they are not here. The point and the emphasis I am making is that let us be on the Floor for parliamentary business.

I thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): You have already made your point, Hon. Kaluma. Hon. Leader of the Majority Party, proceed.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Sorry, Hon. Temporary Chairman. When I moved, it was either the Mover had moved, I had gone to pick a bottle of water. The Serjeant-at-Arms should be more alert to provide water when people have been here for long. I also want to agree with Hon. Kaluma and caution Hon. Irene Mayaka that when Hon. Kaluma has such kind words for you, and considering the Member you are seated next to, you should be very careful.

Hon. Chairman, I beg to move that the Committee do report to the House its consideration of the Statutes Law Miscellaneous Amendment Bill, National Assembly Bill No.60 of 2022 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

IN THE HOUSE

*[The Temporary Deputy Speaker (Hon. Farah Maalim) in the Chair]*

### MOTION

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE  
STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL  
(National Assembly Bill No.60 Of 2022)

**The Temporary Deputy Speaker** (Hon. Farah Maalim): Chairperson, report to the House.

**Hon. Omboko Milemba** (Emuhaya, ANC): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the Whole House has considered the Statute Law (Miscellaneous Amendment) Bill, National Assembly Bill No.60 of 2022 and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. Farah Maalim): The Mover. Hon. Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Deputy Speaker, I beg to move that this House do agree with the Report of the Committee of the whole House on its consideration of the Statute Law (Miscellaneous Amendment) Bill, National Assembly Bill No.60 of 2022. I request Hon. Memusi to second the Motion.

**The Temporary Speaker** (Hon. Farah Maalim): Give Hon. Memusi the microphone.

**Hon. Memusi Kanchory** (Kajiado Central, ODM): Thank you, Hon. Temporary Speaker. I second.

**The Temporary Speaker** (Hon. Farah Maalim): That is fair enough. Hon. Members, I now propose the question.

*(Question proposed)*

**Hon. Jared Okello** (Nyando, ODM): On a point of order, Hon. Temporary Speaker.

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**The Temporary Speaker** (Hon. Farah Maalim): What is your point of order, Member for Nyando? Proceed.

**Hon. Jared Okello** (Nyando, ODM): Thank you, Hon. Temporary Speaker. I believe that our Standing Orders could be similar. By invoking Standing Order 35, for obvious reasons, allow that question to be put at a later date. This is based on the importance of this particular issue.

Thank you, Hon. Temporary Speaker.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Yes, Hon. Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Hon. Temporary Speaker, I beg to move:

THAT, the Motion for agreement with the report of the Committee of the Whole House be amended by inserting the words `subject to recommitment of the provisions relating to the Public Holidays Act (Cap 110).`

I ask Hon. Melly to second.

**The Temporary Speaker** (Hon. Farah Maalim): Yes, Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker, I second.

*(Question of the amendment proposed)*

*(Question put and agreed to)*

*Resolved accordingly:*

THAT, the House do agree with the Committee in the said report subject to recommitment of the provisions relating to the Public Holidays Act (Cap. 110).

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Temporary Speaker (Hon. Farah Maalim) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Chairman (Hon. Omboko Milemba) in the Chair]*

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL  
(National Assembly Bill No.60 of 2022)

*(Recommitment of provisions relating  
to the Public Holidays Act)*

**The Temporary Chairman** (Hon. Omboko Milemba): Thank you, Members. We are back to the Committee of the whole House.

PUBLIC HOLIDAYS ACT (CAP 110)

*Schedule*

**The Temporary Chairman** (Hon. Omboko Milemba): Mover. Please, tell us the page so that Members are in tandem with you.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairman, there is no amendment in the Order Paper but in the main Bill it is on Page 1457.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Members, the amendment is in the main Bill on Page 1457.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I beg to move:

THAT, the Public Holidays Act, Cap. 110 be amended in the schedule by —  
Deleting the expression “Utamaduni Day” and substituting therefor the expression “Huduma Day”.

The import of this amendment is to delete what has been provided for in the Bill, which was to delete the expression “Utamaduni day” and substitute thereof, with “Huduma Day” and insert the following definitions...

Hon. Temporary Chairman, if you also go to the Memorandum of the Bill, just for clarity, you will see that the Bill was proposing to amend the Public Holidays Act to provide that 10<sup>th</sup> October, which was yesterday, shall be known as Huduma Day and 26<sup>th</sup> December, shall be known as, Utamaduni Day.

Yesterday, Kenyans celebrated Utamaduni Day and it was a very good and colourful day where many of our children, for those of us who have young children, were able to learn a lot about the various cultures in this country. We want to ensure that 10<sup>th</sup> October continues to be celebrated as Utamaduni Day and 26<sup>th</sup> December remains as a Boxing Day as it has been. Should anyone want to rename 26<sup>th</sup> December, probably they can do that at another time. For now, we want the enrichment of the diversity of our cultures to be celebrated.

I want to plead with the Ministry of Gender, Culture, the Arts and Heritage to do better than they did yesterday. I must commend the Ministry of Tourism and Wildlife for the work that they did yesterday to inform Kenyans and the world on how rich the diversity of our cultures is. We want to encourage them that, even next year, we hope to see a situation where our school calendar in the days preceding 10<sup>th</sup> October, our school children right from Early Childhood Development (ECDs) to our universities and colleges, are able to celebrate their cultural diversity.

I would pray to see a situation where the week preceding 10<sup>th</sup> October, maybe from the 3<sup>rd</sup> to 9<sup>th</sup> October every year, children are encouraged to dress in their cultural dresses to their schools other than the normal school uniform. That way, children will be able to appreciate that they all come from rich cultural backgrounds, but they are together as Kenyans, so that we do not lose our culture. I, therefore, want to move that we delete the provisions that were in this Bill, so that we maintain 10<sup>th</sup> October as Utamaduni Day.

As had been said, this was an inadvertent oversight by the Departmental Committee on Administration and Public Affairs. It should have been among the amendments that they were to propose, but the Chairman just called a few minutes ago.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairman** (Hon. Omboko Milemba): Yes, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Chairman, I totally agree with the Leader of the Majority Party because yesterday, there was a bit of confusion and I was part of the confusion because I think I had read the Bill in advance before it had been passed. I actually thought it was Huduma Day to celebrate service to the people of Kenya. With that clarification, it is okay.

Honestly speaking, deep in my heart, that day should have remained as Moi Day. I do not want to lie. It should have remained as Moi Day because I have a very nostalgic view of

Moi *tawala* Kenya and Nyayo milk. We should not wash away that history. He was a consummate politician, a very committed leader and, indeed, we should have allowed the name to remain. But as you always say, *wengi wape, wachache wasikize*.

Just to echo what the Leader of the Majority Party has said, in terms of dressing, some communities do not have traditional dressing. The traditional dresses we used to have then were natural. We used to have something to tie around our waist here.

*(Hon. (Dr) Oundo demonstrated traditional dressing)*

So, you walk and if you meet somebody, you turn it.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Oundo, your point has been made.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): If you meet somebody, you turn it back. That cannot be applicable for now. We just need to develop a Kenyan dress so that it signifies *utamaduni*.

Thank you, Hon. Temporary Chairman.

**The Temporary Chairman** (Hon. Omboko Milemba): Let me hear from Hon. Memusi.

**Hon. Memusi Kanchory** (Kajiado Central, ODM): Thank you, Hon. Temporary Chairman, for giving me this opportunity. I support the amendment.

Our country already has a dress code. When anyone dresses in Maasai attire, they are known to be Kenyan. We can officially take that as our dress code. We should take this opportunity as Members to popularise Utamaduni Day. It is a very important day. As much as we would have wanted it to remain as Moi Day, it will be difficult for us to have a day for every President of this country. However, Utamaduni Day can resonate well with the entire population of Kenya.

Our young ones should be taught and educated about their diverse cultures. That will help them to have an identity. Many things are coming up. A few months ago, we were discussing issues of Lesbians, Gays, Bisexuals, Transgenders, and Queers (LGBTQ).

*(Applause)*

Those issues are brought about by identity crises. We should view Utamaduni Day as very important to this country for us to ground our children in their very rich cultures.

I support the amendment.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Mayaka, then Hon. Melly.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Chairman. I also support the amendment. One beautiful thing about our country is that our culture is extremely diverse. We do not just celebrate the Maasai culture. We also celebrate different communities. That is the beauty of who we are.

I also agree that we need to start searching for a Kenyan national outfit which, if any Kenyan goes out there to participate in sports or any other art, they can easily be identified as Kenyans. Ethiopia, Ghana and other countries have specific outfits. Culture is not just about dressing. It is also about food, our songs and art.

As I conclude, in as much as we are changing this day to Utamaduni Day, we also need to take the Ministry to task to ensure that when this day comes, we do not just celebrate at the national level but also in our schools and everywhere else. People should celebrate the different cultures in Kenya.

**The Temporary Chairman** (Hon. Omboko Milemba): Lastly, Hon. Melly.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Chairman. Culture steadies a society. As I watched television yesterday and saw the various customs on display, costumes worn by Kenyans when they were dancing at the Bomas of Kenya, as well as the different dress codes by the Maasai, the Borana, the Turkana, the Kalenjin, and the Kikuyu, all those denote our country's rich culture. As much as we have different cultures and traditions, they unite us. The Luo culture and traditions are very rich. We should appreciate the diversity of each community. The Act also talks about enriching our languages and traditions.

Bad new habits like the LGBTQ movement have been brought about by westernisation where many Kenyans believe that anything from the West is good. Entrenching our cultures and traditions through Utamaduni Day will remove the LGBTQ menace.

I support the amendment.

**The Temporary Chairman** (Hon. Omboko Milemba): Hon. Kaluma, which Committee is this? You have one minute.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Chairman, I sit in the Committee. When this matter came before our Committee, we accepted the amendments save for the recommendation that they were substantive and would require amendment through a substantive Bill and not a Statute Law (Miscellaneous Amendments) Bill. However, it is good that you have given me an opportunity to explain why we accepted it. This day was initially called "Moi Day". You remember how it was instituted during the second President's time, up to the time it was being observed. On Moi Day, President Moi, our second President, led the nation in working. You remember the photos of President Moi building gabions. I remember to date though I was a child as early as 1986 or 1987. He was always in short sleeved, very good shirts and leading people to work. So, when it was proposed to us that as Utamaduni Day... The day has been idle and people are just at home. We are talking about what happened yesterday. Hon. Leader of the Majority Party, it was just a select few who were at Bomas.

We are in a society today where Hon. Melly will tell you that his own child does not know Kalenjin language. He is busy talking English and Kiswahili. I want to, therefore, support the deletion of this provision on that different reason. I also want to emphasise that Parliament ought to have ensured that the legislative proposal we have been pushing to deal with those aspects of LGBTQ, which even Western countries are dealing with, is placed before Kenyans. That should have been done yesterday. I, therefore, support and agree with the Hon. Leader of the Majority Party, but from that different direction that the amendment should be substantively brought.

I thank you Hon. Temporary Chairman.

**Hon. Temporary Chairman:** Very Well.

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

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

*(Schedule as amended agreed to)*

*(Provisions relating to Public Holidays Act (Cap.110) as amended agreed to)*

Mover.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Deputy Chairman, I beg to move:

That the Committee do report to the House its consideration of The Statute Law (Miscellaneous Amendments) (National Assembly Bill, No.60 of 2022) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*(The Temporary Speaker (Hon. Farah Maalim) in the Chair)*

## MOTION

### CONSIDERATION OF REPORT OF COMMITTEE OF THE WHOLE HOUSE ON AMENDMENTS TO THE STATUTES LAW (MISCELLANEOUS AMENDMENTS BILL).

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Chairperson, please, report to the House

**Hon. Omboko Milemba** (Emuhaya, ANC): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bill No.60 of 2022) and approved the same with amendments.

**The Temporary Speaker** (Hon. Farah Maalim): The Mover of the Bill, Hon. Leader of the Majority Party, please, move the agreement with the Report.

**Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that this House do agree with the report of the Committee of the whole House in its consideration of the Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bill No.60 of 2022). I also request Hon. Owen Baya to second the Motion.

**Hon. Owen Baya** (Kilifi North, UDA) Seconded.

*(Question proposed)*

**The Temporary Speaker** (Hon. Farah Maalim): Yes, Hon. Leader of the Majority Party.

**Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, before you put the Question, allow me to thank all these Members who have stayed here up to this time, in considering these very important amendments, including that very last amendment on ensuring that Utamaduni Day of October 10 remains Utamaduni Day. I agree with Hon. Kaluma that this should be the day that we teach our children our values and culture as Africans and Kenyans, even from our diverse cultural backgrounds.

Hon. Temporary Speaker, last weekend, I was in Hon. Kaluma's Homa Bay County, and Kabonyo/Kanyagwal in Kisumu County. I really enjoyed the very rich Luo culture and very vibrant people, both in Homa Bay, Siaya and Kisumu counties. You can see the love that is in those people, the energy they have, political excitement and a celebration of an ethnic community that has played a critical role in the democratisation of our country, right from Independence. It is in celebrating this diversity of our nation that today, I want to celebrate the Luo nation for their rich cultural heritage and energy in participating in the political activities of our country. As I did over the weekend, I want to continuously encourage them and other Kenyans to live together as we enjoy our different cultural backgrounds. Ethnicity must never

be a derailing force to our moving together as one united nation. It is in this rich diversity of our cultures that we must all celebrate each other as one nation. Even as we have diversity of opinion in politics, we want to encourage a culture where in our nation, Hon. Kaluma can come to Kikuyu, as he has done before, and he would be received as a leader in this nation and advance ideologies and policies of his party, Orange Democratic Movement (ODM) with nobody stoning him.

I should go to Kabonyo or Usonga and advance the policies of United Democratic Alliance (UDA) without anybody throwing a stone at me or even heckling and shouting me down, so that we encourage each other to foster a nation that is united. We can only do that through such amendments that we have done today to ensure we have space to teach our children. I agree with Hon. Kaluma, probably not Hon. Melly, because Hon. Melly and myself take time to teach our children our vernacular languages. There are however, many children in our country today who, leave alone their culture, cannot speak their mother tongues. We must make it deliberate for our children to learn.

In conclusion, some dangerous and unfortunate amendments had been proposed in this Bill. If Members paid attention to the amendments moved by the Chairman for the Departmental Committee on Transport and Infrastructure on the NTSA Act, somebody mischievously sought to extend the term of a Director-General of NTSA from three to five years. The *Mwongozo* Policy and all our public service guidelines clearly provide that public officers should serve for three years, renewable once, so that you do not have people creating fiefdoms in Government offices. That is why even the drafters of the current Constitution put a term limit to our governors and even the President. It is only people who are in elective offices who go for elections every five years that should enjoy that five-year term. It is very unfortunate that there are those who are using miscellaneous amendments to introduce a simple provision of saying, “delete three and substitute therefor with five”, just because they think that Members of Parliament are so uninformed and un-alert. They think that they can extend their terms illegally. I want to tell those Government bureaucrats in Ministries that we are very alert. We shall not allow them to misuse this House to extend their terms in office.

Hon. Temporary Speaker, if you cannot, in three years, change the organisation that you work for... If you have started making changes, you should actualise everything you want in a second term of three years. If you are looking for five years, it tells us that you have a problem with succession planning. Therefore, you should be on your way out and not seeking to extend.

*(Applause)*

This is a cautionary word to those bureaucrats in Government who have these tendencies. We saw it in the last regime. I can hear Hon. Kaluma saying that they refused to approve the amendments. I am the one who refused to approve them because from where he was seated that time, he agreed.

*(Laughter)*

I am very consistent on this matter. I opposed the extension of the term of the Director-Generals of Kenya National Highways Authority (KeNHA) and Kenya Rural Roads Authority (KeRRA) from three to four or five years. However, Hon. Kimunya who was Leader of the Majority Party could not listen. As Leader of the Majority Party now, I will listen to Kenyans who want officers in Government to serve for a specified time of three years renewable once, so that we can also offer opportunities to other young Kenyans who are growing their careers,



and have hope that they will advance them and go into those big offices as director-generals and chief executive officers in government bodies.

*(Applause)*

Otherwise, if someone serves for 10 years, a 40-year-old will retire as a middle-level manager without rising to higher levels.

Hon. Temporary Speaker, let me thank Hon. Members and congratulate them.

**The Temporary Speaker** (Hon. Farah Maalim): Whereas Hon. Temporary Speaker would ordinarily not weigh into such a debate, given that he is not the substantive Speaker and is a Member of Parliament representing a constituency, have you ever thought of the idea of having term limits for Members of Parliament?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): They should not be there.

*(Laughter)*

**The Temporary Speaker** (Hon. Farah Maalim): Why do you have the double standards? We have term limits for governors and presidents.

*(Several Members spoke off the record)*

Order, Hon Members. I exercised my little authority as Hon. Temporary Speaker and also as the Member of Parliament for my constituency. Let me go back to substantive business of the day. I do not think we can put the Question today. Ordinarily, we must have quorum.

**Hon Peter Kaluma** (Homa Bay Town, ODM): Propose the Question but do not put the Question.

**The Temporary Speaker** (Hon. Farah Maalim): Proceed, Hon. Kaluma.

**Hon Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Speaker, let me join the Leader of the Majority Party in commending the good work that has been done by Members of Parliament in the House today. As a leader within the House, I also thank the leaders who sat through the consideration of this Bill at the Committee of the whole House. There was the notable presence of the Mover, Leader of the Majority Party. There was also the studious way and manner in which Hon. Temporary Chairman of the Committee of the whole House conducted the matter and Hon. Owen Baya, Deputy Whip of the Majority Party.

When I speak that way, you can see some lapses which I will not mention.

*(Laughter)*

Hon. Melly has been very consistent. I was shocked at how fast Hon. Mutuse has grasped the parliamentary procedures and processes. Hon. Nyikal and Hon. Oundo, so that we keep to the discipline of the Orange Democratic Movement (ODM) Party, the honourable lady may not be punished this fast. We thank all Hon. Members who have stayed through. This is how it should be.

Hon. Temporary Speaker, let me make two comments. For the first time, let me thank Hon Ichung'wah. He was in my constituency for the first time. I did not come deliberately because part of the activities you were engaging in was to open the United Democratic Alliance (UDA) Party office. You understand that I could not be with you being an ODM Member and Organising Secretary of the Party in Homa Bay. However, we welcome you. I hope when you were there, you noted that there is no more beautiful place in Kenya than Homa Bay Town Constituency and Homa Bay County, whether you go to Rusinga, Karachuonyo side or in town.

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In fact, that is the place where Satan tempted Jesus because it has very beautiful sceneries. The only problem I have is that I saw a gentleman representing the great Luo community with hanging a fish on his neck when Utamaduni Day was being celebrated by the few Kenyans who attended yesterday. He had fish and *omena* hung on his neck to confirm he was a Luo. Let me tell you, Luo never expose their food. I request that we have real Luo when selecting people for future Utamaduni Day celebrations. I have no doubt that the one who was hanging *omena* and Tilapia on the chest was not a Luo.

*(Laughter)*

**The Temporary Speaker** (Hon. Farah Maalim): Order, Hon. Kaluma. I do not know of real and fake Luo.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Otherwise, I thank the Mover of this Bill because, for the first time, I have seen a Statute Law (Miscellaneous Amendments) Bill transacted in the manner it should. In past circumstances, the Leader of the Majority Party or Movers of those Bills did not allow any amendment. I have seen the Leader of the Majority Party give leeway to the House and Members to reject provisions that should not be accepted in the context of a Statute Law (Miscellaneous Amendments) Bill. Let me thank him for that. Members should debate Bills and make laws for the country with that freedom and liberty. I needed to register that and thank Members for we deliberately allowed each Member to have their say in as much as we ultimately decided. I encourage that we go that way so that we treat them that way whenever we have Statute Law (Miscellaneous Amendments) laws in future.

Today, I was so sweetly surprised that even the Leader of the Majority Party himself said that this and that was not for this law. We went ahead and withdrew some. My compliment is also to the Chair of the Departmental Committee on Education, Hon. Melly. Even the Chair of the Departmental Committee on Transport and Infrastructure came without being obstructed by the Mover or the Leader of the Majority Party. He said we could not have this and that kind of provision in a Statute Law (Miscellaneous Amendments) Bill. Of course, that is the provision to which the Leader of the Majority Party spoke and commented. He said we should freely transact parliamentary business that way.

For that, I thank the Temporary Chairman who presided, the Mover and all the Members who participated. Thank you.

**The Temporary Speaker** (Hon. Farah Maalim): As part of banter and candour, I believe I will allow a few more. Hon. Pukose, are you on a point of order or do you want also to make some comments? Proceed, please.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you for allowing me to make some comments on the miscellaneous amendments Bill. I thank the Leader of the Majority Party and the Members for having stayed up to this hour to transact this very serious business. Of note is that there was some bit of confusion in the public. The media was asking whether it was Utamaduni Day or Huduma Day. That brought some confusion. From the celebrations done yesterday, it was clearly Utamaduni Day. Therefore, I think this House has done justice to make sure that it is a Utamaduni Day. Moving into the future, we hope that each area will organise their Utamaduni celebrations by bringing in the rich cultures of the various communities.

You know I come from Mount Elgon. Endebess Constituency is part of Mount Elgon. We are hoping that Mount Elgon County will be county number 50 as we are proposing so that we can enrich the Sabaot culture together with other neighbours whom we live with. We live with the Iteso and Bukusu, Luhya. That is so that all of us enjoy the rich culture of the communities living on the slopes of Mount Elgon. We are Kalenjins. Actually, that is the original home of the Kalenjins. That is why we have the Kalenjins on the slopes of Mount Elgon, both in Kenya and Uganda. We have the Sebei Kalenjins on the Ugandan side. They are very

good at running. That is why you find the likes of Cheptegei, Kiprop and others performing very well.

I think there is something about those highland mountains and the Rift Valley. If you go all the way to Sudan and Ethiopia, you will find that they are athletes. We will ask our scientists to find out if there might be something about them. Myth has it that we were the ones who were sent as messengers when we were in Pharaoh's Kingdom in Egypt. We were also the soldiers protecting the Pharaohs. We were taking letters to villages. That is how we became athletes. That is how we became runners.

On the matter on the Floor, miscellaneous amendments must be about minor things and not substantive matters. Some rejections on the amendments are in favour of things that can be done substantially and those that require public participation. The public should know what is transacted. More often than not, the public might not be aware of what happens with the Statute Law (Miscellaneous Amendment) Bill. Sometimes they find out about a law being passed without their input and yet, it affects them substantially.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. (Dr) James Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Speaker for giving me this opportunity. I will be brief because I want to give a proposal on what my colleagues have talked about regarding the handling of miscellaneous amendments. I propose that the House Rules and Procedures Committee, which you sit in, streamlines the process for miscellaneous amendments. We need to reserve these amendments to the minor issues and a certain fixed number of Acts. With this, Committees can work on them. If left open like this, we will always talk about them and not get anything done. I propose that you take this up to the House Rules and Procedures Committee.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Next is the Hon. (Dr) Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Temporary Speaker. I also join my colleagues in congratulating those Members who have painstakingly sat through to the end.

I want it to go on record that the law-making process takes place in the Committee of the whole House. When the Finance Bill 2023 was being debated, many Members were opinionated out there and yet, they did not attend the Committee of the whole House. That is pure storytelling. It should be clear that, at the Committee of the whole House, is where laws are made.

*(Applause)*

In that same breath, I implore my colleagues from the other side that the Committee of the whole House should be a stage where amendments are discussed and won or lost based on merit, relevance and compliance with the Constitution. I urge them to stop the habit of carrying a paper written "No" or "Yes" which is shown to them by one of the Members. I have observed that any amendment from our side is outrightly opposed without any discussion. This does not foster or support the law-making process in this House. I discourage the young legislators from rejecting amendments because they are moved by Hon. (Dr) Oundo, from Funyula, who does not support the Kenya Kwanza Government. That does not foster democracy. I urge us to review matters based on merit.

Finally, on the issue of Utamaduni Day, I sincerely urge all of us to go back to our constituencies and invigorate our culture. Many of us have constituents living in Nairobi who hardly go home, and if they do, it is for a short time. Now that we have Utamaduni Day, through

the Ministry of Gender, Culture, the Arts and Heritage, we should support those kinds of activities in urban areas because that is where the lack of understanding of our culture lies.

Thank you, Hon. Temporary Speaker.

**The Temporary Chairman** (Hon. Farah Maalim): I am going to allow one-and-a-half minutes each to Hon. Melly, Hon. Mayaka and Hon. Mutuse, who is my colleague in the Departmental Committee on Justice and Legal Affairs. Did I get the pronunciation right? Proceed, Hon. Melly followed by Hon. Mayaka and Hon. Mutuse.

**Hon. Julius Melly** (Tinderet, UDA): Hon. Temporary Speaker, I also want to speak to the Miscellaneous Amendments Bill. I want to commend the Leader of the Majority Party for being hawk-eyed, especially on issues that could otherwise mutilate our Constitution and also affect the running of our institutions. This House oversees the Executive and ensures that the laws that are passed are actually in line with the Constitution. The issue that was raised by the Leader of the Majority Party, and which was almost sneaked through this Bill, was going against the Mwongozo Code. It is like having an office-bearer increase his term limit against the law.

Secondly, Committees need to be very vigilant because this Bill went through the winnowing level and all processes and yet, they managed to sneak the wrong part into this House. I, therefore, ask various Departmental Committees to be very vigilant, especially in going through this particular Miscellaneous Amendments Bill.

Lastly is the issue of amendments that could otherwise be better discussed through main Bills. There are certain sections of the Miscellaneous Amendments Bill which could be stand-alone Bills that could be taken through stakeholder meetings and discussed. On the other note, I thank Members for their commitment and for sitting through long hours. Actually, this is the reason why they were elected by the people they represent. They are being watchful of the parliamentary process.

I thank you, Hon. Temporary Speaker.

**The Temporary Chairman** (Hon. Farah Maalim): Hon. Mayaka, you have one-and-a-half minutes. Give her the microphone.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Speaker. On behalf of the female gender, I would like to also thank Members who have sat through this process. As Hon. Kaluma has said, this is the core of legislation. For some of us who are first-timers here, we get to learn a lot about what needs to be ventilated.

I also support what the Hon. Oundo has said. Sometimes, when the Minority side comes up with amendment ideas, it is not because we are fighting what the Government side is saying. It is because we are also proposing amendments that we feel are beneficial to this country. Therefore, I encourage Members and the Majority side to have an open mind. This is because when the Majority side proposes amendments that we believe are beneficial to Kenyans, we support them.

Additionally, to echo the words of most Members, we thank the Leader of the Majority Party for his leadership on this Bill; for guiding the House and for letting us ventilate our ideas. But out of curiosity, I am just wondering why the Leader of the Majority Party is drinking so much water. What thirst is he trying to quench? Was it the thirst from going to Luo Nyanza for too long or is it the thirst of trying to lose weight? Maybe he can explain.

*(Laughter)*

**The Temporary Chairman** (Hon. Farah Maalim): That is with a light touch.

*(Hon. Millie Odhiambo-Mabona spoke off the record)*

Order, Hon. Millie Odhiambo. Proceed, Hon. Mutuse.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Thank you very much, Hon. Temporary Speaker. Like our colleagues have done, I rise to appreciate each one of us for the role we have played. Indeed, it was a very good session. We appreciate the Leader of the Majority Party for his guidance and for the kind words that he has said about some of us. Hon. Kaluma, we also appreciate you for the kind words that you have said about us.

I also wish to thank the leadership of the Majority Party for giving some of us, who are new, leadership roles in crucial Committees. I serve as the Vice-Chairman of the Departmental Committee on Justice and Legal Affairs. It is a Committee that, ordinarily in many parliaments, is reserved for returning Members of Parliament. We, therefore, do not take it for granted that we have been given such a critical role to play.

As I conclude, history has been made because by passing the Miscellaneous Amendments Bill in this House, we have increased the number of Court of Appeal judges from 30 to 70. Those of us who understand how the three branches of Government are supposed to work, and also understand the inner workings of the Judiciary, know that the Court of Appeal has been part of the stumbling block to the speedy expedition of justice. In the just recently released Judiciary Performance Report, most of the backlog of our cases is in the High Court. This is because we have very many High Court judges feeding to very few Courts of Appeal judges. Therefore, many decisions have stayed in that court for very long. We want to recover and build our economy, and we must give confidence to investors, especially where we are dealing with commercial matters. They cannot be done in perpetuity. We are, therefore, very happy.

This House will go to the annals of history as the House that provided the adequate staffing of the Court of Appeal in order not just to expense justice in a fair and just manner, but also to use justice to build the economy by decisions being made in a manner that is timeous.

I thank all the Members who sat through the sessions and Members of the Departmental Committee on Justice and Legal Affairs, which had many amendments that came before this House. That includes you, Hon. Temporary Speaker. I know your contributions. We look forward to continue to work for the people of this country and for those who elected us.

Thank you.

*(Putting of the Question deferred)*

**The Temporary Speaker** (Hon. Farah Maalim): Fair enough, Hon. Mutuse. I now call upon the Deputy Leader of the Majority Party, to indulge us on the Public Finance Management (PFM) Act, negotiations and basically table it if it is done.

## PAPER

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

Report of the Mediation Committee on the Public Finance Management (Amendment) Bill (National Assembly Bill No. 16 of 2023).

**The Temporary Speaker** (Hon. Farah Maalim): Thank you. Have you given notice?

*(Hon. Owen Baya spoke off the record)*

Proceed and give notice.

## NOTICE OF MOTION

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APPROVAL OF THE MEDIATED VERSION OF THE  
PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order 150(3), this House adopts the Report of the Mediation Committee on the Public Finance Management (Amendment) Bill (National Assembly Bill No.16 of 2023), laid on the Table of the House on Wednesday, 11<sup>th</sup> October 2023, and approves the Mediated version of the Public Finance Management (Amendment) Bill (National Assembly Bill No.16 of 2023).

Thank you

**The Temporary Speaker** (Hon. Farah Maalim): Fair enough. Next order.

**BILL**

*Second Reading*

THE KENYA DRUGS AUTHORITY BILL  
(National Assembly Bill No.54 of 2022)

*(Moved by Hon. (Dr) Robert Pukose on 4.10.2023 – Afternoon Sitting)*

*(Resumption of debate interrupted on 4.10.2023 – Afternoon Sitting)*

**The Temporary Speaker** (Hon. Farah Maalim): I am made to understand that you had moved this as the Chairman of the Committee. Were you in the process of moving it?

*(Hon. (Dr) Robert Pukose spoke off the record)*

Okay. Proceed and move this Motion.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, Hon. Temporary Speaker. I proceed to move the Kenya Drugs Authority (Amendment) Bill No.54 of 2022 on Second Reading. I had initially started to move and I will continue.

This Bill provides for the regulation of medicines. It, therefore, penalises the sale of adulterated and substandard medicine, and medicine which has not been registered by the Kenya Drugs Authority. It requires compliance with standards of manufacturing, labelling, packaging, sale or advertisement. The Bill penalises the manufacture, sale, preparation and storage of medicine, including herbal medicine, contrary to prescribed standards. It sets out the factors that warrant the issuance of a product license and provides for the establishment and management of a medicines register. It also provides the procedure for registration of medicines.

Part V of the Bill, which comprises clauses 7 to 46 provides for regulation of scheduled substances. Under this Part, the Kenya Drugs Authority (KDA) is expected to prepare and submit a list of scheduled substances to the Cabinet Secretary that will only be sold by authorised sellers who are specially licensed to do so. The Bill, therefore, criminalises the possession of scheduled substances by unlicensed persons. The Bill further makes provision for licensing of dealers of scheduled substances, labelling of containers that will be used to

supply scheduled substances, and the sale of such substances, including through electronic or online means.

Part VI of the Bill, which comprises clauses 47 and 48 provides for manufacture of medicinal substances upon issuance of a manufacturing license, which is renewable annually by the KDA, as well as compliance with good manufacturing practices.

Part VII of the Bill, which comprises clauses 49 to 54 provides for regulation of therapeutic substances or therapeutic cosmetics. Some people apply cosmetics which might be harmful to their skin. This Part prohibits the sale of therapeutic cosmetics that contain substances that may injure the user's health due to lack of adherence to directions on the label, as well as preparation of therapeutic cosmetics under unsanitary conditions.

Part VIII of the Bill, which comprises clauses 55 to 59 provides for regulation of medical devices. The Bill penalises the sale of adulterated and sub-standard medical devices, which have not been registered by the KDA. It further requires compliance with standards of manufacturing, labelling, packaging, sale or advertisement of medical devices.

Part IX of the Bill, which comprises clauses 60 and 61 establishes the National Quality Control Laboratory, which is responsible for the examination and testing of drugs and any material substance from which drugs may be manufactured, processed or treated, and ensuring the quality control of drugs and medical devices. The National Quality Control Laboratory will be the quality control laboratory for the KDA. It will perform chemical, biological, biochemical, physiological and pharmacological analyses and other pharmaceutical evaluations. It will also be involved in conducting research, training and testing the quality of locally manufactured and imported medicines or medical substances, medical devices or therapeutic cosmetics on behalf of KDA.

Part XII of the Bill, which comprises clauses 62 to 70 provides for standards of advertisement and labelling of health products and technologies. All advertisements must be authorised by KDA, especially those related to diseases listed in the Sixth Schedule to the Bill, including HIV/AIDS, leprosy, diabetes, pneumonia, as well as drugs and appliances for procuring abortions. You will often find people placing misleading advertisements on radio or even in print media that certain drugs cure gonorrhoea, leprosy, tuberculosis or HIV/AIDS. That should be controlled.

Part XIII of the Bill, which comprises clauses 71 to 87, provides for administration and enforcement of the Act. The Bill makes provision for the general powers of the Cabinet Secretary on recommendations of the KDA to prohibit or control certain medicines or medical devices, and to request further information.

The Bill further authorises the Kenya Drugs Authority to:

- (a) Authorise the sale or supply of unregistered medicine or medical devices for a specified period.
- (b) Request for information.
- (c) Inspect licenses and books of license sellers.
- (d) Retain and dispose seized goods.

Hon. Temporary Speaker, when it comes to livestock, there are drugs that are used in livestock that most of the veterinary doctors do not have a pharmacist within them. The livestock drugs will be controlled by the Kenya Drugs Authority. The Bill provides also in Part 14 for financial provisions where the Bill sets out the sources of funding for the Kenya Drugs Authority. The preparation of annual estimates, reports and special reports, the investments of the Kenya Drugs Authority funds accounts and audit.

The Bill has seven schedules. The First Schedule contains the provisions on the conduct of business and affairs of the board. Second Schedule provides the Oath of Affirmation. Third Schedule contains provisions relating to appointment of members of the board. Fourth Schedule provides for the establishment and membership of scientific advisory committees. Fifth

Schedule provides for specified publications standards of medicine. Sixth Schedule sets out the purpose for which drugs may not be advertised and the Seventh Schedule sets out the repeals being made under the Bill.

The Committee made the following observations when dealing with this Bill. That the Bill expands the functions of the current Pharmacy and Poisons Board and re-engineers...

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

**The Temporary Speaker** (Hon. Farah Maalim): What is your point of order? Are you on a point of order?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Yes.

**The Temporary Speaker** (Hon. Farah Maalim): What is your point of order, Hon. Oundo?

## QUORUM

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): The Bill that is before us is very important and fundamental to human and animal life and the general welfare of the people of Kenya. Looking at the numbers and how we are in this Chamber at this particular moment, in view of the importance of the Bill, we may not be able to transact business. I stand under Standing Order No.35 to say that we do not have numbers to transact business for now.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Are you saying we do not have numbers or we do not have Quorum?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): We do not have Quorum. We lack Quorum.

**The Temporary Speaker** (Hon. Farah Maalim): Fair enough. Standing Order No.35 is... Order, Hon. (Dr) Pukose. Indeed, Standing Order No.35 is expressed and states thus:

- (1) If at any time after the Chair is taken, or when the House is in Committee, a Member objects that there is not a quorum present, the Speaker or the Chairperson shall count the Members in the House or the Committee as the case may be.
- (2) If on the count under paragraph (1) a quorum does not appear to be present, the Speaker or the Chairperson shall cause the division bell to be rung as on a division, and if no quorum is present at the expiration of the ten minutes—

Proceed now and ring the Quorum Bell.

**Hon. Jared Okello** (Nyando, ODM): Hon. Temporary Speaker. Kindly allow me for a minute.

**The Temporary Speaker** (Hon. Farah Maalim): Yes. What is it?

**Hon. Jared Okello** (Nyando, ODM): Thank you very much, Hon. Temporary Speaker. Whereas I acknowledge the advancement by the Hon. (Dr) Oundo as regards to Standing Order 35, your discretion equally may allow the Member who was on his feet under Standing Order No.1 to proceed. That is because he was winding up. He was on observations.

**The Temporary Speaker** (Hon. Farah Maalim): Order! Order, Hon. Oundo and Hon. Members. When a Quorum is raised and there is no Quorum... The Speaker only invokes Standing Order No.1 where there is a lacuna. It is not provided for.

Standing Order 35(2) says:

“If on the count under paragraph (1) a quorum does not appear to be present, the Speaker or the Chairperson shall cause the division bell to be rung as on a division, and if no quorum is present at the expiration of the ten minutes—”



Order, Hon. Oundo! You and Hon. Pukose should listen. It is “shall cause.” It is not “may.” “May” is may or may not but “shall” is mandatory.  
Proceed and ring the Quorum Bell.

*(Applause)*

*(The Quorum Bell was rung)*

**The Temporary Speaker** (Hon. Farah Maalim): Stop the Bell. Hon. Robert Pukose will have a balance of 15 minutes to continue moving his Bill at an appropriate date in the future.

### ADJOURNMENT

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Members, there being no quorum, and the time being 7:30 p.m., this House stands adjourned until Thursday, 12<sup>th</sup> October 2023 at 2.30 p.m.

The House rose at 7:30 p.m.

*Published by*  
Clerk of the National Assembly  
Parliament Buildings  
Nairobi