

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Tuesday, 23rd June, 2020

The House met at 10.00 a.m.

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

PRAYERS

Hon. Deputy Speaker: Hon. Members, you know it is not very easy now to confirm the quorum. That is because we also have to know the number of Members who are in other holding areas. So, we will allow a few more members to come in and then we can make the final confirmation.

Order Members, it is now confirmed that we have the required quorum and, therefore, business will begin.

COMMUNICATION FROM THE CHAIR

CHANGES IN THE MAJORITY PARTY LEADERSHIP

Hon. Members, Standing Order 19(1) provides leeway for the largest party or coalition of parties in the National Assembly to elect a Member of the party or coalition of parties to serve as the Leader of the Majority Party. Further, Standing Order 19(3) outlines the procedure for removal of a Leader of the Majority Party.

In this regard, Hon. Members, and pursuant to the provision of Standing Order 19(4), I wish to inform the House that I have received a letter from the Majority Party Chief Whip communicating that the Jubilee Coalition held a Parliamentary Group meeting on June 22nd, 2020 at the Kenyatta International Convention Centre (KICC). The letter also conveys that, the Meeting, which comprised of Members of the Coalition in the National Assembly and chaired by the Party Leader, His Excellency the President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces –

- (i) removed Hon. Aden B. Duale, EGH, MP, from the Office of the Leader of the Majority Party in the National Assembly; and,
- (ii) elected Hon. (Dr.) Amos Kimunya, EGH, MP as the new Leader of the Majority Party in the National Assembly.

Hon. Members, the Majority Party Whip has also attached the Minutes of the proceedings thereby complying with the provisions of Standing Orders 19, regarding the election and removal of the holder of the Office of the Leader of the Majority Party.

Subsequently, the change takes effect from today, 23rd June, 2020, and affects all other offices and committee memberships designated for the Leader of the Majority Party. These include

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the House Business Committee, the Committee on Selection, the Committee on Appointments and the Liaison Committee.

Hon. Members, I take this opportunity to congratulate Hon. (Dr.) Amos Kimunya, EGH, MP and wish him well in his new mandate. I also wish to sincerely thank Hon. Aden Barre Duale, EGH, MP for diligently and effectively carrying out his work as Leader of the Majority Party since 2013, and further wish him well as he continues to discharge his other duties as a Member of Parliament.

Hon. Members, the House is accordingly guided. I thank you. At this point in time, I would allow Hon. Duale to make his remarks. Ordinarily, we would say it his exit remarks.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Deputy Speaker. Following your communication a few minutes ago, let me make my exit speech as I hand over the instruments of the Office of the Leader of the Majority Party to the new office-holder. Indeed, just like the famous Swahili saying, “*Kilicho kuwa na mwanzo hakikosi kuwa na mwisho*”, today makes the end of my service as the first Leader of the Majority Party of this House under Article 108 of the Constitution.

Hon. Deputy Speaker, to this end, I wish to thank the President of the Republic of Kenya and my party leader Hon. Uhuru Kenyatta, the Deputy President His Excellency William Ruto and the entire Jubilee Party, including the MPs, for having given me the opportunity to serve the people of Kenya as the Leader of the Majority Party for the past seven years now. I also take this opportunity to again thank my colleagues from the Minority Party, especially those who were in the 11th Parliament led by my late brother Hon. Nyenze and Hon. Jakoyo Midiwo and also, the current leadership led by my very good friend and the man we joined Parliament together in the 10th Parliament, Hon. John Mbadi, and Hon. Mbui who is the Deputy.

I also take this opportunity again to congratulate my able successor Hon. Amos Kimunya as he takes over the Office of the Leader of the Majority Party in the august House. I know he has a wealth of experience having served as a Minister for Finance and held various leadership positions in Parliament. For this, I have no doubt in my mind that he has what it takes. Hon. Kimunya, I wish you all the best in your new appointment and, again, congratulations!

Hon. Deputy Speaker, I have read many comments and views about what Kenyans are saying that my shoes are too big to fit. This is not, however, for me to judge. All I know is that we wear different shoes, walk differently and feel different in them. As you take up the new mantle my distinguished colleague Hon. Kimunya, please, wear your shoes, walk according to your style and how you feel. All that counts is that you serve the people of this great nation well.

My experience as the Leader of the Majority Party has taught me that, as one pushes the agenda of the Majority Party, it is almost inevitable that one will make new friends, new enemies and opponents particularly within the party, depending on where their interests are. Interestingly, interests also keep evolving and, hence, one’s opponents today might be his or her friends tomorrow and *vice-versa*. The most important thing is while attempting to work with everyone, keep your eyes on the ball and deliver the price.

On that note, allow me to unconditionally ask for forgiveness and apologies from anyone in this House and outside whom I may have offended in the course of executing my duties. I was simply doing my job and such is the nature of the job as Hon. Kimunya will come to appreciate soon. During the seven years of my service, I came to appreciate the professionalism of the technical staff of Parliament. The Office of the Speaker, the Office of the Clerk of the National Assembly previously held by the late Justin Bundi and now Mr. Michael Sialai made my work less difficult. For this, I will forever be grateful and indebted to those offices and the very hardworking

men and women who contributed to making the work done effectively, efficiently and with speed. Ahsanteni sana.

As I exit, I am indeed proud to know that during my helm as the Leader of the Majority Party, I was able to push through the agenda of the Majority Party effectively. The results are out there and they speak for themselves. Hence, I will not belabour to lay out the same. I was not removed for inefficiency or lack of delivery, but simply because of the cycle and career of politicians. I, therefore, harbour no ill feelings or grudge.

Last but not least, I wish to appreciate my able staff that was drawn from all over the nation. I had capable members of staff from Nyeri, Laikipia, Kisii, Nyanza and Garissa, among many other counties. I wish them all the best and I will forever remain indebted for the support they accorded to me in the last seven years.

As I conclude, allow me to inform my brother Hon. Kimunya that, during the transition period, he is also free to consult me on anything. I, indeed, look forward to being of assistance to him as he settles in his new position. It is not my wish to let him grapple in the darkness. I want to thank all the MPs who were in the 11th Parliament who are here, those who are outside and those who were in the 12th Parliament for the invaluable support they gave me during my tenure. I will always be appreciative of their support.

I want to thank the various directorates in Parliament. The Director of Legal Services and her staff, the Director of Parliamentary Budget Office and her staff, the Director of Legislative and Procedure and the Director-General. I want to thank all of them for the support they gave to my Office. Let me say this prayer found in Islam. That, there is no storm that God will not carry you through; there is no bridge that God will not help you cross; there is no battle that God will not help you win. Trust God and never give up. Amen.

Finally, before I retreat to the Backbench to serve the great people of Garissa Township who have elected me three times in three different political parties... The Orange Democratic Movement (ODM) brought me to this House. I want to thank that Party because it inducted me into politics. In 2013, they elected me under the United Republic Party (URP) and in 2017; they elected me under the Jubilee Party. That alone shows that the people of Garissa Township elect the person and not the party. They elect the person because of nothing but service delivery.

Hon. Deputy Speaker, I am sure now as a senior Backbench, when I put my card in the slot, you will give me a fair opportunity as a ranking Member to ask Questions, file Statements and Petitions. To join those who were singing during the Value Added Tax (VAT) of 2018 and join any other group who will be agitated on behalf of the people of Kenya. When that comes, I want every Member to count on me. This is because when you are the Leader of the Majority Party, there are a number of things – I am sure my colleague the Leader of the Minority himself knows. There a number of things you cannot do.

I think the remaining two years will help me to get so many friends at the Backbench. So, if you see me with a statement — not only on behalf of Garissa Township but on behalf of the people of Kenya — and interrogating the Executive, I am sure that I am up to the task to exercise the oversight, representation, budget making and legislative powers given to me by the Constitution, on behalf of the people of Garissa Township.

I want to tell the people of Garissa Township that I will remain the first occupant of the Leader of the Majority Party Office and, maybe, the longest serving. In 2013, there were many majority and minority leaders, but I happen to be the longest serving. Seven years is not a short period. Those who will come after me, including Hon. Amos Kimunya, will find an office that has the necessary infrastructure, capacity and linkage with all arms of Government.

Hon, Deputy Speaker, if you allow me, I want to thank the Office of the Attorney General; State Law Office, both the former Attorney General Prof. Githu Muigai, who I have worked very closely with, and the current Attorney General and former Court of Appeal Judge Kihara Kariuki; all Cabinet Secretaries (CSs) and Principal Secretaries (PSs); and those in the Executive and the Judiciary who in the seven years, we have worked together to make sure that the issues of the Executive have been brought to the Floor of the House.

Finally, as I retreat to the Backbench, allow me to hand over this file to the incoming Leader of the Majority Party as he starts his work. This file includes among other things, a brief dealing with the pending business in the House and the majority party business that originated in this House, but is now pending in the Senate. The pending business in the Public Accounts Committee (PAC) includes Bills by the majority party from the Executive, Bills of committees and private Members, Motions, Sessional Papers and Treaties among other things. I hope that this symbolic handover becomes part of the practice of the House, which includes my handing over letter.

I also want to make it part of the record of the *Hansard*, that I am handing over Bills undergoing mediation, Bills passed by the National Assembly and pending in the Senate, Bills awaiting Second Reading, Bills awaiting First Reading, Bills awaiting processing for publication, Bills which have been withdrawn, pending Treaties, Protocols and Agreements, Sessional Papers, Private Member's Bills and any other business. As I take my seat as a Backbencher, let me hand over this file to Hon. Amos Kimunya and ask him to come and take the seat that I have warmed for the last seven years. I wish him all the best.

(Hon. Aden Duale handed over the file to Hon. Amos Kimunya)

(Applause)

Hon. Deputy Speaker (Hon. Moses Cheboi): Very well. As you exchange the seats, you have already been thanked by the Speakership for the diligent work that you have done for the last seven years but, most importantly, for the magnanimity in your handing over. In many cases, people who do this kind of handover would probably even not be available to do such. So, it is good. Probably, it is because of the fact that you are a battle-hardened politician just like the gentleman who is taking over from you. I am also informed that he is equally battle hardened. So, thank you once more, Hon. Aden Duale. You did your work and did it well. We wish well to the new Leader of the Majority.

I am trying to get a sign from him if he would want to have an acceptance speech. If he does, that will be fine; if he wants to do it later, that is also fine. I can see that already, you have a handful and you probably would be having quite a lot of work this morning as you assume the new office. So, would you want to say something, Hon. Amos Kimunya?

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Deputy Speaker. Hon. Deputy Speaker, allow me from the onset, to first thank the Party Leader of the Jubilee Coalition, His Excellency President Uhuru Muigai Kenyatta, and the party members for endorsing me to take over this challenging office. I know that it is challenging because in the 10th Parliament, I had the responsibility as Deputy Leader of Government Business but, technically, became the *de facto* Leader of Government Business for the last three years of the 10th Parliament. So, I know the drill, what it means and that it really takes you away from your family, constituents and other things you want to do sitting here.

It is against that background that I want to recognise the sacrifice and effort that my predecessor, Hon. Aden Duale, has put in this office for the last seven years. I have been here in the 12th Parliament since 2017 and I have been watching him as we have worked together. Fortunately, we are good friends. We have worked together through the House Business Committee and even here in the House, and I have seen the amount of time that he has put in being in this House and the committees; constantly being on the phone consulting, being the linkage with the ministries and sorting out the issues between the committees and the ministries. So, I have been learning from him without necessarily thinking that I will eventually take over from him. Thus, I want to thank him for the lessons given so far. I am glad that he has promised to be there for me because there are certainly some things that you gain from seven years' experience. You cannot do something for seven years and not learn some intricate ways of getting this done.

I really want my personal appreciation to go on record - and H.E the President did express the party appreciation - and we would like to have it on the *Hansard* - the appreciation of the Jubilee Coalition for the work that Hon. Aden Duale has put in for the last seven years. I know the people of Garissa Township Constituency may not have appreciated what you do in the House because it is like, how does it translate to issues on the ground? Perhaps, in the next two or so years, it will give you an opportunity to get back to them, see what is happening on the ground and get them to understand what you have been doing for the last seven years. I did ten years, Hon. Deputy Speaker, if you recall, in the Cabinet. The people of Kipipiri at some point even decided: What is this man doing? He is out there in the Ministry but we want a Member of Parliament (MP) on the ground. So, they made a change in 2013. But, I took it very positively and said that it is a nice break for me to reconsider what I need to do for my personal development and I went back to school. I think that was the best investment of that period, when I was away, that I made.

At times, nature provides you with an opportunity to redefine yourself and I want to ask my friend, Hon. Aden Duale, to look at it from that perspective. There are some crucibles in leadership that comes, changes your life and you start thinking, yes, I have been doing this but is there something else that I probably should be doing? And, it gives you time to start preparing. I ask that we continue working together. We unify this country together. We should ensure the unity of our party, working together with our colleagues from the Minority Party for the good of Kenyans. We should also shape up this 12th Parliament so that we can say that the investment of the last seven years plus what we will invest now will make the 13th Parliament look at the 12th Parliament as the one that really set the standard for the future.

I do not want to say a lot. I could get emotional. It is the good thing to do. I am happy that we have done it through a formal process, this being the first hand-over of the Majority Party. I hope we have set the pace for what will happen in future.

Once again, thank you, Hon. Duale, for what you have done and the continued friendship that we will enjoy as we work together for Kenyans.

Hon. Deputy Speaker: Okay. Having said that, I want to give an opportunity to only a Member or two. At maximum, it will be two Members. Very briefly! Maybe, the Leader of the Minority Party should advise you on the kind of shoes you need to wear. I realise that you and Hon. Duale are almost similar in terms of the number of years you have served in this Parliament. The only advantage on your part is that you served on the other side of Parliament, that is, outside, when Kipipiri asked you to take a brief break, which probably Hon. Duale has not tasted. You are probably also tested in the fact that you can survive the terrain outside.

I will only give an opportunity to the Leader of the Minority Party and probably the Minority Whip but only if he will be brief. Let us start with the Minority Whip so that we conclude

with you, Hon. Mbadi. I will probably give an opportunity to a few extra Members if you agree to be very brief.

(Loud consultations)

By the way, the Members who are saying ‘yes’, will probably not be lucky enough to have an opportunity.

Please, be very brief, Hon. Minority Whip.

Hon. Junet Nuh (Suna East, ODM): Thank you, Hon. Deputy Speaker for giving me this opportunity. At the outset, I congratulate the new Leader of the Majority Party for assuming his new role. At the same time, I also thank the former Leader of the Majority Party, Hon. Aden Duale, for the good job he has done in this House.

I was in the 11th Parliament when Hon. Duale was the Leader of the Majority Party then. That Parliament was more difficult than this one. This one is under the framework of the Handshake. The temperatures have gone down. In the last Parliament, the Leader of the Majority Party really did his job. As the Coalition for Reforms and Democracy (CORD) then, we had to plan very well to defeat Duale in this House. I want to tell my brother Duale that, as former President Moi said, “*Cheo ni cha wananchi. Sisi ni wadhamini wao*”. You serve when you have been given an opportunity and you leave when the opportunity ends.

I want to tell the new Leader of the Majority Party that we will work with him. I know you have all the experience. I know that you were the Leader of Government Business in the 10th Parliament and you are equal to the task. We will work together as a Parliament and see how we can advance the agenda of the people of Kenya. Politics is very difficult, Leader of the Majority Party. When the going gets tough, do not die. Remain strong. Do not say that you would rather die than resign. Do not die. Just stay alive. We shall support you. Dying is the worst thing that can happen.

To the former Leader of the Majority Party, politically, my brother, when you see us following *Baba* like cows, we fear the consequences like the ones you are facing now. Politics is like that, *Mkubwa*. If you go against the wishes of the people who own parties and who lead this country, the consequences are dire. It is a good experience for me. I will be more loyal than I was. I will sing *Baba* throughout.

Hon. Deputy Speaker: Let us have the Leader of the Minority Party. I will then give a chance to a few Members. Just a few Members but, please, take a minute each.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Deputy Speaker. First of all, on behalf of the Minority Side - I know my Whip has spoken - I would like to congratulate Hon. Amos Kimunya, the Honourable MP for Kipipiri, who is the incoming Leader of the Majority Party. I have no doubt in my mind that Hon. Amos Kimunya will not disappoint in this position.

First, he has the experience that has been talked about. He is serving his third term in Parliament. More importantly, he has served in two positions that are very critical for the position that he will now hold. First, he was the Deputy Leader of Government Business in the 10th Parliament. That put him in a position where he was serving like the Leader of Government Business because the Vice-President was the Leader of Government Business. He has also been a member of the House Business Committee in the 12th Parliament. Hon. Duale and I have served in that Committee. He is one of those MPs who religiously attend the House Business Committee meetings without fail. Having said that, I also want to add that he is an accountant like myself! We

know accountants to be very thorough and all-round. If you want an all-round person, you will get him or her in an accountant. We are even lawyers.

Allow me to say the following about my good friend, Hon. Duale, who is the outgoing Leader of the Majority Party. Hon. Duale and I came to Parliament on the same day. We were sworn in on the same day and in the same party. We planned together to elect Marende as the Speaker. Since 2011, Duale and I have not been on the same political side. He chose to support the President and Deputy President. As everybody knows, I have stuck and continue to stick with the Right Hon. Raila Amolo Odinga. We were in different camps. One thing is clear. At a personal level, we have been very good friends from 2011 to date and, possibly, in the future. I do not see us breaking up our personal friendship. I know Duale not just as the Leader of the Majority Party, but as my personal friend.

Sometimes, people could not understand how we relate so well at a personal level but when it comes to work, we disagree properly. That was the nature of work. In terms of delivery, I do not think it is in doubt. Hon. Duale, you have done your bit and have done it well. I do not think anyone would have done it better than you, especially as the first Leader of the Majority Party in this country at a time when it was not easy.

As I conclude, Hon. Duale has weathered many storms as the Leader of the Majority Party. There were times in the 11th Parliament when he really annoyed us. I remember the passing of the Security Laws (Amendment) Bill when we physically fought. I did not fight with him physically, but we fought with words. The only reason I did not fight him physically was because he was my friend at a personal level. If he was not my friend that day, I would have looked for a way of hitting him and probably, he would have also retaliated. In a nutshell, he had the zeal, determination and willingness to deliver for his party. Hon. Duale, you have been lucky. Serving for seven years in a volatile political environment like ours is not easy.

There is one thing that I want to say about him, Hon. Deputy Speaker. He is a very honest person. If something is not possible, he tells you and you can disagree with him. I wanted to be the Chairman of the Public Accounts Committee (PAC) in the 11th Parliament. However, the Jubilee Party was not comfortable with me. I asked him the reason because I had been whispered to by a Member. I will tell you who told me today. Hon. Nelson Gaichuhie whispered to me that Hon. Duale did not want me to be the Chair of PAC. I confronted him as my friend. He told me that if I wanted to be the Chair of PAC, I should talk to Hon. William who is the Deputy President. I told him that I did not even have his number. How would I have talked to him? He gave me his number. I called the Deputy President. He did not pick the call because he did not know that it was me. When I sent him a text, he called me after three minutes and he asked where I was. I told him that I was in Parliament and we talked. I told him that I wanted to be the Chair of PAC. I also told him that if I did not talk to him, I would not be the Chair. The rest is history, but we spoke.

I am happy because Hon. Duale told me that the Jubilee Party was very uncomfortable with me being the Chair of the PAC. I did not become the Chair of the PAC. That is politics. Who wants someone who will not further his political agenda in a particular seat? I wish Hon. Duale well in his service for the people of Garissa Township Constituency. At a personal level, we will still remain friends. As to your political leaning, I do not know where you will stand because a lot of changes and dynamics are coming along the way going to 2022. I can already see them. There will be political groupings and tsunamis. I do not know whom it will sweep. I do not know whether it will be you or me. We may find ourselves in the same group. However, if that group does not have Hon. Raila Odinga, I will not be in it.

(Laughter)

Thank you, Hon. Deputy Speaker. I wish everyone well.

Hon. Deputy Speaker: Hon. Members, you are taking too long to contribute. Therefore, it is becoming difficult for me to give the opportunity to many Members. For purposes of gender, I will give the opportunity to Hon. Shamalla.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Deputy Speaker. I thank Hon. Duale for his excellent leadership. I interacted with Hon. Duale last year during the International Conference on Population and Development (ICPD) in Nairobi. He is steadfast and with values that are grounded in his deep and rigid religious beliefs. Our conservative values converged and we travelled to Arizona State in early January where he was invited by conservative Republican Party leaning Americans to a conference to discuss the values that we both share. I want to thank him from the bottom of my heart for this.

I congratulate Hon. (Dr.) Amos Kimunya on his appointment as the Leader of the Majority Party. As Hon. Duale has said, everyone wears his or her shoes differently. Do it your way but make sure that you make it the best.

Hon. Deputy Speaker: Okay. Let me go to the request list again. Hon. Atandi. Hon. Members, I will go by this list because there are already too many requests.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute. I want to start by congratulating Hon. Kimunya on his appointment as the Leader of the Majority Party. He is very experienced. I am sure that he will use his experience to further the interest of Kenyans.

Hon. Deputy Speaker: Give me a minute, Hon. Atandi. I ask the Serjeant-at-Arms to release Members to come and sit on Chairs No.327, 270, 238, 170, 272, 162, 165, 258, 224, 315, 189, 192, 130, 208, 311, 204, 184, 229 and 320. You can usher Members quickly, so that Hon. (Dr.) Pukose and other Members do not need to put up their hands from where they are. Proceed, Hon. Atandi.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Deputy Speaker. I would also like to congratulate Hon. Duale for the good job that he has done for this Parliament. He has been consistent on the independence of the National Assembly. He has done a very good job. The only thing that all of us agree with is that Hon. Duale was removed because of politics; but not because of under-performance. He did not read the politics of the future very fast. When we said that the country needs to come together, he stayed behind.

We need to thank Hon. Duale for putting up the fight, especially on the welfare of the Members of Parliament. If there is anyone who believes in the Members of Parliament in this House, it is Hon. Duale. There is a big difference between Hon. Duale on the microphone and as a person. I related very well with him on the matters of his House. He does not care which political party you belong to. Such a leader is very rare to come by. When Hon. Kimunya was appointed yesterday, I was online and I saw the comments that came across.

Hon. Deputy Speaker: Your minute is over, Hon. Atandi. Finalize.

Hon. Samuel Atandi (Alego-Usonga, ODM): I urge him to go online and read what the people are saying about him. That will help him to execute the functions of this office competently.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. ole Sankok, contribute for one minute. There is a reason I have increased the number of Members who will contribute. I want them to contribute for one minute.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Deputy Speaker. Let me start by congratulating Hon. (Dr.) Amos Kimunya on his appointment. At the same, I wish Hon. Duale very well. He is our political father, especially some of us who are first-termers. From today, we are orphans. The only solace we have is that Hon. Duale was not relieved of his duties because of incompetence, but political intrigues.

I have learnt today that loyalty to the party Chair and leader is very important. If you take my blood sample today, you will not get Covid-19. You will get red blood cells being President Uhuru, white blood cells being President Kenyatta and minerals being Hon. Tuju, Hon. Ruto and others. Hon. (Dr.) Pukose will tell you that the blood has bacteria that normally....

Hon. Deputy Speaker: Your time is over. Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Deputy Speaker. I congratulate the new Leader of the Majority Party. Many people do not know that Hon. Duale and I went to Moi Forces Academy. We were classmates for two years in Forms 5 and 6. The passion that people see in Hon. Duale today did not start when he became a Member of Parliament. When we were in school, we had debating clubs. One person tried to make a joke one day and said something about a malnourished Member for North Eastern. There was almost hell to pay because Hon. Aden Duale debated throughout that period.

He is one of those very humorous people. He said that he went to Moi Forces Academy because his grandfather was the chief of general staff. He went there to look for Mohamed's daughter. He came out of there with a wife. I came out of there...

(Laughter)

This is a great man who has done a great job for this nation. We congratulate him for the work that he had done. We respect him for that.

Hon. Deputy Speaker: I am looking for the Member at the very end. Proceed.

Hon. (Major (Rtd.) Bashir S. Abdullahi (Mandera North, JP): Thank you very much, Hon. Deputy Speaker, for giving me this opportunity to contribute. First and foremost, I want to congratulate the incoming Leader of the Majority Party, Hon. Amos Kimunya, on his appointment yesterday. Equally, I want to thank Hon. Aden Duale for doing exemplary work in this House. I am a first-termer but certainly, I have been following him since his selection as the Leader of the Majority Party in 2013. He did a good job. He made us proud in this House and outside. Even the Party Leader said that he was not removed because of incompetence, but other dynamics.

As you serve with us in the Backbench, keep your head high. We wish you all the best. We welcome Hon. Amos Kimunya to the new position. I know that he is equal to the task. However, I am sure that Hon. Duale's shoes might be too large for you.

Hon. Deputy Speaker: Hon. Tim Wanyonyi, I had given you the microphone. What happened?

An Hon. Member: Thank you, Hon. Deputy Speaker...

Hon. Deputy Speaker: No, I am talking about Hon. Tim Wanyonyi, the Member for Westlands.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you very much, Hon. Deputy Speaker. I also want to congratulate Hon. Amos Kimunya for the new position that he has taken and also to thank Hon. Duale for the exemplary work that he has done as the outgoing Leader of Majority Party since we joined Parliament in 2013. One may easily dismiss this matter as a Jubilee affair that does not affect the Opposition but, it affects all of us as Members of Parliament. It will not go

without saying that whatever is happening in the political arena is seriously affecting the institution of Parliament. The invasion of Parliament by the Executive...

(Hon. Wanyonyi's microphone went off)

Hon. Deputy Speaker: What happened? I gave you a minute. I am adding you 10 seconds to wind up because that is the time we took looking for you. Hon. Wanyonyi, you may proceed for 10 seconds.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Deputy Speaker. I was saying that the invasion of Parliament by the Executive is weakening the institution of Parliament. I believe Parliament is an independent arm of the Government and, as much as the political parties are expressing themselves, we need to assert ourselves and speak with one voice. Our division is what is causing the Executive to drive us and weaken Parliament.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Okay. Let us hear Dr. Pukose. I will also give a chance to a few Members because there are some consultations going on regarding the Finance Bill.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Deputy Speaker. I thank Hon. Duale for the good work that he did. His removal from office has nothing to do with his performance. This is what we say, in Kiswahili: "*Asante ya punda ni mateke.*" Hon. Duale and the rest of us have been de-whipped not because of under-performance, but because people thought that we are leaning towards the Deputy President's side.

Hon. Robert Mbui (Kathiani, WDM-K): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, Deputy Minority Leader?

Hon. Robert Mbui (Kathiani, WDM-K): Hon. Deputy Speaker, I have heard my good friend, the Hon. Pukose say "*Asante ya punda*". Is that not derogatory considering that he is talking about his own party leader?

Hon. Deputy Speaker: Just to make it easy, Dr. Pukose, please, let us not deviate. Concentrate on the opportunity I have given you and do what is necessary and right.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Deputy Speaker, in the last elections, we campaigned for Jubilee and we delivered. We did not expect outsiders to come and kick us out of Jubilee. However, we shall meet with the '*wananchi*' in the field and the people will decide.

Thank you, Hon. Duale for the good work you have done and welcome to the Deputy President's side.

Hon. Deputy Speaker: Members, I am finding it difficult because I am picking you from the intervention slots. Very soon, we should start the substantive business. Hon. Kirima, you may proceed. You were not the one to go first. It is the Member behind you, who must be Hon. Ogutu. But you can proceed anyway.

Hon. Moses Kirima (Central Imenti, JP): Thank you, Hon. Deputy Speaker. May I take this opportunity to thank Hon. Duale for the work he has done and for the way he has mentored us as first timers in Parliament. He has guided us and we congratulate him. Despite our failures, he has led us well. He has proved himself to be a great man who has a bright future ahead. He has also showed us that despite the pressure on his shoulders, he can still deliver. He has delivered on behalf of the Jubilee Government. We wish him well. He has a bright future ahead.

To Hon. Kimunya, we wish him the best. He has been there before and we expect much from him. We expect to see what he used to deliver during President's Kibaki's time. This time...

Hon. Deputy Speaker: Let us hear Hon. Nuru Angwenyi.

(Loud consultations)

Members, it is difficult to balance. I will not give everyone an opportunity. Let us hear Hon. Angwenyi, and then we come to this other side. By the way, Hon. Members, I am sure you might be aware that Hon. Jimmy Angwenyi is the Deputy Majority Leader. He has worked with Hon. Duale and, of course, he will be working with Hon. Kimunya. Hon. Jimmy, the Floor is yours. There is a problem with your microphone. Would you want to come to the Dispatch Box?

Hon. Jimmy Angwenyi, please stay there. In the meantime, let me give another Member the opportunity as I locate your seat. That will be Hon. Kabinga. Members, some of you will get an opportunity to speak and others may not.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Deputy Speaker. May I take this opportunity to welcome and congratulate the incoming Leader of Majority, Hon. Kimunya. I have interacted with him as a mentor in my parliamentary work. For that reason, I want to congratulate him and welcome him to this challenging position.

Let me also congratulate Hon. Duale for the good work he has done in the last three years I have been in this Parliament. As a newcomer, I interacted with him a lot. The people of Mwea will forever be grateful for the way we worked with him in the repeal of Cap 347, Laws of Kenya – which had been a problem to the people of Mwea – and came up with the new Irrigation Bill. We shall forever remember him for that. I will continue to consult him...

Hon. Deputy Speaker: Hon. Angwenyi, I am finding it very difficult to give you the Floor. There is a problem with where you are seated. Please, come to the Dispatch Box.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Thank you, Hon. Deputy Speaker, for giving me a chance to welcome my new boss, Hon. Amos Kimunya, and also thank my former boss, Hon. Duale. Hon. Duale has worked with me very closely and very well in the last three years I have been his Deputy. He has worked very well in promoting the Government's agenda both in this House and outside. He has served the country very well. We thank him. He has now handed over to Hon. Kimunya and maybe next time, Hon. Kimunya will hand over to him a ministerial position as Cabinet Secretary for Finance – a docket that Hon. Kimunya previously held. He might get back that job in the future. You never know. At that time, we will assume that it is Kimunya who has handed over to him. He has worked very well and I am sure he will continue working for this country in his position as an MP without being the Majority Leader. He will still serve this country the way he has been serving it for the last 8 years.

Hon. Deputy Speaker: Okay, Hon. Jimmy.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): I welcome Hon. Kimunya to work with all of us as MPs the way Hon. Duale used to do, so that we can achieve that which our people have sent us here to achieve.

Thank you.

Hon. Deputy Speaker: Hon. Wamalwa, I am giving you one minute.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Deputy Speaker. In the book of Ecclesiastes, the Bible says that there is time for everything. There is time to enter and there is time to exit. As Hon. Duale exits, he leaves behind a strong legacy of hard work. In the last Parliament, the temperatures were very high because there was no Handshake. I remember we were on this side and he was on that side and all through he scored. He did good work. He is going not because of incompetence, but because of politics.

I want to tell Hon. Duale that as he moves forward, a big door is going to open. The rejected stone became the cornerstone. I want to tell him that in 2022 he will play a critical role. I was relieved of the position of Deputy Whip of the Minority Party and as you can see, I have put on some weight. For the incoming Leader of the Majority Party, we congratulate him, but please let him neither die nor resign. We will be here to support him and we will support His Excellency the President and move forward to unite this country.

Thank you.

Hon. Deputy Speaker: Hon. Kanini Kega.

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Deputy Speaker. I rise to congratulate the incoming Leader of the Majority Party, Dr. Amos Muhinga Kimunya, whom I have known for a long time. We did our Master's degrees together. I know responsibility comes with a lot of challenges. I know he is up to the task.

To the first Leader of the Majority Party, who has been my good friend, and maybe I was seen as the face behind collection of signatures, I want to say that it was not personal and I have no vendetta against Hon. Aden Duale. I only appeared to be the face, but there were over 120 Members who appended their signatures.

I want to tell Hon. Duale that when the history will be written about Parliament, and especially the 11th Parliament, of course, he will have a huge chapter about himself. He should know that if one door closes another one opens. He should move with his head high.

Hon. Deputy Speaker: Hon. Katoo Metito, you have the microphone.

Hon. Katoo ole Metito (Kajiado South, JP): Thank you, Hon. Deputy Speaker.

First, I congratulate Hon. Kimunya, the incoming Leader of the Majority Party. I served with him in the Cabinet for 10 years. When he was the Deputy Leader of Government Business, I was the Minister for Interior. So, I know that he is up to the task.

We cannot say everything Hon. Duale has done in the last seven years, even if we were to speak for a whole week. I was the Whip of the Majority Party and Hon. Duale was in this House many times more than the time he spent in Garissa Township Constituency. There is no single day one would read about Parliament without reading about Hon. Aden Duale. He stood very firmly and pushed the Government business even when it was very difficult. We wish him the best, my good friend. May God bless him and may God bless the people of...

Hon. Deputy Speaker: The Member at the very end in a white cap. Members, I am referring to you in that manner because I wish we would have placed our names on the face masks.

Hon. Yusuf Adan (Mandera West, EFP): Thank you, Hon. Deputy Speaker.

I stand to congratulate the new incoming Leader of the Majority Party and wish him the best in his endeavors. On the other hand, sincerely, I have known Hon. Duale for a very long time before even he became an MP. He has always been a performer even outside Parliament. Most people have talked about his performance in Parliament, but I have known him outside Parliament before he became an MP and he has always been a performer. Maybe, this is a blessing in disguise for Hon. Duale. He should take it as a blessing in disguise. Some of us who are newcomers wanted a lot of his time for coaching and mentoring and putting our toes...

Hon. Deputy Speaker: Your time is over. That particular Member whose hand is raised come to the Dispatch Box.

Hon. Members, unfortunately I cannot... I have only noticed him now when he has lowered his mask as the Chairman of the Public Accounts Committee. I cannot notice you unless you slot in your card.

Hon Mohamed Mohamud (Wajir South, JP): Thank you, Hon. Deputy Speaker. I congratulate Hon. Kimunya on his appointment as the Leader of the Majority Party. Hon. Duale, the immediate former Leader of the Majority Party has been the patriarch of the Members of Parliament from northern region and the Muslim community.

Last night, I was privileged to have been called by over 27 Imams confirming that Hon. Duale has been an icon in this Parliament and country. He has delivered and I am sure he will deliver not only for the people of Garissa Township, but also the people who have been looking up to him. He has been a patriarch and we appreciate.

Hon. Deputy Speaker: Your minute is over. Let us have Hon. Ogutu.

Hon. (Prof.) Zadoc Ogutu (Bomachage Borabu, Independent): Thank you Hon. Deputy Speaker for allowing me to say some words to my two colleagues, the outgoing Leader of the Majority Party, Hon. Duale and the incoming Leader of the Majority Party. I admired Hon. Duale's ability to lobby me whenever there was need for a Government Bill to be passed. I congratulate him.

To Hon. Kimunya, so far since yesterday, I have seen a number of people raising stones against his history. Please ...

Hon. Deputy Speaker: I would have given a chance to the Member for Tharaka-Nithi, but I will give a chance to Hon...

(An Hon. Member spoke off record)

But you know you are becoming a pastoralist in the Chamber. So, how do I give you an opportunity when you are consulting very far from your seat? Proceed the Member for Tharaka-Nithi.

Hon. (Ms.) Beatrice Nyaga (Tharaka-Nithi CWR, JP): Thank you, Hon. Deputy Speaker.

I would like to congratulate Hon. Amos Kimunya for being appointed Leader of the Majority Party. I would like to congratulate Hon. Duale. He has done a good job and has performed. He has been a mentor to many of us. We wish him the best in whatever he will do. We have learnt a lot from him. I am sure we will learn more from Hon. Kimunya.

Thank you.

Hon. Deputy Speaker: Hon. Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Deputy Speaker, let me also take this opportunity to congratulate the incoming Leader of the Majority Party, Hon. Kimunya and also appreciate the good work the Hon. Duale did in this Parliament. The Chair will recall that in the 11th Parliament the relationship between the Minority and the Majority sides was totally adversarial. In fact, Hon. Duale can be faulted for anything, but not for loyalty to his party, at least, in that Parliament.

In the 12th Parliament, I am not sure what happened. It has to go on record that had it not been for Hon. Duale, perhaps the Minority side then would have overrun the Majority side. He stood very firm and we fought against him fervently, but he defeated us in that Parliament.

For us to continue as a Parliament...

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker. For starters, I have been a Whip in office for the last 12 years, eight of which I worked under Hon. Duale. I take this opportunity to thank him for the time and support he accorded me.

I also want to quickly remind him that the Jubilee Government belongs to us. It is us who elected the President to the seat he occupies today. Please, as he goes out, let him recover. I know he can recover quickly because even in the 10th Parliament he was...

Hon. Deputy Speaker: One minute is over, Hon. Washiali. I will add you just 10 seconds. I do not know why I should, but you had your minute and other Members also want to speak to this. You can see the interest.

Hon. Washiali, now I do not even know how to pick you back again.

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

I just wanted to mention, as I finish, that I know Duale very well. He recovered very fast when he was sacked as an Assistant Minister. I know he will recover quickly even now. I have already recovered. I am also seeing some benefits that you do not have to come to the Chamber the earliest. You can also do your other businesses as you look forward to things that affect your constituency and the nation at large.

Therefore, I thank you and welcome you again. If you want some tea, I will buy for you so that I can advise you on how to behave when you are not in the House leadership.

Hon. Deputy Speaker: Member for Mathare.

Hon. Anthony Oluoch (Mathare, ODM): I take this opportunity to thank the Leader of the Majority Party. Those of us who are on the other side, especially in the last Parliament, were not very happy to have lost in the debate on the Security Laws (Amendment) Bill, and in this Parliament, the Value Added Tax Bill. I think they usually say in Kiswahili “*Mgala muue na haki yake mpe*”. Hon. Duale, hats off.

Hon. Kimunya, I hope you will be able to balance in the Sessions we have for the next two years – a balance between Government Bills and Private Member Bills. That is so that the true meaning of Article 95 can be extended to every Member in this House.

I thank you, and take over.

Hon. Deputy Speaker: Hon. Melly.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Deputy Speaker.

I also congratulate Hon. Duale for the work he did all that time, almost seven years. When he started, I was a Vice Chair. Today I am a Chair of a committee. I also want to congratulate Hon. Amos Kimunya who has been my Vice Chair in the Departmental Committee on Education and Research. I know him very well. He is a very diligent man. He is very committed and knowledgeable on parliamentary issues. I know he has experience as a Member of Parliament, spanning almost 15 years. I know he is bringing the experience to this House so that he can lead and unite the nation.

Hon. Duale, I want to say that we owe you a lot for the work you did, of mentoring us leaders. May God bless you.

Asante sana.

Hon. Deputy Speaker: Thank you, and next Order.

What is your point of order, Hon. Murugara?

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Deputy Speaker.

I rise on a point of order because of the commotion we had at the door this morning, just before we were allowed in. I think the practice of allocating seats is not working. While we observe and agree that the leadership must have their seats reserved, it is my opinion and suggestion that, from now henceforth, these seats be occupied on a first-come-first-served basis.

(Applause)

There is absolutely no reason and no point in allocating a seat to a Member of Parliament who signs in quickly and does not turn up. So, it is my suggestion to the House leadership that,

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for the rest of the seats, let us be allowed to occupy them and transact business when we come in early.

Thank you.

Hon. Deputy Speaker: I hear you, Hon. Murugara. In all honesty, that is a very valid suggestion. The only thing I would want to do, now that we have Hon. Kimunya as the new Leader of the Majority Party and Hon. Mbadi as the Leader of the Minority Party, is to tell them to solve this between themselves. They should take it to the House Business Committee, make the requisite decisions and bring it to us. The truth of the matter is that 30 minutes after the House takes off, quite a number of Members who signed in are not there to occupy their reserved seats. Therefore, we keep putting many Members who come early by the door and from coming in to occupy the seats. I think it is a valid one.

Hon. Leader of the Minority Party, do you want to say something to that?

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Deputy Speaker for making that comment. What needs to be done is just implementation. We agreed in the last meeting of the House Business Committee that there were people who were designated to talk for 30 minutes. I think we finally settled on 15 minutes. A seat is free if a Member has not appeared in the House to occupy it. These seats do not belong to individual Members. It is only that you book. If you booked and you are not there, let the Members who are present come in and occupy those seats. Actually, we need Members in this House. So, I think it is the Chair to give instructions to the Serjeants-At-Arms that, 15 minutes after the start of the Sitting....

(Loud consultations)

Hon. Deputy Speaker: Hon. Leader of the Minority Party, what Hon. Murugara is saying is something you need to tackle between yourself and Hon. Kimunya. You can sit and work it out easily. There are Members who come a little late. Can you finish on the issue of 15 minutes?

Hon. John Mbadi (Suba South, ODM): Hon. Deputy Speaker, first-come-first-served is easier said, but it would also look ridiculous for MPs to start running here. We are not children. Let us have some order and have some few minutes of reservations.

(Loud consultations)

This idea of first-come-first-served is not good because you will start pushing each other at the door. I do not think I would be party to such a thing.

Hon. Deputy Speaker: Hon. Leader of the Minority Party, what you have done is something else. You know we could have a thought into it. You know the modalities can be worked on between the two of you, agree on a certain formula. It can be worked on. So, let us give it some thought and see how we can help Members. Sitting where I am, the truth of the matter is that you sometimes see Members unavailable to take their seats. We can reserve the seats for the leadership, but then the rest can be worked on a certain formula that is comfortable for everybody else.

Hon. Nyasuna, what is it?

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

As the leaders consider this matter, even as we speak about the first-come-first-served, there is one thing I want to appreciate. It has been that when you register, so long as you register first, you will occupy your seat even if you came to the morning or afternoon Sitting. However, I saw a change in that. If somebody sits in the morning sitting, he or she might not sit in the

afternoon. As they think about the first-come-first-served, let us think about those planes in West Africa where seats are not reserved and how people run into the planes. If you go to Lagos or where seats have no numbers, people run into the planes. People can break their legs. So, we must find a formula that keeps the dignity of Members of Parliament. If you start running on those slippery floors because you want to make it here for the first-come-first-served, it might be a problem. As they think about it, let us also consider the issue of the dignity of Members.

Hon. Deputy Speaker: Those are things that you will think about when you are making the decision. Obviously, there will be a few Members from a certain region who will always be having it as the easier option, if it will be a question of running. We should also be thinking about the footballers. So, that is something that will be decided. Of course, let us also look at the persons with different abilities in the House. There are many things that we should consider. I think you can take off.

Let us go to the next Order. By the way, Hon. Members, we are running late. Let us see Hon. Kimunya on the next Order.

PAPERS LAID

Hon. Amos Kimunya (Kipipiri, JP): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

Explanatory Memorandum on Bilateral Air Service Agreement (BASA) between Kenya and the United States of America.

Report on Achievements and Progress in the Financial Year 2019/2020 from the Ministry of Lands and Physical Planning.

The Legal Notice No. 61 of 2020 relating to the Public Finance Management Strategic Food Reserve Trust Fund (Revocation) Regulations, 2020 and the Explanatory Memorandum.

The Draft Land Transaction Registration (Electronic Transactions) Regulations, 2020 with the following accompanying annexures for pre-publication scrutiny:

- (a) Land (Amendment) Regulations, 2020;
- (b) Land (Extension and Renewal of Leases) (Amendment) Rules, 2020;
- (c) Land (Allocation of Public Land) (Amendment) regulations, 2020;
- (d) Land Registration (Electronic Transactions) Regulations, 2020;
- (e) Survey (Electronic Cadaster) Regulations, 2020;
- (f) Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020;
- (g) Duty (Valuations) Regulation, 2020;
- (h) Stamp Publication Notice;
- (i) Public/Stakeholder Consultation (Annex 3a);
- (j) Public/Stakeholder Consultation (Annex 3b);
- (k) Consultation with National Land Commission (Annex 4)
- (l) Consultation with Council of Governors (Annex 5);
- (m) Multi-Stakeholder Joint Taskforce (Annex 6); and
- (n) Regulatory Impact Assessment Report.

Annual Report and Financial Statements for the Financial Year 2018/2019 from the Salaries and Remuneration Commission.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next Order!

STATEMENT

Hon. Deputy Speaker: Hon. Members, since we are running short of time, the request for Statement by Hon. Olago Aluoch will be responded to in the afternoon. We will proceed to Questions. We will start with the Member for Trans Nzoia, Hon. Nangabo.

Hon. Kisang, I have made a ruling on that because we are running short of time and we still have the Finance Bill. Kindly allow us to have that responded to in the afternoon.

Proceed, Hon. Nangabo. I am trying to find you.

QUESTION BY PRIVATE NOTICE

Question No. 007/2020

MEASURES TO CUSHION FAMILIES IN INFORMAL SETTLEMENTS DURING COVID - 19

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Health:

- (a) What measures has the Ministry put in place to ensure that families residing in informal settlements and rural areas adversely affected during the COVID-19 pandemic period due to either inaccessibility or long distance to health-care facilities access health care?
- (b) What measures has the Ministry put in place to address the unequal distribution of resources realised from the COVID-19 Emergency Response Fund to citizens residing in the informal settlements and rural areas?
- (c) What steps has Ministry taken to guarantee health and safety of persons travelling between the cities and the rural areas by public transport during the COVID-19 pandemic period to curb community infections?

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Health. It is a Question by Private Notice, which is supposed to be answered within the stipulated time. Is the Chair, Departmental Committee on Health, in? The Leader of the Majority Party will take it on her behalf. Please ensure it is answered in good time.

ORDINARY QUESTIONS

We will move to the Ordinary Questions. Let us have the Member for Nakuru Town East. I cannot see him. Let us have the Member for Gatundu North.

Question No. 070/2020

STATUS OF GATUKUYU – KAIRI – MATARA ROAD IN GATUNDU NORTH

Hon. (Ms.) Wanjiku Kibeh (Gatundu North, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works the following Question:

- (a) What is the status of the construction of Gatukuyu–Kairi–Matara road in Gatundu North Constituency?
- (b) Could the Cabinet Secretary give the names of the firm(s) or individuals awarded the contract for the construction of the road, the amount of money paid to date and how much is outstanding considering that only one-third of the 30 kilometers has been constructed, yet the project is behind schedule as it was expected to be completed in June 2019?
- (c) Could the Cabinet Secretary confirm that the project is being implemented as per the required standards considering that the 10kms stretch constructed so far is now in a deplorable state?
- (d) What measures is the Ministry putting in place to ensure that the construction of the said road is completed?
- (e) Could the Cabinet Secretary consider cancelling the contract, seek to blacklist the contractors, and award the contract afresh to contractors who will adhere to the required construction standards and timelines?

Hon. Deputy Speaker: Very well. That will be replied to before the Departmental Committee on Transport, Public Works and Housing. I saw the Chairman here a few minutes ago, but he has stepped out. I wanted to confirm the timelines. We will give him two weeks.

Member for Kabete, Hon. Wamacukuru, you have the Floor.

Question No. 071/2020

COMMUNICATION ALLOWANCES TO *NYUMBA KUMI* OFFICIALS

Hon. James Wamacukuru (Kabete, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

(a) Are there plans to provide communication allowances to *Nyumba Kumi* officials and administrators considering that they are currently forced to use their own resources to transmit crucial information to relevant authorities regarding their communities?

(b) Given the risky nature of the *Nyumba Kumi* strategy of anchoring community policing at various levels in the community, what measures are in place to safeguard the security of these officials and administrators; including providing other necessary incentives?

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Administration and National Security. Is the Chair in?

Hon. Member: No.

Hon. Deputy Speaker: Let us have the Member for Tharaka, Hon. Murugara.

Question No. 072/2020

WITHDRAWAL OF PROMOTION FOR TEACHERS IN THARAKA NITHI CONSTITUENCY

Hon. George Gitonga (Tharaka, DP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

- (a) Could the Cabinet Secretary explain why five Deputy Principals, Teachers Service Commission (TSC) Nos. 414517, 462538, 463028, 492980 and 398138 in Job Group “L” duly appointed and deployed by the TSC and who were awaiting to be

put under the 2017 Collective Bargaining Agreement (CBA) for upgrading by the Commission, have had their positions withdrawn and assigned to other officers?

- (b) What steps is the Ministry taking to ensure that Tharaka Constituency is categorised and affirmed as an Arid and Semi-Arid Land (ASAL) area for the above five Deputy Principals to qualify for the upgrade?
- (c) When will the said teachers be upgraded to the positions of Deputy Principal?

Hon. Deputy Speaker: That will be replied to before the Departmental Committee on Education and Research. Hon. Melly, what time do you require? I can now see the Chairman, Departmental Committee on Transport, Public Works and Housing. I am sure you are aware that there was a Question by the Member for Gatundu North. We will be happy if you respond to it in two weeks, unless you need more time.

Hon. David Pkosing (Pokot South, JP): Hon. Hon. Deputy Speaker, that is fine.

Hon. Deputy Speaker: Hon. Melly?

Hon. Julius Melly (Tinderet, JP): Two weeks.

Hon. Deputy Speaker: That is perfect. Let us have the last Question by Hon. Mwadime.

Question No. 079/2020

CONSTRUCTION OF SGR LINE
LINKING VOI, MWATATE AND TAVETA

Hon. Andrew Mwadime (Mwatate, ODM): Hon. Deputy Speaker, I rise to ask Question No. 079 to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

(a) Are there any plans to commence the construction of the Standard Gauge Railway line linking Voi, Mwatate and Taveta in Taita Taveta County?

Hon. Deputy Speaker: That will be replied to before the Departmental Committee on Transport, Public Works and Housing. An indication from Hon. Pkosing? We will pursue that with him. I think two weeks will be enough for him to reply.

Next Order!

BILL

Second Reading

THE FINANCE BILL

(Hon. Joseph Limo on 18.6.2020)

(Debate concluded on 18.6.2020)

Hon. Deputy Speaker: Hon. Members. I confirm that we have the required quorum. Therefore, I will put the Question.

(Question put and agreed to)

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

BILLS

First Readings

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL
THE SOCIAL ASSISTANCE (REPEAL) BILL

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

COMMUNICATION FROM THE CHAIR

CONSIDERATION OF PART OF THE PROPOSED
AMENDMENTS TO THE FINANCE BILL

Hon. Deputy Speaker: Hon Members, before we proceed to the next Order, being the Committee of the whole House on the Finance Bill (National Assembly Bill No.10 of 2020), I wish to give guidance relating to consideration of part of the proposed amendments to the said Bill.

As you may have observed, the notices annexed to today's Order Paper contain several amendments that have been proposed to the Bill. Most of the amendments have been proposed by the Departmental Committee on Finance and National Planning, which has sponsored the Bill; the Departmental Committee on Justice and Legal Affairs, and the Departmental Committee on Transport, Public Works and Housing. There are also amendments proposed by the Member for Kikuyu Constituency, which I am guided have similarities with those of the Departmental Committee on Finance and National Planning. I have approved all those amendments as they are in order with respect to the requirements of Article 114 of the Constitution and our Standing Orders. Those proposed amendments may, therefore, be considered in the Committee of the whole House.

Hon. Members, there are also other amendments proposed by the Leader of the Minority Party, Hon. John Mbadi, and another proposed by the Member for Gatundu South, Hon. Moses Kuria whose considerations I will not permit. This is because the amendments proposed by the two hon. Members have not complied with the provisions of Article 114 of the Constitution and Standing Order 133 (5). As hon. Members are aware, it is now an established practice that whenever the House is to consider any matter that may have financial implications on public funds, the House is bound to proceed only in accordance with recommendations of the relevant Committee, having taken views of the Cabinet Secretary for Finance. Indeed, the intention of this provision is to ensure that while the House reserves the powers to determine revenue-raising measures, it ought not to commit the public without being cognizant of the fiscal policy and other considerations of the national Government.

Further, Standing Order No.133(5) provides that no amendment shall be permitted to be moved, if the amendment deals with a different subject or proposes to unreasonably or unduly

expand the subject of the Bill, or it is not appropriate or it is not in logical sequence to the subject matter of the Bill.

The Leader of the Minority party, Hon. John Mbadi, is proposing to amend the Bill in Clause 12 by inserting a new item in the Second Schedule of the Value Added Tax Act 2013, whose effect is to zero-rate taxable goods imported or purchased for direct and exclusive use in implementation of official aid funded projects. In addition, the Member for Gatundu South, Hon. Moses Kuria, is proposing to amend Clause 11 of the Bill, as well as an insertion of New Clauses 14A, 14B, 28A and 38 in the Bill. These amendments, which target the VAT Act 2013, the Tax Procedures Act, 2015, the Insurers Act Cap.487 and the Stamp Duty Act Cap.480 not only offend the provisions of Stranding Order 133 (5), but proceeding with the same will offend the provisions of Article 144 of the Constitution. This is because the Departmental Committee on Finance and National Planning, having taken the views of the Cabinet Secretary for the National Treasury, recommends to the House in its Report that the House should not proceed to consider the amendments. I, therefore, direct that the Committee of the whole House shall not consider the amendments proposed by the two Members to the stated Bill.

The House is accordingly guided.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE FINANCE BILL

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, welcome to the Committee of the whole House on this important Bill. As one of the Members said earlier, this explains why we are a budget-making House. Last week we dealt with the Estimates in the Committee of Supply. We are now focusing on the Finance Bill and, later in the afternoon, we will deal with the Appropriations Bill. All these are part of the budget-making process.

Hon. Members, may I give this guidance from the outset. Those who will be moving amendments, particularly the Chairperson, should take their time to explain the import of their amendments, so that the rest of the Members are clear on the reasons of the amendments. Let us also agree that we will not have many Members speaking to a given clause. We will be picking one or two Members so that we make progress.

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

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

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Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I do not know.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What of the seat behind you? It will help us to ---

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. It is seat No.126.

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is seat No.126? Hon. Millie, please, you can have the Floor.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you Chair, for giving me the opportunity. I just wanted to raise a concern that I have raised before. Could it be possible for us to be provided with the Bill that we are dealing with, when we are in the Committee of the whole House, because we are not usually very many? Right now, I am trying to look for it online, but I cannot find it. Can we, please, be provided with the Bill to enable us follow what we are dealing with?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Point noted. The Clerk-at-the-Table has undertaken to provide some copies so that Members are able to follow this important process. Copies will be provided as we proceed. I am told it is actually available in soft copy, but as Hon. Millie Odhiambo has said, we also have hard copies. We want Members to follow so that they make decisions from a point of information. So, the circulation will happen as we proceed.

Let us move on.

Clause 2

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is a proposed amendment by the Chair, Hon. Limo.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting the proposed Clause 2 and substituting therefor the following new clause—

2. Section 6A of the Income Tax Act is amended in subsection (1) by deleting—

(a) the words “one hundred and forty-four thousand shillings” and substituting therefor the words “two hundred and eighty-eight thousand shillings”; and

(b) the word “ten” and substituting therefor the word “fifteen”.

The justification for this amendment is that there is a proposal to increase the upper limit for rental income from the current Ksh10 million to Ksh15 million and the lower limit from Ksh144,000 to Ksh288,000, in line with what was done in the Tax Laws (Amendment) Act, to relieve employees who are earning Ksh24,000 and below per month. Those who are in the informal sector and earning rental income have also been relieved in line with what we did. Anybody receiving rent up to Ksh288,000 per year is relieved from paying rental tax.

(Question of the amendment proposed)

(Question, that the words to be left

out be left out, put and agreed)

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

(Clause 2 as amended agreed to)

(Clauses 3 and 4 agreed to)

Clause 5

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment by the Chairperson, Hon. Limo.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 5 by deleting paragraph (f).

The Bill proposes to remove tax exemptions which are always offered to those who engage in social responsibility projects, like building schools and hospitals. But as a Committee, we agreed with the National Treasury that anybody who engages in social responsibility should not be denied the tax benefit. Therefore, we are deleting this provision so that you can retain the exemption, if you build a school, hospital or any social amenities for the benefit of the community.

(Question of the amendment proposed)

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

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Chairman. We do support that particular amendment. For a long time, persons with disabilities (PWDs) have been benefitting from CSR. It was only in 2003 that we had an Act of Parliament on PWDs. Before that, it was purely CSR. So those companies that will have CSR programmes should continue enjoying tax reliefs.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Ichung'wah, the Member for Kikuyu. I almost said Chair of Budget.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. I am Chair Emeritus; I am no longer the Chair of Budget. I want to support that amendment. We cannot punish good acts and acts that are done in good faith. My constituency has benefitted from sin taxes that come from companies like Kenya Breweries and British American Tobacco (BAT). I have seen a lot of support in the drier parts of my constituency from the East African Breweries Foundation in providing water. Therefore, they should benefit by not being taxed for such activities. If you go to Maasailand, a lot of schools have been built through CSR. We need to encourage our corporates, especially at this time of COVID-19, to donate funds to the COVID-19 Emergency Response Fund to support our people.

Therefore, I support.

(Question, that the words to be left

out be left out, put and agreed)

(Clause 5 as amended agreed to)

(Clauses 6 and 7 agreed to)

Clause 8

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment by the Chair of the Departmental Committee on Finance and Planning, Hon. Limo.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 8—

(a) by deleting paragraph (b);

(b) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) by deleting the both paragraphs 53”;

(c) by inserting the following new paragraph immediately after paragraph

(c) —

(d) by inserting the following new paragraph immediately after paragraph 52—

53. Monthly pension granted to a person who is sixty-five years of age or more.

This amendment has three parts. In part (a), we are rejecting the proposed amendment which was proposing to remove exemption from Income Tax available for income from the National Social Security Fund (NSSF). We saw this not to be a good move because it was going to reduce benefits payable to members of NSSF.

In part (b), there was a proposal to remove paragraph 53 and we realised the paragraph contains two issues, one of which is taxation of benefits to pensioners. To separate the content of that paragraph, we propose to delete the whole paragraph and then, in part (c), we return the benefit which was given to members of the public who are 65 years and above and are receiving monthly pension. So, what we are doing here is to save the pensioners. It is in the public domain that pensioners have been crying about the proposal to tax them. However, through this amendment we have returned that benefit to them so that they will not be taxed.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have two Members speaking to this. Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Chair. I want to congratulate the Chair of the Departmental Committee on Finance and Planning for the amendments that he has brought so far, including the one on CSR and goodwill. I want to thank him especially over this. If we have pensioners who have worked and served this country well, and we want to start pursuing them, yet they are over 65 years and above and are struggling at

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home, while we know that so many people are still dependent on them, then it was actually wrong to even imagine such. We know that the country is struggling because of COVID-19. However, we need to find more noble ways of cushioning the economy than to look for more vulnerable people. These are the same people we even collect money for as they are a vulnerable group in the society, yet again, we are still following and taxing them.

I fully support.

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is quite a bit of interest on the pensioners. I had said that two Members speak to it. If you speak for a minute, I can open up beyond the two Members, I had earlier said.

Let us have Hon. Melly first.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Deputy Chairman. This amendment is actually very good. I want to congratulate the Chair of the Departmental Committee on Finance and National Planning. Taxing pensioners is actually doing double taxation on them because they had already paid taxes during their service time.

Two, this is the time they are very vulnerable. They are aged and need money to buy drugs. On top of that, they have many dependents. On the social responsibility issue, it is something that will enhance the social responsibility of institutions and organisations.

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

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Hon. Temporary Deputy Chairman, I actually came to support this particular move. I want to laud the Committee and the Chair for using their wisdom to reverse this particular dangerous trend.

I received representations, particularly from a group of pensioners to come and amend what could have been very wrong. In law, when you are engaged on certain terms, those terms cannot just adversely be changed to your detriment, after you have served. It is quite important that those who served can be sure that their pension would be protected.

I fully support.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Jonah, if you take a minute, especially on this, then I will give an opportunity to a few more Members.

Hon. Jonah Mwangi (Lari, JP): Thank you, Hon. Temporary Deputy Chairman. I also support. I am wondering in the first place, who had brought in that Clause. How do we charge pensioners who have been paying taxes all their time in service? How do we continue milking the old cow? I think it is a very good and wise decision from the Chair, Hon. Limo to remove that Clause.

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

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): I will just join other Members in supporting this. Many pensioners had raised this issue of taxation of their pension. Pensions are meagre in comparison to the regular income that they have been earning. If you again subject it to taxation, then it becomes a problem.

I support and congratulate the Chair and the Committee.

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

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairman. I want to thank the Chair of the Departmental Committee on Finance and National

Planning and say that pensioners should not be taxed. These are people who have paid taxes since they began working until they retired. Therefore, I wish to support that amendment seriously.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, really, let us make progress on this one. Honestly, let the House make a decision on this.

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

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

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

(Clause 8 as amended agreed to)

(Clauses 9 and 10 agreed to)

Clause 11

Hon. Joseph Limo (Kipkelion, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended in Clause 11 (a) by:

- (a) inserting the following sub-paragraph immediately after sub-paragraph (i)
“(ia) deleting tariff numbers 8309.90.90 and its corresponding description appearing in paragraph 39 (3)”;
- (b) deleting paragraph (viii).
- (c) inserting the following new paragraph immediately after paragraph (viii)
(ix) deleting paragraph 108;

Hon. Temporary Deputy Chairman, I will explain all the parts.

The first part was actually an amendment to remove the exemption of aluminum pilfer proof caps under tariff no. 8309.90.90. The exemption of this product is no longer relevant and the stakeholders and the National Treasury agreed that it is no longer relevant or no longer an item which is used.

On part (b), the second amendment in the Bill which sought to delete the exemption that was available for machinery and equipment in the construction of plastics recycling plants, was actually introduced in 2019, to encourage investment in plastic recycling in line with what has been implemented in Kenya. We no longer use plastics and, therefore, we encouraged recycling so that they do not spoil the environment.

The next one is that because of the COVID-19 period, which is actually hurting lives of Kenyans, the Committee realised that the best way is to ensure that all essential goods, including bread and milk, which we did in the Tax Law are zero-rated. What we are, therefore, proposing in this Bill and will come later under Clause 12 without anticipating debate, is to move *unga* prices from the current exempt to zero-rated. To align to that, we have to remove *unga* and supply of maize flour and others, including wheat...What we are doing here is to remove it from exempt because we would be moving to zero. So, that is the explanation.

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

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

(Clause 11 as amended agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): There were two other proposed amendments to Clause 11 by Hon. Mbadi, the Leader of the Minority Party, and Hon. Moses Kuria.

In line with the Communication by the Speaker earlier, this has been disallowed in line with Article 114 of the Constitution and Standing Order No.133(5). So, the two have been disallowed in line with the earlier Communication by the Speaker.

(Proposed amendments by Hon. Mbadi and Hon. Kuria disallowed)

(Hon. Junet consulted Hon. Limo)

Hon. Junet, kindly do not engage the Chair much because he has some duty.

Clause 12

Hon. Joseph Limo (Kipkelion, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended in Clause 12 by inserting the following paragraph immediately after paragraph (c) –

(d) inserting the following new paragraph immediately after paragraph 19

20. The supply of maize (corn) flour, cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than ten per cent in weight.

Basically, what this Clause is doing is to zero-rate the supply of flour, cassava, wheat and all that so that it makes it cheaper especially, during this COVID-19 period. It will make it cheaper and affordable to Kenyans.

(Question of amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): I will only give two Members a chance. Hon. Sankok, if you will be brief, we will really appreciate.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Deputy Chairman and the Hon. Chair of the Departmental Committee on Finance and National Planning for that particular amendment. We really need basic food that is flour, rice and cassava to be zero-rated for the sake of common citizens.

Thank you, very much.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I cannot really tell who this Member is. Is it Hon. Makali? Yes, kindly have the Floor.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman. I must commend the Chair of the Committee on Finance and National Planning for this amendment... (*Inaudible*) These are basic essentials and as a House, we support this proposal.

I support.

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

(Clause 12 as amended agreed to)

(Clause 13 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, on Clause 12, I did not pronounce myself on the earlier communication by the Speaker with regard to the amendment by the Leader of the Minority Party, which was disallowed. This was in line with Article 114 of the Constitution and Standing Order No.133(5). That is just for record.

Next clause!

Clause 14

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment by the Chair of the Committee on Finance and National Planning, Hon. Limo.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 14 and substituting therefor the following new clause-

Amendment of the first
Schedule to No.23 of 2015.

14. The First Schedule to the Excise Duty Act, 2015 is amended -

(a) in Paragraph 1 of Part 1 by-

(i) deleting the expression "10%" appearing in the description "Beer, Cider, Perry, Mead, Opaque beer and mixtures of fermented beverages with non-alcoholic and spirituous beverages of alcoholic strength not exceeding 10%" and substituting therefor the expression "6%";

(ii) by deleting the expression "10%" appearing in the second column against the description "Spirits of undenatured ethyl alcohol; spirits beverages of alcoholic strength exceeding 10%" and substituting therefor the expression "8%";

(b) by deleting Paragraph 5 in Part 1.

There are two parts here and both aim at enhancing collection of revenue. There was a proposal to reduce the content of alcohol from the current 10% to 8%. Therefore, we are proposing to lower it to 6%, so that we can collect more, but at the same time ensure that the market is operating normally.

In Part (b), we are proposing to delete Paragraph 5, and I actually want to move a further amendment on that. This is because there is an error. Instead of referring to Part 2, it is referring

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to Part 1. Therefore, Part (b) should be amended to read Part 2 instead of what is being referred to as Part 1. This is going to enhance revenue. Currently, the revenue is going down.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Before I put the Question, yes, Hon. Makali.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman. When you look at Part (ii) of that amendment, it still states 8%, and yet he has moved in the amendment from 10% to 6%. Therefore, I do not know whether the 8% there should be changed to 6% or it remains 8%.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair, maybe, you could clarify, the Hon. Member.

Hon. Joseph Limo (Kipkelion East, JP): Let me clarify. It is actually proposing. You know the Bill was proposing to move from 10% to 8%. However, we are proposing an amendment to move it from 8% to 6%.

(An hon. Member spoke off record)

Oh, yes, both. Even the other part should also... Thank you very much for the correction. Even Part (ii) should read 6%. Yes, it should read 6%. Therefore, I am moving a further amendment, so that it will read from 8% to 6%.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. Hon. Makali, thank you for raising that.

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

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

(Clause 14 as amended agreed to)

(Clauses 15, 16, 17 and 18 agreed to)

What is your point of order, Hon. Millie?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, could you, please, direct the beer drinkers next to me who are complaining? There are beer-drinking Members who are complaining very loudly. Can you, please, direct them?

(Laughter)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie Odhiambo, you are out of order because beer-drinking is not a problem. However, for the two Members, are they seated in the right places? They seem to be very close to each other. Hon. Kioni and Hon. Kwenya, I know you are neighbours back at home. However, there must be social distancing. Let us make progress.

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Clause 19

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Limo, do you have an amendment?

Hon. Joseph Limo (Kipkelion East, JP): Yes, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended in Clause 19 –

(a) in paragraph (a) (iv) by deleting the words, “all goods, including materials supplies” appearing in the proposed new paragraph (xxv);

(b) in paragraph (b) (ii) by deleting the words, “all goods, including materials supplies” appearing in the proposed new paragraph (ix).

The amendment is to provide that the exemption for Import Declaration Fee (IDF) is only available specifically for equipment, machinery and motor vehicles for the official use by the Kenya Defence Forces (KDF) and the National Police. The initial indication in the Bill of all goods may lead to abuse of the exemption. Therefore, we are moving this amendment so that we become specific. Likewise, on Part (b), so that the Railway Development Levy is charged to specific items, which are equipment, machinery and motor vehicles for use by KDF and police. It is not general, rather it is specific.

(Question of the amendment proposed)

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

(Clause 19 as amended agreed to)

(Clause 20 agreed to)

Clause 21

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have an amendment, not by the Chairman of the Committee on Finance and National Planning, but by the Chairman of the Committee on Transport, Public Works and Housing, Hon. Pkosing.

Hon. David Pkosing (Pokot South, JP): Thank you, Hon. Temporary Deputy Chairman. We work together in a seamless manner with the Chairman of the Committee on Finance and National Planning.

I beg to move:

THAT, the Bill be amended in Clause 21 by deleting paragraph (a) and substituting therefor the following new paragraph–

(a) by deleting the definition of the term “toll collector” and substituting therefor the following new definition–

“toll collector” means a public toll collector appointed under section 4 and includes a private toll collector appointed under section 4B;

Our motivation is to achieve clarity in terms of the definition of the term "toll collector." In the original Bill, it was not clear and therefore, we are proposing that we make it clear to include or to mean "toll collector" appointed under Section 4, which is public. Also, a toll collector must

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mean the same as a private toll collector appointed under Section 4B. Therefore, the toll collector must have the same definition to refer to a private toll collector and a public toll collector. That is what was missing in the original Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Hon. Kimani Ichung'wa.

Hon. Kimani Ichung'wa (Kikuyu, JP): Hon. Temporary Deputy Chairman, I do not think the Chairman has come out quite clearly on these two definitions of “public toll collector” and “private toll collector”. Moreover, as we are aware, there are proposals to toll very many of our roads. If we are not careful with these definitions, we may find private entities that are really not beneficial to the public collecting money from members of the public and not necessarily ploughing back the money to the development of infrastructure. Therefore, the Mover needs to be a bit clearer because he has just read out the amendment as it is on the Order Paper. He has not explained what he wants to achieve with this definition. In legislation, definition is everything.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Pkosing, for purposes of the House and Members, why can you not do a further import on your amendment particularly?

Hon. David Pkosing (Pokot South, JP): Hon. Temporary Deputy Chairman, if you look at the Toll Act, there are two sections with different explanations. Section 4 talks about public toll collector. Section 4A talks about private toll collector, but if you look at the definition in the Bill that was proposed, it was not clear which toll collector you are talking about.

If you allow me, I can read Clause 21, but it was not saying what toll collector you are referring to. Is it a public toll collector as indicated under Section 24 or a private toll collector as prescribed under Section 4B? Therefore, we are proposing, so that it is clear that the toll collector means the toll collector appointed under Section 4, which is neither a public nor a private toll collector appointed under Section 4A. So, it is as clear as that.

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

(Clause 21 as amended agreed to)

Clause 22

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairman, you have an amendment.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 22 by –

(a) inserting the following paragraph immediately before paragraph (a)-

“(a) by inserting the following sub-section immediately after sub-section

(1)-

(1A) Notwithstanding subsection (1), a private toll collector shall only levy toll and collect monies payable on a public toll road constructed under an agreement entered into under section 4A.

(b) by renumbering the existing paragraphs as (b) and (c).”

The amendment is specifically to provide that private toll collectors may only collect from roads that are constructed under the Public Private Partnerships (PPP) arrangements. This will avoid instances where private tax collectors can operate tolls on roads which are constructed using public funds. This is very clear. We wanted to ensure that what was moved by Hon. Pkosing will only apply to PPPs. We know there are two roads which are very key, namely, from the Airport to Westlands and the one from Nairobi to Mau Summit, which are about to be done. It is important that this applies to such kind of roads. Under the PPPs, they are supposed to recoup their investments including their agreed profits.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): I just wanted to request the Chairman of the Committee on Finance and National Planning whether there is a way we can include railway line because very soon we may need a railway built through the PPPs. There are also bridges because of issues we are facing in Mombasa with the ferry, so that we can also have the bridge of...

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Sankok, the best way would have been for you to propose a further amendment which you did not.

Order Hon. Sankok. Let us have two more. Hon. Leader of the Majority Party, you want to speak to this?

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairman. Indeed, during my contribution during this debate, I alluded to the fact that we may need to open up tolling to include all services that might need to be procured through PPPs. However, for now, I would urge that we process what is ready and then we will bring a more comprehensive Bill that will cover a whole range of services. There might be different permutations of who does water, railway and all rather than trying to bring it within this Bill.

We will bring the amendments not in the Finance Bill or the Tolling Bill, but within a PPP framework. I understand where Hon. Sankok is coming from, but the timing may not be right for this.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. Hon. Atandi do you not want us to make progress? Hon. Atandi.

Hon. Samuel Atandi (Alego-Usonga ODM): Thank you. I just wanted to agree with the Chairman and say that this amendment is very important for institutionalization of PPPs. You realise that the Government is borrowing much to fund infrastructure. We have been saying here that some of these debts are very expensive. So, this amendment will ensure that we can fund some of these projects without using our resources. I thank you.

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

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

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

(Clause 22 as amended agreed to)

(Clauses 23 and 24 agreed to)

Clause 25

The Temporary Deputy Chairman (Hon. Patrick Mariru): The Chairman of the Departmental Committee on Transport, Public Works and Housing has an amendment.

Hon. David Pkosing (Pokot South, JP): Yes, I have an amendment. Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 25 of the Bill be amended in the proposed new section 6A by—

(a) inserting the words “except transit tolls” immediately after the word “tolls” appearing in subsection (2); and

(b) inserting the following new subsection immediately after subsection (2)-

(2A) The purpose of the Fund shall be to provide funds for the —

(a) proper functioning of toll roads and toll stations; and

(b) development, repair or maintenance of roads as the Minister may direct.

Looking at (a), it says “except transit toll”. In the Bill, we created a Toll Fund, which will be domiciled in the National Treasury, but in the description of that Toll Fund, it included transit tolls. These have no relation at all with the toll regime we are creating or even the Toll Fund that we are instituting. Transit toll already exists and is in practice. It is domiciled in the Kenya Roads Board (KRB) under what we call maintenance. Therefore, we are separating the Fund. We are removing the transit toll to remain in the KRB because it is already in existence. The new Fund that we are creating is for toll.

In (b), we are introducing the role of this Fund. As Hon. Atandi earlier said, we are having creativity by moving away from borrowing money and coming up with new ingenious ways of funding our roads, but we will not satisfy the people of Kenya unless we explain where this money is going to. That is why this amendment is explaining to Kenyans that this money will go to develop, repair and maintain roads, so that the money is not collected and used elsewhere. Parliament and the people of Kenya must know that the money which will be collected will be used thus.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have two Members speak to this, particularly those who have not spoken. Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Chairman. This is a genuine amendment because as explained by the Chair of the Committee, it clearly defines the use of the money and ensures that the money is not diverted to other uses. So, it is a good amendment.

I support.

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

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Chairman, I support that amendment. The first amendment separates the two tolls and (b) gives the functions the money ought to be used for specifically, to maintain roads.

I support.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well, before a further amendment, let us have one Member.

Hon. Ahmed Gaal (Tarbaj, PDR): Thank you, Hon. Temporary Deputy Chairman. I support the amendment brought by the Chair. This is to give clarity because there are two different types of tolls, namely, tariff tolls that already exist under the Road Maintenance Levy Fund (RMLF) and the new toll proposed under the PPPs programme. This is just to separate the two different tolls.

I support the amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie Odhiambo, I have heard you have a further amendment, but let us hear from Hon. Tong’i first.

Hon. Richard Tong’i (Nyaribari Chache, JP): Thank you, Hon. Temporary Deputy Chairman for giving me an opportunity. Whereas I am supporting the amendment by the Chair, I am concerned because there are too many toll stations being erected by county governments. Are they affected by this arrangement? If yes, are we not causing confusion in the system? That is why we need clarity in terms of definition. We need to know which toll stations are being affected. We know definition is everything in law.

The Temporary Deputy Chairman (Hon. Patrick Mariru): There are two Members seeking clarification. They should take half a minute each. Chair, please, take note of what Members are raising because it is important.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): I support the amendment to separate the exit transit, so that the KRB remains and continues to do its work. But I am seeking clarification on the amendment moved by the Chair, Departmental Committee on Transport, Public Works and Housing where he states that “development, repair or maintenance of roads as the Minister may direct”. Is it the Cabinet Secretary (CS) for the National Treasury or the CS for Transport? I feel that roads should remain in the domain of the CS for Transport rather than the CS for the National Treasury. So, in that amendment, they should clarify which CS.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have Hon. Makali. But before him, Hon. Millie Odhiambo you mentioned you have a further amendment. It is good for you to have it in writing. I am sure you can approach the Table and be helped in line with Standing Order No.133(3). I am informing you, so that as the Members speak, you prepare yourself.

(Hon. (Ms.) Odhiambo-Mabona spoke off record)

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman. I support this amendment, but I think the Chair should come out clearly because we are discussing about tolls under the PPPs framework. My understanding is that once the money and profits are recovered, it will become a public road and things will move to normal. So, when he talks about a CS, this can cause confusion. I think it is better for him to come out clearly as we approve.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have Hon. Nimrod. Hon. Chair, I will certainly give you a chance.

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Hon. Nimrod Mbai (Kitui East, JP): Thank you, Hon. Temporary Deputy Chairman. I rise in support, but we see county governments gearing towards PPPs. Does this affect what is happening in county governments or how do we go ahead and regulate the same with the county governments?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Joyce, one minute and then we can give the Chair a chance so that we can make progress.

Hon. Joyce Korir (Bomet CWR, JP): Thank you, Hon. Temporary Deputy Chairman. I want to support the amendment brought forward by our able Chair. I think when you go to a number of countries, PPP tolls are working in terms of supporting the infrastructure.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I am giving one more Member as Hon. Millie finishes her proposed further amendment. Possibly, she can speak to the Chair who, if gracious enough, can accede to that amendment and move it himself. Hon. Millie, you better consult quickly.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Chairman. I stand to support the amendment and also note that the Government should carefully look at the money collected by PPPs, so that they do not exceed the required amount.

Thank you, I support.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Hon. Sankok, and then I will give Hon. Chair and Hon. Millie the Floor.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Chairman. I support this amendment because it will completely remove the issue of corruption. The PPPs will construct roads and collect money using tolls rather than us borrowing money which probably ends up doing other projects or corruption coming in. But when it is in private hands, I am sure it will be put to good use.

So, I support.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, you have a right to do a further amendment. You will get a seconder and the House will make a decision along your...

Hon. Richard Tong'i (Nyaribari Chache, JP): Hon. Temporary Deputy Chairman, I second.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Richard Tong'i, you cannot say that you second when Hon. (Ms.) Odhiambo-Mabona has not even moved.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I had whispered to him.

Hon. Temporary Deputy Chairman, I propose a further amendment to Sub-Clause 2A(b) as follows:

THAT, we add the words "taking into account regional balance" at the end.

That is so that even as the money is collected, we can have regional balance in dishing out these roads to the rest of the country.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Who is seconding?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): You can now second me, Hon. Richard Tong'i.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. David Pkosing, I will give you a chance to speak to that amendment.

Hon. Richard Tong'i (Nyaribari Chache, JP): Hon. Temporary Deputy Chairman, having Hon. (Ms.) Odhiambo-Mabona as my neighbour has helped me to understand the import of what

she is doing. We all appreciate that the issues in Kenya are pegged on the sharing of the cake. People want to feel the Government and the only way to do so is by ensuring that people are being given a fair chance to develop at the same pace. Therefore, this amendment is healthy and good for the country, especially now that the President is working to unite the country. This comes in very handy because if we do not have it as a requirement, then we are going to have these challenges going forward where one region will feel neglected at the expense of the other part of the country. So, for purposes of uniting the country, just like the President stands for and we all support him, we want to have this amendment, so that we can have one united country where Kenyans are feeling that they are also beneficiaries in the sharing of the national cake.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let me make a proposal first, so that, finally, the House will make a decision.

(Question of further amendment proposed)

Hon. David Pkosing, I will give the Chair first, because the further amendment is on his amendment.

Hon. David Pkosing (Pokot South, JP): Hon. Temporary Deputy Chair, I think you need to guide the House in terms of procedure. I have no problem with other amendments. At this level, who is supposed to move further amendments? Actually, it is supposed to be the owner of the amendment. Hon. (Ms.) Odhiambo-Mabona should have requested me to move the further amendment for her, which is not harmful.

Nevertheless, I agree with her.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. David Pkosing, you agree with her, but I would like to refer you to Standing Order 133(3). When there is an amendment to a Bill and it is on the Floor of the House, there is a chance, room and opportunity for a Member to do a further amendment on an amendment. It is on that basis that Hon. Odhiambo-Mabona's amendment has been allowed.

Hon. Members, let us not take a lot of time on this one this being a further amendment. We have not dealt with the original amendment. So, I will put the Question so that we can make progress.

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

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

(Clause 25 as amended agreed to)

Next amendment.

Clause 26

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment by the Chairperson of the Departmental Committee on Transport, Public Works and Housing. I hope we can move slightly faster on this, so that we can make progress.

Hon. David Pkosing (Pokot South, JP): We are moving fast, Hon. Temporary Deputy Chairman.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 26 of the Bill be amended in the proposed amendment to Section 8 by—

(a) inserting the following new paragraph immediately before the renumbered paragraph (b) —

(a) by deleting the words “shall be guilty of an offence and liable to a fine not exceeding five thousand” appearing in the proviso to subsection (1) and substituting therefor the words “commits an offence and shall upon conviction, be liable to a fine not exceeding fifty thousand”.

(b) renumbering the existing provision as paragraph (b).

We are enhancing the punishment for lawbreakers. The original Act has a maximum fine of Kshs5,000. Through public participation, we agreed that the fine of Kshs5,000 was for a long time ago in the 1980s. Therefore, we are moving to a maximum of Kshs50,000.

(Question of the amendment proposed)

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

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

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

(Clause 26 as amended agreed to)

(Clauses 27, 28 and 29 agreed to)

Clause 30

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Limo, you have a proposed deletion.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 30.

This amendment is to delete the new definition being proposed to define the term “consolidators”, which we defined under the Finance Bill, 2019. This will ensure that consolidators are well-regulated and will be responsible for the consolidated cargo. The proposed amendment in the Bill would have revised the gains which were intended in the Finance Bill, 2019 of ensuring that small traders are assisted by consolidators. This was proposed to be regulated, so that when

they import, it is known who is doing so and that it is on behalf of small traders. We propose to reject the new definition because it would reverse the gains which were intended in 2019.

(Question of the amendment proposed)

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

(Clause 30 deleted)

Clause 31

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairman, you are proposing a deletion.

Hon. David Pkosing (Pokot South, JP): Hon. Temporary Deputy Chairman, I beg to move: THAT, the Bill be amended by deleting Clause 31.

We are proposing a deletion of that clause because the transit toll money was being collected together with the Toll Fund which is under the National Treasury. In our wisdom earlier in Clause 25, we chose to separate the transit toll and the toll money because we have already prosecuted it. That was only effecting the prosecution that we approved to separate the Fund and retain the Transit Fund at the Kenya Roads Board under the Roads Maintenance Levy.

(Question of the amendment proposed)

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

(Clause 31 deleted)

(Clause 32 agreed to)

Clause 33

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting the proposed amendment in Clause 33 and substituting therefor the following new clause-

“Section 16 of the Kenya Revenue Authority Act, 1995 is amended-

(a) in subsection (1) by deleting paragraph (a) and substituting therefor the following new paragraph-

“(a) at least two per cent of the revenue actually collected by the Authority in the previous financial year;”

(b) in subsection (1) by inserting the following new paragraph immediately after paragraph (b)-

“(ba) any commission received by the Authority for collecting any revenue on behalf of a county government or government agency;”

(c) by inserting the following subsection immediately after subsection (1)-

(1A) Subject to subsection (1) (ba), the commission received by the Authority shall not exceed two per cent of the total revenue collected on behalf of the county government or government agency.

This amendment was on the allocation of funding to the Kenya Revenue Authority (KRA). We have received a communication from the National Treasury that there are still consultations being done between the National Treasury, KRA and the Cabinet. We propose to drop this one.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. If that amendment is withdrawn, I therefore, put the Question.

(Proposed amendment by Hon. Joseph Limo withdrawn)

(Clause 33 agreed to)

Clause 34

The Temporary Deputy Chairman (Hon. Patrick Mariru): The Chair of the Departmental Committee on Finance and National Planning has an amendment.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 34 in the proposed new Section 20A(a) by deleting the words “twelve months” and substituting therefor the words “three years”.

This amendment provides that the limitation of time for matters against the Kenya Revenue Authority is three years. This is to comply with the different decisions made by different courts that held that the Public Authorities Limitation Act cannot apply to the KRA. That is the reason we are introducing this amendment.

(Question of the amendment proposed)

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

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

(Clause 34 as amended agreed to)

(Clauses 35 and 36 agreed to)

Clause 37

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment by the Chairperson, Departmental Committee on Justice and Legal Affairs. Who has the brief? Hon. Shamalla.

Hon. Shamalla Jennifer (Nominated, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 37 of the Bill be amended by deleting the word “registered” appearing in the proposed new item (h) and substituting therefor the word “licensed”.

The amendment seeks to ensure that the proposed protection of tax revenue held on behalf of KRA by commercial banks and financial institutions during insolvency is effective by aligning the amendment to the language which is used in the Banking Act. The Committee noted that Section 4 of the Banking Act provides for licensing of persons, but not registration as used in the proposed amendment. The Committee views this minor amendment as necessary in order to give effect to the purpose of the amendment of the Insolvency Act as stated in the memorandum of objects and reasons for the Bill.

(Question of the amendment proposed)

*(Question, that the word to 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)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Leader of the Majority Party, remind the Members to vote. I have only heard Hon. Mbui’s voice. Let me put the Question again.

(Clause 37 as amended agreed to)

That is better. Hon. Members, we are done with the clauses. We will go to the new clauses.

New Clause 9A

The Temporary Deputy Chairman (Hon. Patrick Mariru): Chair, Hon. Limo, move the Second Reading of the new Clause 9A.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 9-

Amendment of
Eighth
Schedule to
Cap. 470.

- 9A. The Eight Schedule to the Income Tax Act is amended in paragraph 3 by deleting sub-paragraph (2) and substituting therefor the following sub-paragraph-
- (2) The gain accruing to a company on any transfer of machinery classified in paragraph 1 (b) of the Second Schedule is not chargeable to tax under Section 3(2) (f).

This amendment seeks to align the cross referencing in the Eighth Schedule to the amendments that were made to the Second Schedule in the Tax Laws (Amendment) Act, 2020. It is a cross referencing issue to the law which we passed in April.

(Question of the new clause proposed)

(The new clause was read a First Time)

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

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

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 10A

The Temporary Deputy Chairman (Hon. Patrick Mariru): The Chairperson of the Departmental Committee on Finance and National, Second Reading.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 10-

Amendment of
section 68 of No. 35
of 2013.

10A. Section 68 of the Value Added Tax Act, 2013 is amended by inserting the following new sub-section immediately after subsection (2)—

(2A) Notwithstanding the repeal of paragraph 102 of the First Schedule, the exemption of goods imported or purchased locally for direct and exclusive use in the implementation of projects under a special operating framework arrangement with the Government, shall continue for existing projects for the remaining period of the agreement.

This amendment is intended to save the Value Added Tax (VAT) exemption under Paragraph 102 that was available for existing projects under the special operating framework arrangement with the Government. This is in line with the fact that Paragraph 102 was deleted in the tax law. However, there are certain projects which are already running and, therefore, this amendment is intended to save those who are already in that arrangement.

(Question of the new clause proposed)

(The new clause was read a First Time)

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

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is it Hon. (Dr.) Wamalwa?

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): I was following what the Chair was saying and my concern is that he has not given full disclosure for the House to understand what he is referring to, on these continuous Government projects that are going on. We need some more information on that.

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

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I want clarity from a legal perspective. If you look at the new clause, it is saying-

“(2A) Notwithstanding the repeal of Paragraph 102 of the First Schedule, the exemption of goods imported or purchased locally for direct and exclusive use in the implementation of projects under a special operating framework arrangement with the Government, shall continue for existing projects for the remaining period of the agreement.”

How can we be referring to a law that is repealed? We have no legal feet with which to stand. And even though I am not opposing this, I think this amendment should be brought in a different way. You cannot then refer to an already repealed law as a basis for bringing an amendment. There is no law. What are we referring to if it is already repealed?

So, I would just want to ask the Chair to get assistance to rephrase this because someone will challenge this. We cannot be making reference to a law that is not in existence.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. Hon. Chair, Hon. Millie raises a fundamental issue. She is not opposed to the new clause, but she is raising that. Do you want to speak to this? Yes and Hon. (Dr.) Wamalwa too. Let us have the Chair first.

Hon. Joseph Limo (Kipkelion East, JP): Actually, the intention here is that if an entity has already been given the benefit of this exemption which was there, upon repeal, though the law will have been repealed, the benefit will not be taken away from them. That is the intention. I am not a lawyer, but I understand the logic behind it that it should not deny the benefit to an investor who has already invested in it on the basis of a law which was existing then. That is the objective.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Pkosing. Sorry, not Hon Pkosing but Hon. Chepkut.

Hon. William Chepkut (Ainabkoi, Independent): Thank you, Hon. Temporary Deputy Chairman. It is true we want a legal framework and at the same time we want disclosure to be made in the amendment. But I want us to support what the Majority Leader wants. At the same time, ours is to comply with His Excellency the President. We want to move with speed.

(Loud consultations)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order. What is your point of order, Hon. Joyce? There is a Member who is on a point of order. What is your point of order Hon. Joyce Korir?

(Hon. Kimani Ichung'wah spoke off record)

Order, Hon. Ichung'wah. You cannot shout from your seat when Hon. Joyce is on the Floor on a point of order.

Hon. (Ms.) Joyce Korir (Bomet CWR, JP): Thank you very much, Hon. Temporary Deputy Chairman. Is it in order for the Member to tell us that he is supporting the amendment on the Floor of the House just because he wants to show loyalty to the President? Are we working for the Executive or are we working as legislators of people who elected us to this House?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order Members. We must make progress. I am well advised that the amendment is in place.

Hon. Members, let us make progress. We have only few minutes.

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

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 13A

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairman, there are two amendments here. One is dependent on the other. We shall start with the one of the Chairperson. Depending on the decision of the House, we may move to the second amendment.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 13-

Amendment of section
10 of No.23 of 2015

13A. The Excise Duty Act, 2015 is amended by deleting Section 10 and substituting therefor the following new section-

Adjustment for
Inflation

10. (1) Despite Section 8, the Commissioner may, with the approval of the Cabinet Secretary, by notice in the Gazette, adjust the specific rate of excise duty once every year

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to take into account inflation in accordance with the formula specified in Part 1 of the First Schedule.

(2) The notice under subsection (1) shall be laid before the National Assembly within seven days from the date of publication.

(3) The National Assembly shall, within twenty-eight sitting days of the receipt of the notice under sub-section (2), consider the notice and make a resolution either to approve or reject the notice.

(4) The notice shall cease to have effect, if a resolution disapproving the notice is passed by the National Assembly.

The reasoning for this is that the Commissioner General has been making adjustments of rates annually without consulting the Cabinet Secretary for the National Treasury, and at the same time without passing through Parliament. So, we want to say that any amendments of rates may be done by the Commissioner General, however, in consultation with the Cabinet Secretary in charge of the National Treasury. It must come to this House for the purpose of approval or disapproval because it is an issue that touches on taxes. That is a very important process for this House to make a decision.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairman (Hon. Patrick Mariru): I will give a chance to Hon. Ichung'wah because he had a similar amendment to that of the Chair. It is good for the House to hear him.

Hon. Kimani Ichung'wah (Kikuyu, JP): In fact, Hon. Temporary Deputy Chairman, let me thank the Chair for proposing that amendment and agreeing, after consultations, to do it with a further amendment to replace the word "shall" with "may". To clarify, the word "shall" that we are removing is in sub clause (i) and not the others. The others remain "the National Assembly shall", and "the notice shall". We are changing and saying "the commissioner may with the approval..." and not "shall". So, it is only in (i) where we are changing, which states: "Despite Section 8, the Commissioner may with the approval of the Cabinet Secretary..." That is to provide discretion for this to be effected only when it is necessary. I spoke to this during the Second Reading of the Bill, that this particular clause is, indeed, unconstitutional. Therefore, I support the amendment because it is only this House that can enact legislation that relates to taxation of the people that we represent. Therefore, we must ensure that at any time the Commissioner General wants to effect any changes to tax rates, he brings those changes to this House for the people's representatives to do their work.

I support with the further amendment of changing the word "shall" to "may".

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

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Naturally, the amendment by Hon. Ichung'wah on the new clause falls.

(Proposed amendment by Hon. Kimani Ichung'wah dropped)

New Clause 14A

The Temporary Deputy Chairman (Hon. Patrick Mariru): There was a New Clause 14A by Hon. Moses Kuria, but in line with an earlier Communication by the Speaker, it is disallowed in line with Article 114 of the Constitution and Standing Order No.133(5).

(Proposed New Clause 14A by Hon. Moses Kuria dropped)

New Clause 14B

The Temporary Deputy Chairman (Hon. Patrick Mariru): There still was another New Clause 14B by Hon. Moses Kuria. That is also disallowed in line the Speaker's Communication as per Article 114 of the Constitution and Standing Order No. 133(5).

(Proposed New Clause 14B by Hon. Moses Kuria dropped)

New Clause 28A

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, there are two amendments here. One is by the Departmental Committee on Finance and National Planning and the other one by Hon. Moses Kuria. The one by Hon. Moses Kuria is disallowed as well in line to Article 114 of the Constitution and Standing Order No.133(5).

(Proposed New Clause 28A by Hon. Moses Kuria dropped)

The one by the Chairperson of the Departmental Committee on Finance and National Planning has been circulated.

Hon. Chair, if you could move the Second Reading of the New Clause 28A.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 28—

Amendment of
Section 156 of
Cap. 487.

28A. The Insurance Act is amended by deleting Section 156 and substituting therefore the following new section –

Cash and
carry payment
of premiums

156.(1) No insurer shall assume a risk on Kenya in respect of insurance business unless and until the premiums payable thereon is received by the insurer.

(2) An insurer who contravenes subsection (1), shall be liable for a penalty equivalent to fifty percent of the premium payable to the Policyholders Compensation Fund or upon conviction shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years or both.

(3) An intermediary shall upon receipt of any premiums on behalf of an insurer immediately remit the same to the insurer.

(4) An intermediary who contravenes subsection (3) shall be liable to refund the premium and pay a penalty equivalent to twenty percent of the unremitted premium to the client.

(5) Any officer or director of an intermediary who contravenes who contravenes subsection (3) shall be guilty of an offence, and upon conviction shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term of three months or both.

(6) An insurer shall pay an intermediary insurance commission due within thirty days upon receipt of premium.

(7) An insurer who contravenes subsection (6) shall be liable to a penalty of five million shillings on each contravention, payable to the Policyholders Compensation Fund.

The purpose of this is to align the amendments which were done in the Finance Bill 2019 to an agreeable position for the National Treasury, the Insurance Regulatory Authority and the stakeholders. They are currently trying to resolve it in court. Therefore, having received communication from the National Treasury, the position which is being carried here is agreeable and it is actionable.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the New Clause be read a Second Time, proposed)

(Question, that the New Clause be read a Second Time, put and agreed to)

(The New Clause was read a Second Time)

(Question, that the New Clause be added to the Bill, put and agreed to)

What is it, Hon. Hon. Ichung'wah?

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy Chairman, you know this New Clause 28A was not part of the Order Paper. It has just been circulated. We never got an opportunity to really interrogate it. If you carefully read this thing, it is part of what His Excellency the President returned in the last Finance Bill.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order, Hon. Chairman. I was actually informed that this amendment had been circulated to the Members. Maybe you did not have a copy. The House has made a decision. I am sure there are mechanisms of revisiting. That is the rule, unfortunately. That is the procedure.

New Clause 38

The Temporary Deputy Chairman (Hon. Patrick Mariru): A New Clause 38 had been proposed by Hon. Moses Kuria. That has been disallowed in line with the Speaker's earlier Communication, in line with Article 114 of the Constitution.

(Proposed New Clause 38 by Hon. Moses Kuria's dropped)

(Title agreed to)

Clause 1

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is an amendment on Clause 1 by Hon. Limo.

Hon. Joseph Limo (Kipkelion East, JP): I beg to move:

THAT, the Bill be amended in Clause 1 —

(a) by inserting the expression "13A," immediately after the expression "9," in paragraph (a);

(b) by inserting the following new paragraph immediately after paragraph (a) – (ab) section 11 (a) (i) and (iv), 11(d), 19 (a) (i) and 12 (a) on 1st July, 2021;

I want to also move some amendment to part (b) by adding 8(b) just before 11(a).

(Question of the amendment proposed)

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

(Clause 1 as amended agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Congratulations, Hon. Members! We are done with that Bill. Let us have the Mover.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Finance Bill (National Assembly Bill No.10 of 2020) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

PROGRESS REPORTED

THE FINANCE BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Can we have the Chair of the Committee of the whole House reporting?

Hon. Patrick Mariru (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Finance Bill (National Assembly Bill No.10 of 2020) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Mover to move agreement with the Report.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I beg to move that the Finance Bill be now read a Third Time. I want to request Hon. Ndirangu, the Vice-Chair...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Hon. Limo. We are not yet at the Third Reading. You are moving agreement with the Report.

Hon. Joseph Limo (Kipkelion East, JP): I am sorry, Hon. Temporary Deputy Speaker. There were loud consultations here.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You are moving agreement with the Report and I hear there is a re-committal.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Ndirangu to second.

Hon. Isaac Ndirangu (Roysambu, JP): I second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Let us hear Hon. Ichung'wah, who is moving a re-committal.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy 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 re-committal of New Clause 28A".

I request Hon. K.J., who is seated behind me, to second the Motion.

We are saying that no insurer - if you read Clause 156(1) - shall assume risking Kenya in respect of insurance business unless and until the premium payable thereon is received by the insurer. The insurer in this case is the underwriter. Many of us transact our insurance business through intermediaries, be it brokers or agencies. The agent and the underwriter have contractual obligations between them where the insurer is not part of the contractual agreement. Therefore, if you say that when one pays for his insurance cover, for example, medical insurance, he will not

be covered until and unless the underwriter receives his money, in a situation where the insured has no control to force the agency or the insurance broker to remit that money, that will be dangerous for insured people in this country. It means that if tomorrow you pay for your car premium to your insurance broker and he fails or remits half of it, your car will not be covered until that money is received.

This amendment as it is, is dangerous for the insured. As people's representatives, we should be speaking for the insured and not for brokers and underwriters as much as many of them are here. I want to speak for the ordinary person who is the insured person. I want to protect the ordinary Kenyan who, when they pay their premium, they will have no control of how and when the broker or agent will remit the money. The insurer, the underwriter and the broker or the agency have their own contractual obligations and they must be having mechanisms to enforce payment of premiums. In the worst-case scenario, we should have a situation where, if we are to be covered when the money is received, then we should do away with insurance brokerages and agencies and then we pay directly to the underwriters.

I beg that we support this particular recommittal.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Who is seconding? Hon. Limo. Can you give him the microphone? Hon Limo, are you seconding? You have a recommittal, but Hon. Ichung'wah's recommittal has not been seconded. Can we have a Secunder? He has proposed Hon. K.J.

Hon. John Kiarie (Dagoretti South, JP): Thank you, Hon. Temporary Deputy Speaker. The issue has been eloquently stated by Hon. Kimani Ichung'wah.

I second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Limo, before you do that, let me propose the Question.

(Question proposed)

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Junet, what is your point of order? Hon. Members, procedurally, we have to be keen on time.

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Speaker, as much as the issue has been well put by Hon. Ichung'wah, he should not mislead the House. The recommittal he is talking about is New Clause 28A, he only read sub-section (i) of it. He did not read sub-sections (3) and (4). Sub-section (3) says: "An intermediary shall upon receipt of any premiums on behalf of an insurer immediately remit the same to the insurer. Sub-section (4) says that an intermediary who contravenes sub-section (3) shall be liable to refund the premium and pay a penalty equivalent to 20 per cent of the remitted premium to the client. These brokers you are talking about have been taken care of here, Hon. Ichung'wah. The only issue I can agree with is what I was told by Hon. Millie that some Kenyans pay premium in instalments. That can be agreed between the insurer and the insured. This matter has been fully covered in this clause. Put the Question we shoot this down.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, I know we cannot finish this debate. I want to put the Question.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order Members. The time being 1.05 p.m., this House stands adjourned until this afternoon, Tuesday, 23rd June 2020 at 2.30 p.m.

I thank you all.

The House rose at 1.05 p.m.