

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Wednesday, 22nd April 2020

The House met at 10.00 a.m.

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

PRAYERS

Hon. Deputy Speaker: Hon. Members, it is confirmed that we have the required quorum. For the first time, in a long time, on a Wednesday morning. We have not had it in many Wednesdays before, but we are lucky to have it now. Therefore, business will begin.

MESSAGE

Hon. Deputy Speaker: Just a minute, Hon. Members.

Hon. Members, we will come back to that later. We will proceed. There will be a Message later. Let us move to the next order.

PAPERS LAID

Hon. Deputy Speaker: On this particular one, we have a raft of Papers. Let us begin with the ones from the Leader of the Majority Party. I think you have many Papers.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

Legal Notice No.32 of 2020 relating to the Law Society General Regulations 2020 and the explanatory memorandum.

Legal Notice No.3 of 2020 relating to the Special Economic Zones Amendment Regulations 2020 and the explanatory memoranda.

Legal Notice No.40 of 2020 relating to the Capital Markets (Coffee Exchange Regulations 2020) and the explanatory memorandum.

Legal Notice No.41 of 2020 relating to the Capital Markets (Commodity Markets Regulations 2020) and the explanatory memorandum.

Legal Notice No.50 of 2020 relating to Public Health COVID-19, restriction of movement of persons and related Measures, Rules 2020 and the explanatory memorandum.

Legal Notice No.51 of 2020 relating to Public Health, COVID-19 restriction of movement of persons and related measures (Nairobi Metropolitan Area order 2020) and the explanatory memorandum.

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Legal Notice No.52 of 2020 relating to Public Health COVID-19 restriction of movement of persons and related measures, (Mombasa County Order 2020) and explanatory memorandum.

Legal Notice No.53 of 2020 relating to Public Health COVID-19 restriction of movement of persons and related measures, (Kilifi County Order, 2020) and the explanatory memorandum.

Legal Notice No. 54 of 2020 relating to Public Health COVID-19 restriction of movement of persons and related measures (Kwale County Order, 2020) and the explanatory memorandum.

Annual Performance Report for the Financial Year 2017/2018 for the Ministry of Public service, Youth and Gender, to the Report of the Mediation Committee on its consideration of the following Bills on behalf of the Chairperson, Mediation Committee:

- i. County Government (Amendment) Bill No.2
- ii. Senate Bill No.7 of 2017
- iii. County Government (Amendment) Bill - Senate Bill No.11 of 2017.

Thank you, Hon. Deputy Speaker. I was tabling on behalf of Hon. Amos Kimunya.

Hon. Deputy Speaker: Very well. You did your bit. Let us have the Chairperson, Budgets and Appropriations Committee (BAC).

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

Report of the Budget and Appropriations Committee on the Second Supplementary Estimate for the Financial Year 2019/2020.

I thank you.

Hon. Deputy Speaker: Very well. Before we go to the Next Order, I will resume what I should have done on the Third Order.

Order Hon. Members, I have a Message from the Senate.

Hon. Aden Duale (Garissa Township, JP): On a point of order.

Hon. Deputy Speaker: What is it Hon. Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Hon Deputy Speaker, this morning you were in a bit of a hurry, the Chair Departmental Committee on Finance and National Planning Committee has a report to table, with your permission. However, I apologise for raising a point of order when the Hon. Deputy Speaker is on his feet.

Hon. Deputy Speaker: Which one? We can have it. Hon. Limo, you can still speak with the face mask on.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Finance and National Planning on its consideration on the Tax Laws (Amendment) Bill 2020.

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. That was an extremely important one and so I will pass the message from the Senate.

MESSAGE

PASSAGE OF THE DIVISION OF REVENUE BILL BY THE SENATE

Hon. Deputy Speaker: Hon. Members, as you are aware, Standing Order 41(5) of the National Assembly Standing Orders requires the Speaker to cause the transmission of any Message received from the Senate at a time when the House is not in Session to every Member and later report such Message to the House at its next sitting.

In this regard, on April 16, 2020, I did notify you of a Message from the Senate regarding the passage of the Division of Revenue Bill (National Assembly Bill No. 3 of 2020).

Hon. Members, the Message conveyed that the Senate considered and passed the said Bill on Tuesday, 14th April, 2020 with amendments to Clause 4 and the Schedule, and now seeks the concurrence of the National Assembly on the said amendments in accordance with the provisions of Article 112(1)(b) of the Constitution.

Hon. Members, upon notification to all Members, pursuant to the provisions of Standing Order 41(5) and (6), I did refer the Message to the Budget and Appropriations Committee for consideration. I am aware that the Committee is already seized of the matter and will submit its Report this morning to guide the House during its consideration of the Senate amendments to the Bill.

Hon. Members, given the urgent need to pass this Bill, the House Business Committee has scheduled the amendments for consideration by the House this afternoon, and they will be considered in the manner provided for under Standing Orders 145, 146 and 147 (consideration of Senate amendments to Bills originating in the National Assembly).

I thank you Hon. Members.

What is it Hon. Mbadi

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Deputy Speaker, my point of order is not on your Communication, which I think is clear. However, my reading of Articles 94 and 95 of the Constitution is clear that this House has a responsibility to resolve issues that are of concern to the people of Kenya. There are a group of Kenyans who are such a big number in the Republic of China and a significant number in the Republic of India. I particularly want to focus on those Kenyans suffering in the Republic of China. I am aware that the Departmental Committee on Defense and Foreign Relations has been seized of this matter, but I thought that it would table the Report to the House this morning because this matter is urgent and needs to be disposed of urgently.

Hon. Deputy Speaker, during the tabling of the reports, I did not hear anything from this Committee. Could the Chair order that this report be tabled to this House urgently so that we can have an opportunity to address this matter. We cannot keep quiet when a group of Kenyans, for whatever reason they went to China, are suffering in the Republic of China.

Hon. Deputy Speaker, I want to seek your indulgence to ask the Chair of this Committee, Hon. Katoo ole Metito, to table this Report as soon as this afternoon so that it can be dealt with.

I thank you, Hon. Deputy Speaker

Hon. Deputy Speaker: Well, the difficulty now is that the Members do not sit in their ordinary places. Do we have the Chairperson for the Departmental Committee on Defense and

Foreign Relations in the House? In his absence, the Leader of the Majority Party should say something to it.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, this is a very serious matter. I want the Government to hear me. We made a mistake to approve the ambassador to China. We know her history. Those Kenyans in China are being mistreated by the Chinese Government and people. Let us not hide facts. We are talking to students who are locked in rooms and are beaten in the streets. We cannot compromise the lives of our people just because China gave us some loans.

During the former President Kibaki's tenure when I was in this House, many Kenyans were evacuated from South Africa during the xenophobic attacks. He ordered Kenyans to be evacuated free of charge. This story of Kenyans to be evacuated at their own expense and yet they are students is not practical. Hon. Deputy Speaker after today's business, you will allow me to look for Hon. ole Metito and he must bring the Report this afternoon which we must discuss.

Hon. Deputy Speaker: Hon. Members, the direction the Leader of the Majority Party took would have been different. I would have expected that we get to know from the leadership whether they are ready with the Report so that if you have any contributions you will make it at that point.

We will confirm from the Chairman Departmental Committee on Defense and Foreign Relations if he can Table a Report and then the Hon. Members will be free to discuss. I see there are many Members who are interested in talking to it. I will not allow it for now because we will be jumping the gun. In the afternoon we will probably be having that Report tabled and you will have an opportunity to make your contributions.

Next Order!

Hon. Deputy Speaker: Under this we have the Hon. Leader of the Majority Party. Are you ready to give notice on the mediated version of the County Governments (Amendments) Bill and the mediated version of the County Government (Amendment) Bill No.2? There is the Senate Bill No.7 and Senate Bill No...

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, I am just a messenger and I have not been given a notice. So, I will give the notice in the afternoon.

Hon. Deputy Speaker: That is fine, however, should you be ready before we go to order No.8, we could still give you an opportunity.

So, let us have the Chairperson Budget and Appropriations Committee. Are you ready?

Hon. Jude Njomo (Kiambu, JP): On a point of order.

Hon. Deputy Speaker: What is your point of order? It becomes very difficult to identify Members, but from the head it might be Hon. Jude Njomo. We are using other features to identify Hon. Members such as the size of the chest. Use your microphone from there. We are discouraging Members from being pastoralists during this era.

Hon. Jude Njomo (Kiambu, JP): Thank you, Hon. Deputy Speaker, my point of order is on our new mode of dressing. We have been required to wear masks. We are leaders and whatever we do, those we lead copy what we do. I have seen that when many Members stand up to talk, they draw their masks downwards. Sometimes, they pull down the masks exposing their nose. What we are doing here will escalate to the rest of the country. We must show the country the right thing to do.

We must wear our masks the right way. I know people have been complaining the air they breathe in when wearing the mask is very hot and not fresh. Let those who are not having fresh

breathe get a taste of what they have been subjecting us to. So, they can also practice good dental habits. Let us set an example to the rest of the nation on how we are supposed to be disciplined in terms of fighting COVID-19.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Njomo, definitely you are very right, but before I make a substantive decision on that, let us hear from the Chair Departmental Committee on Health because this is a health matter.

Hon. (Ms.) Sabina Chege (Murang'a (CWR), JP): Thank you, Hon. Deputy Speaker. I agree with what Hon. Njomo has said. We are the leaders and people follow us. Proper wearing of the masks by any person is covering the mouth and nose all the way to the chin and not the eyes. If you pull down that mask, then you should discard it and wear another one.

We are sharing microphones and the world and Kenya is watching. I have seen some Government leaders when addressing the public, they remove their masks and speak. So, if we are to follow the procedures and rules of this House, I request all Members to kindly cover their nose and mouth all the way down to the chin. Hon. Kago asked a question and I will be reading a Statement later on the proper use and wearing of masks.

Hon. Deputy Speaker: Hon. Members, I think what the two Members have raised are legitimate concerns. Hon. Members what you should realise is that when using the mask, you are not just protecting yourselves but others also. I have heard some Members saying they have been tested. You could have been tested yesterday and could still contract COVID-19 an hour later. So, Hon. Members this is something we should take very seriously because we cannot afford to be selfish.

(Loud consultations)

Order, Hon. Members! I am speaking. Hon. Members, I think it will be very unfortunate if leaders take some of these things jokingly. I will not allow that from Members who think they were tested and they are negative. I will not accept. Hon. Members we cannot afford that kind of attitude here.

Hon. (Ms.) Cecily Mbarire (Nominated, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Cecily Mbarire, what is your point of order?

Hon. (Ms.) Cecily Mbarire (Nominated, JP): On a point of order, Hon. Deputy Speaker. I am a bit worried because the Leader of the Majority Party, who is my boss, seems not to follow the instructions of the Ministry of Health. He is supposed to wear his mask throughout. I think the problem he has is maybe because he is wearing a mask meant for industrial purposes. So, if he is given a mask like mine, he will breathe better. That is why he is struggling and endangering his life and ours.

Hon. Deputy Speaker: Hon. Cecily Mbarire, we will allow the Hon. Chair of Departmental Committee on Health, later in her Statement, to tell us the kind of masks recommended. Hon. Members, on this one I will not accept contributions. Let us hear from Hon. Nyikal who is a doctor. I have recognised you on the basis of what I see on top of your head.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Deputy Speaker. Colleagues, this is a technical matter and not of power. This is a matter where if there is exposure, we are contravening our own laws and regulations. We cannot jeopardise the health of others. If there are

people who are unable to use the masks, then it is good to say that they cannot sit in the House. That is all there is and no more.

Hon. Deputy Speaker: Hon. Members, you should listen to this one.

Hon. (Dr.) James Nyikal (ODM): No! It will be bad for the President. Even the President can get this disease. Boris Johnson ignored and look at what happened to him. On this one, you cannot compromise your life.

Hon. Deputy Speaker: I agree totally with Hon. Nyikal. Whether you say no or whatever, I agree totally with Hon. Nyikal. There is absolutely no reason why we should compromise your life, just because we want to make some people happy. We expect the Chair of the Departmental Committee on Health to speak to this matter in her Statement.

I am not giving anyone a chance to speak to this. Hon. Dr. Wamalwa, this is a technical issue, having the title Dr. does not make you a physician. I have given an opportunity to Hon. Nyikal. So, let us go to the next Order. Let us have the Chair of the Budget and Appropriations Committee, and then we go to the next Order. Hon. Leader of the Minority Party, I will not open this. We will open it when she gives her Statement. No! I will not. Let us have the Chair of Budget and Appropriations Committee. Hon. Members, sometimes we have to be serious.

Proceed Chair of Budget and Appropriations Committee. You have the microphone now.

NOTICE OF MOTION

REPORT ON THE SECOND SUPPLEMENTARY ESTIMATES FOR THE FINANCIAL YEAR 2019/2020

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Deputy Speaker. In as much as you have closed that debate, if the Leader of the Majority Party removes his mask and I am still wearing mine, I am not exposed.

Hon. Deputy Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Second Supplementary Estimates for the Financial Year 2019/2020, laid on the Table of the House on Wednesday, 22nd April 2020, and pursuant to the provisions of Article 223 of the Constitution of Kenya, Section 44 of the Public Finance Management Act, 2012, Public Finance Management Regulation 40 and Standing Order 243-

- (i) approves an increment of the total recurrent expenditure for Financial Year 2019/2020 by Kshs31,381,396,485 in respect of the Votes as contained in the Schedule II; approves a reduction of the total development expenditure for Financial Year 2019/2020 by Kshs83,048,345,383, in respect of the Votes as contained in the Schedule II;
- (ii) approves an overall decrease in the total budget for Financial Year 2019/2020, by Kshs51,729,948,898, in respect of the Votes as contained in the Schedule II; and,
- (iii) further makes the policy resolutions contained in the Second Schedule to the Order Paper.

Hon. Deputy Speaker, I beg to lay the Report on the Table and inform the House that it has already been tabled and it answers some of the questions that are being asked by Hon. Junet. What he is asking is secure.

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

STATEMENTS

Hon. Deputy Speaker: On this one, let us have the Chair of the Departmental Committee on Health. Hon. Sabina Chege, let us have your Statement.

Hon. Sabina Chege (Murang'a CWR, JP): Hon. Deputy Speaker, as you are aware, during the House Plenary Sitting on Tuesday, 14th April 2020, and pursuant to the provision of Standing Order No. 44(2) (c), the following Members requested for statements on various matters related to the COVID-10 pandemic:

1. Hon. David Ochieng', Member of Parliament for Ugenya Constituency, sought a Statement regarding the handling of the body of the Late James Oyugi Onyango of Kamuluga, SimurKondiek in Ugenya Sub-County.
2. Hon. Caleb Khamisi, Member of Parliament for Saboti Constituency, sought a Statement regarding the safety of healthcare workers while fighting COVID-19 and more specifically on training being offered to our nurses in the fight against COVID-19; status of distribution of personal protective equipment; transportation of suspected cases to isolation facilities, and whether health workers will be paid a risk allowance because of the risk being undertaken; and lastly on the availability of special isolation and treatment of healthcare workers, contracting the virus while on duty.
3. Hon. Gabriel Kago, Member of Parliament for Githunguri Constituency, sought a Statement regarding the public health measures instituted by the Government to reduce the risk of contracting COVID-19. In particular, the Member wanted to know which type of mask the Government has recommended for use by members of the public; how many institutions and companies have been approved by the Government to make these masks for use in the country – both cloth and N-95 masks; the production capacity for both types of masks and whether this production capacity can meet the current demand; the recommended retail price of a single mask for both cloth and N-95; and finally measures the Government has put in place to ensure the quality and effectiveness of the masks and their accessibility by all members of the public.

The Committee invited the Ministry and received responses. Subsequently, the CS for Health also wrote to the Committee and made available responses sought by the Members, which I beg to submit.

Hon. Deputy Speaker, through your guidance, I would like to know whether you will allow me to go through the submission because of the nature of the questions and the interest.

Hon. Deputy Speaker: Now it becomes very difficult to recognise those particular people. I can see one looks like the Chair of the Public Accounts Committee (PAC). Is that him?

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Deputy Speaker, if I got it correctly, the Chair of the Departmental Committee on Health suggested that she goes through the responses in totality. In my view, that will take a lot of time. Perhaps if you could direct that she tables the responses then we go through them. Later on we could address them.

Hon. Deputy Speaker: How big is the Statement that you want to take us through?

Hon. Sabina Chege (Murang'a CWR, JP): Hon. Deputy Speaker, I can take like two minutes for each. The responses are very direct. Specifically, I can go through the one on masks. I can just briefly go through the answers because they are very specific.

Hon. Deputy Speaker: If you could do a summary that will be fine. Actually, you can highlight those salient points.

Hon. Sabina Chege (Murang'a CWR, JP): On the Statement regarding handling of the body of the late James Oyugi Onyango of Kamuluga, SimurKondiek in Ugenya Sub-County, the Ministry said they regret the incident regarding the burial of the late James Oyugi Onyango. It was not the wish of the Ministry to conduct the burial as it happened at night which was not in line with the guidelines that promotes a dignified burial process, respect for the deceased and the respect of the rights of the family.

With regard to whether the WHO guidelines were followed, the Ministry of Health has developed guidelines in line with the WHO Health on Safe Management and Disposal of Human Remains in the Context of COVID-19 and that has been disseminated for use in all counties. In this case, the Ministry established that the guidelines were not fully adhered to by the county where the burial was done.

On the question on who made the decision on the manner of disposal of the body and whether the family members of the deceased were involved in the decision and manner of disposal of the body, the answer is the county health system of Siaya conducted the burial.

On whether an autopsy was conducted on the body of the deceased to ascertain the actual course of death, according to the information obtained from the county health team, that is, the Siaya County, the diagnosis made was based on the clinical criteria for case definition of COVID-19, hence no autopsy was done.

On whether the deceased travelled from Mombasa and he was involved in an accident, the Ministry has no information on the alleged accident.

On what the Ministry is doing to ensure that the family of the deceased is taken care of because of the trauma and psychological torture that may result from such treatment, the Ministry dispatched a high-level team led by the Director-General who visited the home of the deceased and conveyed their apologies to the relatives and the community. The county health system was advised to organise for psychosocial support of family members.

On the steps taken to ensure that contact tracing from Mombasa through the entire route is done, the Ministry commenced contact tracing immediately in liaison with the respective counties and other Government authorities where we got information of his movement. A total of 45 contacts have been identified and are already in quarantine.

On whether the Ministry has considered exhumation to allow the family to accord the departed a decent burial, considering the infectious nature of the disease, and according to the Public Health Act Cap 242, Section, this is not permissible to safeguard the safety of the community.

On what measures are being taken to ensure that the manner of treatment and handling of COVID-19 patients, suspected patients does not lead to stigmatization and scare from seeking help, the Ministry will continue to enforce the guidelines and protocols for management of COVID-19 disease.

Further, we will continue to scale up awareness on the pandemic, including addressing the myths and misconceptions. To do this, the community health strategy has been adopted to ensure

that communities participate and are fully involved and own the process of the adopted approach of testing, isolate and treatment of contact tracing of COVID-19. The community own resource persons that include the community health volunteers who are spearheading COVID-19 control activities at community level.

I beg to submit.

Hon. Deputy Speaker: Hold on briefly. There are vacant seats in the Chamber. There are seats 130, 278, 167 and 162. We need four Members to come in and take those chairs. The easiest is for us to get those who are in the nearest Chamber, which ordinarily has a certain name; I mean the Waiting Room. We can have four Members for seats 130, 278, 167 and 162. Were you progressing or you had finished?

Hon. Sabina Chege (Murang'a CWR, JP): I was progressing.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): On a point of order, Hon. Deputy Speaker.

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

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Hon. Deputy Speaker, in the last sitting you were not here. It had been made clear that you must indicate who among the Hon. Members you want to come. If at all somebody has failed to come, the practice by our Speaker last time, was that you need to name them. You cannot just say seats. That is what Hon. J.B. Muturi did last time so that next time when you indicate your availability, you should take it seriously because people are sacrificing to come to this House at such a time. We are serious. So, can you name the Members who are supposed to have occupied those seats? One way or another, they have failed.

Hon. Deputy Speaker: I chose not to name them. That is my choice. I have the names, but sometimes Members have issues. You could decide that you want to come here and matters that are beyond your ability happen. So, I will name them when I think I should. If I decide that I am not going to, like now, I am not going to name them. The position is that we need those seats filled and there are many ways through which we can make sure that this information is available for Members. Members should not always be looking for... That is the position I have taken. So, let us proceed.

Hon. Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker.

Hon. Temporary Deputy Speaker, I am on the Statement about the masks by Hon. Gabriel Kago, the Member for Githunguri. I will go directly to which type of masks ...

Hon. Deputy Speaker: Again, as you proceed, if Hon. Elisha Odhiambo is around, he should be allowed. Is he in? I know he was not among the Members who were given opportunity to be in the Chambers. If he is around, he should be asked to come in.

(Hon. Elisha Odhiambo walked into the Chamber)

Hon. Sabina Chege (Murang'a CWR, JP): There he is.

Hon. Deputy Speaker: Let him take one of the seats. Proceed Chairperson.

Hon. Sabina Chege (Murang'a CWR, JP): Hon. Deputy Speaker, the Ministry of Health (MoH) has developed guidelines on appropriate use, handling and disposal of masks and recommended fabric for cloth masks. Non-woven facemasks, surgical masks and cloth facemasks are recommended for public use. Key specifications include that the material must be latex free, hypoallergenic, fiberglass free, fluid resistant and have a three-ply construction. Masks should be

secured with an earlobe, elastic band or open sleeves to be placed behind the ears or around the head. The Pharmacy and Poisons Board has issued these specifications to guide local manufacturers and further eased provision of technical support on the ground by visiting local manufacturers and demonstrating to them on good manufacturing practice for masks, protective equipment and hand sanitizers. Reusable cloth masks should be singly packed and available from authorized dealers. We have licensed shops, supermarkets and pharmacies.

Hon. Deputy Speaker, N-95 masks are not recommended to be used by the public; they are meant for safety and protection of frontline health care providers for COVID-19. It is inappropriate for the public to deny our frontline ‘soldiers’ the necessary protection, when they need to use it as the pandemic has overwhelmed the global supply of N-95 masks. Surgical masks can be used by members of the public, but care need to be taken not to compromise health ...

Hon. Deputy Speaker: What is your point of order, Hon. Patrick Musimba?

Hon. Members, we have to recognise Members who are in other sitting places so that they can come in. Let us have a Member who is outside the Chamber. Sometimes you can be elsewhere and you want to be recognized. Let us have Hon. Patrick Musimba to raise a point of order.

(Hon. Patrick Musimba walked into the Chamber)

Hon. Members, the Chair has different ears and eyes. Hon. Patrick Musimba, is it true that you have a point of order?

Hon. (Dr.) Patrick Musimba (Kibwezi West, IND): Yes, Hon. Deputy Speaker.

Hon. Deputy Speaker: Members can confirm that that is the position. Proceed.

Hon. (Dr.) Patrick Musimba (Kibwezi West, IND): Thank you, Hon. Deputy Speaker. With your guidance, I seek to move an adjournment Motion for about five minutes, from 12.00 p.m. The nation has been subjected to a campaign by the Editor’s Guild of Kenya, who has a *saa sita* campaign, where they seek to recognize all the care givers, doctors and security personnel who are in the frontline in the fight against COVID-19. At noon today, and every Wednesday, they will be standing and clapping for these people. Therefore, I seek your indulgence ---

Hon. Deputy Speaker: Let us be clear with what you want. Do you want us to stop at noon for five minutes?

Hon. (Dr.) Patrick Musimba (Kibwezi West, IND): Yes, in our customary way, we can stamp our feet on the carpet in support of that campaign.

Thank you, Hon. Temporary Deputy Speaker.

Hon. Deputy Speaker: Yours is definitely a valid request; only that the procedure you seek to use does not seem to be tidy enough.

Hon. (Dr.) Patrick Musimba (Kibwezi West, IND): I seek your guidance, Hon. Deputy Speaker.

Hon. Deputy Speaker: It is accepted, but at that point, we will not need an adjournment. We will simply do whatever is supposed to be done at that point. We will continue consulting – you will also be consulted – to see what you intended to have, so that we can have something at noon.

You have probably earned yourself a seat. You would probably be sitting where someone else was sitting. To make it tidy, Hon. (Dr.) Patrick Musimba, you will have to go to the Sergeant-

at-Arms so that the matter is done procedurally and in a proper manner to avoid sitting on a seat that a Member has just stepped out to probably have some fresh air and come back.

Proceed, Hon. Chairperson.

Hon. Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Deputy Speaker. On the institutions and companies approved by the Government to make masks in this country, we have the following:

- (i) Kicotec in Kitui County, which has a capacity of producing 300,000 masks per day;
- (ii) Foam mattresses, which is producing non-woven fabric for use in making masks;
- (iii) The National Youth Service (NYS), Gilgil, who are producing 300,000 to 800,000 masks per day;
- (iv) The National Prison Service, who are producing 300,000 masks per day; and,
- (v) Rivatex Industries, Eldoret, who are producing 600,000 masks per day.

We also have institutions like Dedan Kimathi University and counties such as Meru, Murang'a and Kiambu that are also producing masks.

On the issue of recommended retail prices for a single mask of a cloth type and N-95, as well as medical products and medical technologies in Kenya, there are no set minimum prices. However, the Ministry of Health (MoH) recommends that products used in control of COVID-19 pandemic, be declared essential goods under the relevant law so that we can enable the Government to set minimum retail prices.

Hon. Deputy Speaker, the Government has put in place the following measures to ensure that quality and effective masks are affordable and accessible by all members of the public:

- (i) Technical inspectors ensure that only masks that meet the standards are in the market through post-marketing surveillance and vigilance;
- (ii) Application for marketing and authorization of products for use in control of COVID-19 are evaluated by experts to ensure that the quality, safety and efficacy are followed;
- (iii) The Pharmacy and Poisons Board technical staff are out in the field to offer technical support to manufacturers of relevant masks;
- (iv) The Government has prepared a list of COVID-19 to be declared as essential commodities for purposes of price control;
- (iv) The Government has encouraged more local production of Personal Protective Equipment (PPEs), with the Export Processing Zone (EPZ) being in the list of local manufacturers and in the process of producing masks, with the support of laboratory testing to ensure their quality.

Members of the public are advised not to buy masks being hawked openly and are not in any kind of package. In addition, they are advised to avoid fitting the masks. We saw in the past members of the public doing so, which is very dangerous for them. They also must make proper use of the masks. It does not make any sense for anyone to have a mask placed on the head, below the chin or under the nose. The purpose of the mask is for your own protection and others. So, despite the distance, every time members of the public are out there, they are encouraged to wear the masks properly and make sure that they are covered from the nose to the chin.

Hon. Deputy Speaker, Members were asking how you would know the right mask. If you blow a burning candle through a proper mask that has the three plies, it will not go off. If you have any form of mask on, be it the cloth type or one labelled 'surgical', if you blow a burning candle

through it and it goes off, it means that the mask is not protecting you well. So, that is one of the things you can do to test the effectiveness of a mask. There are already authorized manufacturers of masks in Kenya. We will be updating the House as we get the list. I know Members would want to buy some for their constituencies and would want to know which ones ---

Hon. Deputy Speaker: I would be very encouraged if we were to get a candle to test the mask that you have put on because I am not very sure ---

Hon. Sabina Chege (Murang'a CWR, JP): It is only that I am not allowed to carry the candle here.

Hon. Deputy Speaker: I know, but test it and tell us that you did the right thing.

So, a few Members will be given an opportunity to speak to this one. Off course, we will start with Hon. Elisha Odhiambo, who is the one ---

Hon. Sabina Chege (Murang'a CWR, JP): Can I finish, Hon. Deputy Speaker?

Hon. Deputy Speaker: Is there another one?

Hon. Sabina Chege (Murang'a CWR, JP): Just the last one.

Hon. Deputy Speaker: Okay, continue.

Hon. Sabina Chege (Murang'a CWR, JP): The last one is on response to Hon. Caleb Amisi's Question. He is the Member for Saboti.

Hon. Deputy Speaker: What is it the Leader of the Majority Party? Please, take your seat Hon. Sabina Chege.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, because of time factor, she can do the last one in the afternoon. We do not have any other Statements. We have a Bill and a Report to adapt before 1.00 p.m. We are already going to 11.00 O'clock.

Hon. Deputy Speaker: That is a very genuine concern.

Hon. Aden Duale (Garissa Township, JP): This will give an opportunity to Hon. Ochieng' and I to ask questions. Despite the COVID-19 disease, Muslims have a problem with the way burials are done. We have to speak to it. Our religion must dictate it. We must speak to how our brother was buried. With your permission, she can present the last Statement in the afternoon.

Hon. Deputy Speaker: That makes perfect sense, Hon. Duale. In any case, if we really want to canvass these statements properly, we should separate them. If we have too many of them, we will end up mixing them up.

Hon. Sabina Chege (Murang'a (CWR), JP): It is alright, Hon. Deputy Speaker.

Hon. Deputy Speaker: Is it possible to have it in the afternoon?

Hon. Sabina Chege (Murang'a (CWR), JP): Yes.

Hon. Deputy Speaker: That will be okay.

Hon. Sabina Chege (Murang'a (CWR), JP): I am ready to sit in the afternoon and present the Statement.

Hon. Deputy Speaker: Can we start with Hon. Ochieng'? I can see that Members have placed their cards at the intervention slot.

Hon. Benjamin Washiali (Mumias East, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, Hon. Washiali? Probably, the point of order is a serious one. Let us have Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker. My point of order is a burning one. Aware that the Chairperson of the Departmental Committee on Health

was responding to some statements, I rise under Standing Order No. 42C. I am also aware of your guidelines in respect to questions which you have suspended until further notice.

I know that the Members who are raising hands want to ask supplementary questions to the Statement that our Chairperson has given to this House. However, there will be a problem because she may not answer or give supplementary answers to those supplementary questions that will be asked in confidence. Just like you re-arranged this Chamber to fit Members of Parliament according to the regulations of the Ministry of Health, you can still re-arrange your Lounge where the Cabinet Secretary (CS) can come and answer questions, especially at this time when we have the COVID-19 pandemic.

Hon. Deputy Speaker: I do not have a lounge. All lounges in this building belong to Parliament.

Hon. Benjamin Washiali (Mumias East, JP): Thank you. Because there are many statements that Members want to seek, I have a question.

Hon. Deputy Speaker: I have a major problem with your approach, Majority Whip. Take your seat. One, I expect you and the Leader of the Majority Party to speak from the same script because he wants us to save time and I agree with him.

Two, you are a Member of the House Business Committee (HBC) by virtue of your office. These are matters that you should raise there. You do not need to come and raise them in the Chamber. Unless I am wrong, you are a Member of the HBC.

(Loud consultations)

The Majority Whip, you have the microphone.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker. I agree with you that I am a Member of the HBC. However, because of the social distance that is required during the COVID-19 pandemic, Members are limited access to meetings. Not all of us are allowed to participate in the HBC Meeting.

Hon. Deputy Speaker: Majority Whip, you know that you are not right. Most of these things that have been brought to the House were not discussed in the Chamber. They were passed at the HBC and by the leadership of the House. You are part of both. If there is any issue that you want to raise, the most appropriate way to raise it is in the HBC or with your colleagues who are the House leaders. That is the easier way. Please, let us not waste more time on that particular issue. We have heard you, but use the right procedure now. Go and discuss it in the HBC. If you were not in one of the previous ones, you definitely will be in the next one. By the way, you make a lot of sense. The only problem is where you are raising the issue. The Chair of the Departmental Committee on Health might not have all the answers to some of these specific questions. Those are the things that you should raise in the HBC and you will make a decision there.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker. I hear you. I wanted to ask a question on the testing kits.

Hon. Deputy Speaker: You will not have both. Let us have Hon. Ochieng'. Do not take advantage of an opportunity. You rose on a point of order. I gave you that opportunity to canvass. You cannot have a supplementary question. You are the one who has said that she might not have sufficient answers. Let us have Hon. Ochieng'.

Hon. David Ochieng' (Ugenya, MDG): Thank you very much, Hon. Deputy Speaker. I want to thank the Chairperson of the Departmental Committee on Health for a very succinct and honest answer. I sit in the Departmental Committee on Health. I was there when this Question was answered. It was answered two or three times because we had it back and forth.

We are in times when we are building the ship even as we sail. So, there are lessons to be learnt. Above all, I am happy because the Ministry of Health has honestly accepted that the law was not followed in this situation. This Parliament does not act in vain. We will ensure that where the law is not followed, those who do not follow it will face its full force. That is what we, as a House, must do and ensure that it is done in future. You can get excited about a disease. It is about excitement. People can say that they discovered a disease to shock you.

The specimen that showed that the late gentleman was COVID-19 positive was taken after he died. Then 12 hours later, he was buried without a post-mortem. They decided that because of COVID-19 disease, they would not do a post-mortem and they would bury him in a shallow grave. It will shock you that now even deaths that can be explained in other ways are explained using COVID-19 disease. In this situation, this gentleman had an accident in Awassi which is near a police station.

However, the Ministry of Health told us that they did not get information about this. They do not know that an accident happened. How do you explain whether the death was because of an accident or COVID-19 disease because COVID-19 disease was discovered after he died? Because there is time constraints, we are living in very difficult times. However, this cannot make us forget our culture, laws and traditions.

Hon. Deputy Speaker: Let us be brief.

Hon. David Ochieng' (Ugenya, MDG): Sorry, Hon. Deputy Speaker. The WHO guidelines require that in burying people who die of COVID-19, culture and traditions must be respected by all means. Because the Ministry of Health said that we cannot exhume the body, we have gone to court. We will ensure that the family of the late James Oyugi Onyango gives its kin a decent burial.

Hon. Deputy Speaker, I thank you.

Hon. Deputy Speaker: If Members will be brief, I will give the opportunity to more Members. Let us start with the Leader of the Majority Party and then I will give the opportunity to a few other Members. However, they should be very brief, please.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, I totally agree with Hon. Ochieng'. We are in an emergency situation because of the COVID-19 pandemic.

However, I am sure that some communities and religions have elaborate ways of burying their dead. We can reduce the time factor. There are certain things that must be done for the dead person to be buried according to his or faith or culture. I am happy because the Muslim community consulted the Ministry of Health. We reduced the number of people who can go to the grave, but we have not compromised on the procedure. We must balance.

Finally, on the matter that Hon. Ochieng' has raised, that body must be exhumed. The people who did that at night... We watched the children crying on the television. You cannot violate the law using COVID-19 disease.

(Applause)

The people who did that must be held accountable. If the Deputy Governor of Kilifi is facing criminal charges, what about those who did that incident in Siaya County? The Muslim Community buries its dead the same day after two hours. However, there are certain rituals that must be performed. It is happening to those who are dying in the United Kingdom (UK) and United States of America (USA).

Hon. Deputy Speaker, let us not use COVID-19 to break the law. That is why I said that the Cabinet Secretary in charge of Health addresses the country every day without a mask. It is about social distancing. The President does and the media observe this. That is why this House of 349 Members has less than 40 Members present. You cannot tell me to sit here and close my eyes using this mask. In fact, Hon. Cecile Mbarire, the masks being provided by Parliament are surgical masks. You should have like this one that I am wearing. This one can be washed every day.

Hon. Deputy Speaker, I agree that going forward... I mean I am not wearing an industrial mask but there would be nothing wrong if I wore. However, we all need to respect religion, culture, as well as COVID-19 measures for us to save lives.

Hon. Deputy Speaker: Let us respect everything, including wearing the masks correctly. Let us not play around with that. Many people have done that and suffered the consequences. I do not think that as a Parliament we should be saying that. If we are saying that because of social distancing, we do not need to wear the masks, then why should we put them on in the first place? Let us be serious about this particular bit. On the issues of following other directives, that is very good.

I am now trying to look out for Members. It is not easy to recognise all of you, but I can recognise Hon. Nyasuna because of the... Luckily you were top on the intervention list slot.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Deputy Speaker. On the issue of masks and the messaging as far as COVID-19 is concerned, we cannot afford to send mixed messages to our people. If you say that you can either have your mask or not, this is what the people out there will follow. The biggest example on this issue of masks is the CS for Health who gives briefings every day. He has to have his mask on so that people can follow. People have raised that question all the time. If we say that social distancing is this much and we do not need to wear the masks, then we will be sending mixed messages and our people will get lost in the process and we will lose lives. Our health officials must note that. The idea of them removing their masks or putting them on the chin cannot be accepted.

Secondly, is the issue of protocol as far as quarantine is concerned. Recently, we had a lot of confusion in Homa Bay because the process is not known. You saw a person who was in a quarantine facility saying that: "I have been placed here yet I am not sick." If there is a criterion that has to be followed, including counselling once placed in these facilities that must be followed too. Also, what happens in a quarantine facility?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Okay. We were supposed to start the main business of the House at 11.00 a.m. but I see the interest of Members. I give you seven more minutes and then we will eat into the main business and Members must only speak for one minute. I can see the interest concerning this.

Let us have Hon. Omboko Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you Hon. Deputy Speaker, for this opportunity. First of all, on the issue of masks, which has been spoken on by several Members, it is important that we show a good example without too much arguments. One time, there was an old American President. He thought that he should show Americans how young he was and he went for his inaugural address with a shirt and he passed on. You can research that. So on this issue, let us just be respectful.

Two, on the question that was answered by the Chairperson on masks, telling Kenyans to buy particular quality masks and not to buy the ones on the streets, out there, people are creating and executing laws without the proper approval of Parliament or any other institution that should do so. Police are arresting people for not having masks. Therefore, we cannot be talking about a particular type of mask when people are being arrested, yet the best they can do is to get rags to cover their mouths and noses for them to survive.

Hon. Deputy Speaker: Okay. You have gone beyond your minute.

Hon. Omboko Milemba (Emuhaya, ANC): Let us open up the making of masks to everybody so that we can all be safe.

Hon. Deputy Speaker: I will give more Members the opportunity, but Hon. Kago has to speak. Even the Leader of the Minority will have time. Let us start with Hon. Junet.

Hon. Junet Nuh (Suba East, ODM): Thank you Hon. Speaker. I would like to raise an issue on the Statement that was issued by the Chairperson of the Departmental Committee on Health. She has not told us whether dead bodies can transmit the virus. As the Leader of Majority has said, in our culture- the Muslim community- you have to be washed properly before you are buried. I want to know from her, whether bodies of people that have died from COVID-19 can transmit the virus.

Secondly, let the President and all the Cabinet Secretaries wear masks when they are addressing the nation. They are not exempted since they can get the virus too. Let everyone including Members of Parliament wear masks in public places.

I thank you.

Hon. Deputy Speaker: Let us have Hon. Kago. You all appreciate the difficulty for us to get you. What seat number are you on?

Hon. Gabriel Kago (Githunguri, JP): I am on seat 170. Thank you Hon. Deputy Speaker. First, I want to appreciate and thank the Chairperson of the Departmental Committee on Health for the Statement she has given. But, I want to say that she did not cover the issue of the disposal of masks. This is because she has agreed that Kenyans can use surgical masks which are disposable. We saw on social media that people are going to Mbagathi Hospital, getting the already used masks, washing them and distributing them to...

(Laughter)

Yes, we saw this going around in social media. Can we allow the Kenyans...

(Hon. Gabriel Kago's microphone went off)

Hon. Deputy Speaker: Your time is over. Hon. Members, I actually noticed that we will be having a general Motion on COVID-19 in the afternoon sitting. Therefore, as many Members

as possible will be able to speak on this. I will give the Leader of Minority Party this opportunity and that is it. Most of you will have an opportunity in the afternoon. We really need to move to the substantive business.

Hon. John Mbadi (Suba South, ODM): Hon. Deputy Speaker, in the interest of time, I have two quick ones. On the issue of the late Oyugi, I just want to ask the Committee that his body should be buried properly. That was not a grave.

(Applause)

Even if we leave out all the other things that we can sacrifice and compromise, in my view, on the issue of the grave, he must be buried properly. That is something that the Committee can do.

Two, I want to speak to the issue that Hon. Omboko has raised. This is the time to avoid populism. Let us talk to our people. It is not a question of seeking votes. Various regulations are in this House and we will pass them. If the Government has said that people should wear masks or wash hands, that should be done.

(Hon. John Mbadi's microphone went off)

Hon. Deputy Speaker: I add you one more minute.

Hon. John Mbadi (Suba South, ODM): On this question of saying that we do not even have soap and the Government should buy soap, I know that we can facilitate that and help, but people can also buy local soap. Let them wash their hands with bar soap. Let us encourage our people to observe social distancing. If they do not, let them be arrested. Even if it is a matter of no votes, we should not seek votes at the expense of the lives of our people. If they all die, who will vote for us tomorrow?

Hon. Deputy Speaker, I want to echo that the Government should crack the whip on people. On this idea of talking of human rights violation, there is no human rights without humanity. If people are dead, then where will you talk about human rights? We are living in extraordinary times and I want to be on record that our people must listen. These ideas of doing stupid things like congregating and drinking as if the world is coming to an end should stop.

Hon. Deputy Speaker: That is well said. We will now go to the next Order, please.

PROCEDURAL MOTION

LIMITATION OF DEBATE

Hon. Deputy Speaker: Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order No.97(1) and notwithstanding the resolution of the House of 18th February 2020, each speech in any debate during the Sittings of the House on Wednesday, 22nd April, Wednesday, 29th April and Wednesday, 6th May 2020, shall be limited as follows: a maximum of one hour and thirty minutes with not more than ten (10) minutes

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for the Mover in moving and five (5) minutes in replying and a maximum of five (5) minutes for any other Member speaking, except for the Chairs of the Committees and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and Chairperson of the relevant Committee, in that order.

The Procedural Motion is meant to guide the House in the manner in which debate will be carried out in today's Sitting.

We also agreed in the House Business Committee (HBC) and it has been confirmed by the Government that when we sit on Wednesday, we will be exempted from the curfew. So, today, we will sit until 7.00 p.m. All parliamentary staff and Members who will be in the Chamber will have free flow to their homes. I can confirm that and the Hon. Speaker will make a Communication to that effect in the afternoon. But the exemption means that we go home. We should not go anywhere else. Please, let us go home. As Hon. Mbadi said, please, let us protect our children, families and Kenyans.

With those remarks, I ask Hon. Mbadi who was in the HBC to second.

Hon. Deputy Speaker: Hon. Mbadi.

Hon. John Mbadi (Suba South, ODM): Hon. Deputy Speaker, I beg to second.

Hon. Deputy Speaker: Hon. Kimani Ichung'wah, the Chair of the Budget and Appropriations Committee will have an opportunity immediately after this Procedural Motion.

(Question proposed)

Hon. Members: Put the Question.

(Question put and agreed to)

Hon. Deputy Speaker: We will have the Chairperson of the Budget and Appropriations Committee to lay a document he has. He is late, but I have given him an opportunity.

PAPER LAID

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House today Wednesday, 22nd April 2020:

Report of the Budget and Appropriations Committee on the Senate Amendments to the Division of Revenue Bill, 2020.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Let us go to the next Order. As we do that, Hon. Members, the masks you are wearing are procured from Kenya Medical Supplies Agency (KEMSA) and the Ministry of Health. So, you are definitely safe.

BILL*Second Reading*

THE TAX LAWS (AMENDMENT) BILL

Hon. Deputy Speaker: Leader of the Majority Party, you have your 10 minutes.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, I beg to move that the Tax Laws (Amendment) Bill, National Assembly Bill No.8 of 2020, be now read a Second Time.

This Bill seeks to amend various tax laws among them the Income Tax Act, Cap.470, the Value Added Tax Act, No.35 of 2013, the Excise Duty Act, No.23 of 2015, the Tax Procedures Act, No.29 of 2015, the Miscellaneous Fees and Levies Act, No.29 of 2016 and the Kenya Revenue Act No.2 of 1995.

This Bill is of particular interest and great importance to the great people of this great nation. It contains deliberate measures geared towards cushioning Kenyans from the economic effects of the COVID-19 pandemic, which has not only affected Kenya, but has also affected the whole world. So, this Bill both cushions Kenyans and tries to make sure that the economy of our nation survives despite what is going on.

This Bill is a testament and testimony of our cardinal constitutional function as provided for in Article 95 of the Constitution, which is to resolve issues of concern to the people of this great nation. That is the difference between us and our colleagues in the Senate. These measures can only be done by this House. The Supplementary Budget can only be done by this House. For those reasons, and amidst the COVID-19 pandemic and the huge challenges it has presented by threatening even the economy and the very livelihood of our very hard-working citizens, today, this House stands to ensure that we put in place measures that shall keep Kenyans of all walks of life safe and moving. I am proud of the National Assembly because we have stood to be counted during these difficult times.

The Bill seeks to amend the Income Tax Act to among other things reduce the individual top tax rates and residents Corporate Tax rate. What does it do? For the individual, it increases the disposable income and in turn enhances consumption. For the corporate, it gives some investment relief because we are reducing Corporate Tax from 30 per cent to 25 per cent. It is meant to spur growth so that companies do not go under. We must protect our companies, the economy and Kenyans by putting some money in their pockets.

This Bill also contains amendments to the Income Tax Act by replacing the second Schedule with the effect in terms of simplification and even more importantly introduces investments allowances to be deducted on capital expenditure.

The Bill also proposes to amend the Income Tax Act in relation to Pay as You Earn (PAYE) by amending the personal relief for each of the tax bands at the rate of 25 per cent, instead of the rate of 30 per cent.

Hon Deputy Speaker, I thank the Committee led by Hon. Limo. They sat from Thursday to Saturday evening until 7.00 p.m. They have looked at this Bill and cushioned it against certain items that the Ministry of Finance wanted to do. They have saved Kenyans, dairy farmers and all dairy feeds manufacturers.

Hon. Deputy Speaker, as we speak, agriculture is the only activity that is going on in the rural areas of Kenya. Nothing is going on here because people have gone back to the rural areas. He has saved all the amendments to the agricultural sector, and I am sure he is going to give more details on that. Let us view this Bill in a way because if the Government gives relief on one side, it must find a way of getting money to pay the gap. The Committee has looked at this Bill and balanced it.

The Bill also amends the Excise Duty and Miscellaneous Fees and Levies Act by removing exemptions on certain non-essential goods such as samples. As I was reading this Bill last night, something came to my mind that these masks we are wearing and asking Kenyans to buy carry a duty of 25 per cent and an additional Value Added Tax (VAT) of 18 per cent. I have told the Speaker that this afternoon, I will move an amendment on masks to remove the 25 per cent duty and the 18 per cent VAT so that they can be as cheap as possible. You cannot ask Kenyans to buy masks and yet, one costs between Kshs80 to Kshs90. I spoke to the Cabinet Secretary (CS) for National Treasury and, together with the Government, they are in agreement with my amendment. We have realised that in the old Act, masks had both Import Duty and VAT. The Personal Protective Equipment (PPEs) have been catered for in this Bill. There was an oversight on masks.

Hon. Deputy Speaker, I said this last week, and I want to agree with Hon. Mbadi that it is not a joke. We must follow the protocol. There are Kenyans who cannot buy food today. They have no jobs and cannot even afford to buy the soap that Hon. Mbadi is talking about. There are people in settlements. The President has said that there will be enough food and they will be cushioned. Money must be released immediately we pass the Supplementary Budget and Kenyans who are living in low-settlement areas must be given food. The Nairobi Metropolitan Area Services together with the County Government of Nairobi and other counties must provide food, even to the poor Muslims who are starting *Ramadhan* at the end of this week on Thursday. It is time to give in. As Members of Parliament, we must use our National Government Constituencies Development Fund (NG-CDF) emergency fund, and our Women Representatives use their emergency fund and look for vulnerable members of our society and support them.

With those remarks, I beg to move and ask Hon. Limo to second. I want you to give him more than 5 minutes... Maybe 7 minutes.

Hon. Deputy Speaker: You have just moved the Procedural Motion.

Hon. Aden Duale (Garissa Township, JP): The way I have moved is not the way you put it in the Question, if you can check the *Hansard*. I wanted to do it administratively.

Hon. Deputy Speaker: I will see what he has and if he will run short of time. Let us have Hon. Limo

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Deputy Speaker, for giving me the opportunity to contribute and second the Leader of the Majority Party on this important law, the Tax Laws (Amendment) Bill.

Before I proceed, I want to appreciate Kenyans who, during this COVID-19 period, have tried as much as they can to follow the Government prevention guidelines. Kenya has been rated as among the countries that are fighting COVID-19 vigorously. I want to encourage communities in villages to follow Government prevention guidelines as they work in their farms. As they work, they should maintain social distancing. We need them to produce food.

I want to stand with Kenyans who have lost their loved ones during the recent floods and landslides. This is a very serious thing. I want to appreciate the following offices on this particular...

(Hon. Moses Kuria consulted loudly)

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

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

Hon. Junet Nuh (Suna East, ODM): I know Hon. Moses Kuria has not been around for long but, you cannot have one Member standing while another one is on his feet. It is provided for in the Standing Orders. He should also maintain social distancing. He is discussing Kiambu politics while the House is discussing serious issues.

(Laughter)

Hon. Deputy Speaker: I would not want that to be an open debate. Hon. Members, let us take social distancing and putting on of our masks very seriously.

Hon. Joseph Limo (Kipkelion East, JP): I hope you will add me more time because of that interruption. Before that, I was condoling Kenyans who have lost their loved ones to COVID-19 and the recent floods and landslides especially in Marakwet and my neighbouring constituency, Kipkelion West.

I want to appreciate the following offices that supported us: First, I want to thank Members of the Departmental Committee on Finance and National Planning. They sacrificed a lot. We had a total of nine sittings in a row and almost 80 per cent of the membership attended...

Hon. Deputy Speaker: Hon. Limo, you are a very effective Chair, but let us leave those niceties for now. Let us go to the meat because we have a problem with time. I, however, intend to add you some minutes. But, please, go to the substantive Bill.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Deputy Speaker, I do not want to repeat what the Leader of the Majority Party has said. I want to concentrate on how the Bill was processed. It was brought in by the Government to reduce the impact of COVID-19 pandemic on Kenyans. The President pronounced himself and gave measures to be carried out. In line with financial management, the National Treasury came up with various tax measures to ensure that the issues of supply and demand are addressed. This Bill proposes several measures, among them to cushion Kenyans earning below Kshs24,000 from paying tax. This measure affected the bands and gave benefits to the top rate earners. The President also pronounced himself that the Government appreciates that COVID-19 will not spare the corporate businesses and were given 5 per cent tax relief. To raise the various revenues required to fund this, the Government proposed various tax measures touching on Income Tax, VAT and Presumptive Tax which was there, and the Turnover Tax. We went through all these proposals.

We went through memoranda from various stakeholders, who were given 14 days to respond to the proposals given by the Government. We received over 70 memoranda from the public, among them: The Kenya Private Sector Alliance, Kenya Manufacturers Association, various stakeholders in the Nairobi Securities Exchange (NSE), Law Society of Kenya, Capital

Markets Authority, Institute of Certified Public Accountants of Kenya, Kenya Association of Air Operators and the Agricultural Society of Kenya.

As the Departmental Committee on Finance and National Planning, while considering the impact of these proposals on Kenyans, we agreed with the National Treasury. It is because there is need to raise more revenue to fund the various measures that are being taken by the Government, which is in line with what the President said. However, if you look at the Bill, some of the proposals were touching on essential commodities.

Hon. Deputy Speaker: Your five minutes are over, but I am adding you a few more.

Hon. Joseph Limo (Kipkelion East, JP): I can confirm some issues so that Members can really understand. They do not need to dwell on them for long. We have taken some action to ensure we safeguard both the revenue being raised and the welfare of Kenyans. We have saved Kenyans on essential commodities that are touching on bread, milk and medicaments. There is no increment which will happen on those items because it will cause more problems to Kenyans.

The only sector which is still growing despite COVID-19 is general agriculture. Therefore, we have saved fertilisers, all agricultural implements and pesticides from being taxed. They would have gone higher if we had agreed to these proposals. In order to save tourism and the transport sector, we have also saved several proposals from being implemented.

We have, as Parliament, been accused in one way or the other that we are not responding to profit loss and, therefore, saving Kenyans. We are aware that several businesses have closed. These include banks, hotels, the transport sector like *matatus*, which have been parked because of restrictions on movement. The airlines have grounded their aircraft and all that. We know that some Kenyans have taken loans. Therefore, we are proposing several amendments to the Banking Act to protect enforcement of securities which people put in place when taking loans. That is so that banks do not sell properties during the COVID-19 period.

We are also suspending listing on Credit Reference Bureau (CRB) so that members who are not able to repay loans during this period are not affected. We will be proposing measures to safeguard employees against being sacked. Therefore, we are proposing that employers do not sack employees at this time. Even if they are not able to pay, they should enter into agreements to have employees go on unpaid leave. I urge this House to really support these amendments, which we will be moving in the afternoon.

Finally, because of time, I thank my Committee, the Speaker, the Clerk and the Leader of the Majority Party for their support during this time. My thanks also go to the Cabinet Secretary for the National Treasury and his team for their support during the processing of this Bill.

I assure this House that we are aware of the fears you have. We have taken those fears into account to safeguard the interests of the Government in raising revenue and also the interests of Kenyans.

With those remarks, I second the Bill.

Hon. Deputy Speaker: Very well. Well done.

(Question proposed)

Rightfully and for two reasons, the first shot goes to the Leader of the Minority Party. He is a good financial expert and, at the same time, the Leader of the Minority Party. So, he has a right.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Deputy Speaker.

As I support the discussion on this Bill and the approval of the same, I just wish and hope that Members will restrict themselves to discussing the Tax Laws (Amendment) Bill. It is because there will be a Supplementary Budget and a Motion on other issues.

The main reason for the proposal to amend various tax laws, the Income Tax Act, the Value Added Tax Act, the Excise Duty Act, the Tax Procedures Act and the Miscellaneous Fees and Levies Act is to help alleviate the negative impact of the pandemic by enhancing the disposable income, especially for workers; and also to protect businesses. So, the main reasons for this are two. One is to put money into the pockets of Kenyans and two is to protect businesses and jobs.

First of all, the amendments to the Income Tax Act are as follows: Number one is the Turnover Tax, which is being reduced from 3 to 1 per cent. Again, there is even a change on the threshold of the Turnover Tax. Currently, the Turnover Tax is considered as from zero to Kshs5 million turnover per year. The amendment seeks to change it to from Kshs500,000 to upwards of Kshs15 million. So, that is targeting enterprises. It is putting more money in the pockets of enterprises at this difficult time. Number two is on PAYE, about which I am sure everyone is aware. We are seeking to have those who earn below Kshs24,000 to be exempted from paying tax or to have them pay zero tax. At the same time, it is increasing personal relief by Kshs992, from Kshs1,408 to Kshs2,400. There is also the change on tax bands. Whereas we presently have the minimum at 10 per cent, it is going to move to 15 per cent. The maximum is going to be reduced from 30 per cent to 25 per cent. This largely is going to help those who are in formal employment. It is going to put money into the pockets of Kenyans but, only those who are in formal employment. That is the caveat. We are aware that very few Kenyans are in formal employment. Therefore, those who are going to benefit are not so many. However, it is going to improve their purchasing power.

There are amendments on allowable deductions for tax purposes, which I may lack time to discuss. Investment deductions also under Income Tax are here. Additional taxation of non-residents is also captured here to provide money to plug the hole which is going to be left.

My concern was with the proposed amendments from the Ministry responsible for the National Treasury regarding Value Added Tax. I am happy the Committee has picked this. The proposal to remove items like supply of ordinary bread from zero rating was going to affect the ordinary Kenyan. It includes the inputs for the manufacture of agricultural pest control products and materials for the manufacture of solar batteries. We know we want to go green as an economy. Removing agricultural pest control products, fertilisers and many other things like medical equipment from zero rating is something we could not allow. I am happy the Committee has picked this. This is also a warning to the Government and the National Treasury not to give to Kenyans with one hand and take from them with the other, especially poor Kenyans. This is a time to cushion the bottom segment of our society.

The amendment proposed under Excise Duty is basically removing the separation between imported sugar and locally manufactured sugar. I agree with this because it was very difficult to determine which one is locally produced manufactured sugar and which one is imported. It had the effect of flooding the market, causing a lot of confusion, distortion and unnecessary trade practice.

The amendment to the Tax Procedures Act is to appoint banks to act as revenue agents for the Government. I think the Government has in mind the issue of the Nairobi City County. They

are using this to help have banks collect money on behalf of the Nairobi Metropolitan Committee. However, there is a problem. There is a reduction of penalty for late submission of Turnover Tax from Kshs5,000 to Kshs1,000. I do not know why this should be passed.

Hon. Deputy Speaker: Your time is over.

Hon. John Mbadi (Suba South, ODM): Can I have one or two more minutes?

Hon. Deputy Speaker: You will have just one minute, then I will allow other Members to comment.

Hon. John Mbadi (Suba South, ODM): I wanted to say that I hope the Committee has brought an amendment to this one. There is no need to relax tax penalty. Those who are supposed to be faced with tax penalty are people who have failed to pay tax. They should pay tax. Those are people who need no favour or mercy. They should pay even a higher penalty.

With those few remarks, I support.

Hon. Deputy Speaker: Okay. Now, I will give Hon. Abdullahi Sheikh if he wants to speak to this. Is he in the House? Where is he? Where are you? You are at the very back. So, Hon. Abdullahi Sheikh, after you speak, I will give the Floor to Hon. Makali and Hon. Rasso from the holding areas. They should come closer. Proceed Hon. Sheikh.

Hon. (Rtd.) Bashir S. Abdullahi (Mandera North, JP): Thank you, Hon. Deputy Speaker. The Tax Laws (Amendment) Bill is crucial. We need to be cognisant of the fact that, as people's representatives, we care for both the employers and employees. As we go on with this kind of amendment, let us remember that both employers and employees are Kenyans. Let us not have a situation where we force companies to go under because we want money in the pockets of employees. What will happen if those companies go under? Who is going to pay the employees? The Government cannot absorb all those employees. So, we need not have populist ideals like Bills that will ultimately not see the light of the day in terms of implementation. In this House, we have made several regulations and annulled some of them after we have found that they are not in the best interest of employees and employers. However, even when certain things are annulled by this Parliament, the Executive goes round it and implements them. We then ask ourselves: What is our role as people's representatives? Some of the laws that we want to implement are punitive both to the employers and employees. So, we must ask ourselves: As we want to help the economy, are we hurting ourselves even more?

It is the Government, for this matter, the Executive, that is supposed to cushion Kenyans. Before this pandemic, things were working. The Government was collecting taxes. Therefore, it is the Government's turn to cushion Kenyans, especially employees. We cannot have firms being asked to retain employees and yet they are going under. Let us have a balance between the two. We should save the economy, the employers and the ordinary employees. We should not be going through whatever the Executive wants and rubber stamp it. Let us remind ourselves that we are MPs representing the ordinary Kenyans. We are not part of the Executive. We are part of the Government as the Legislature. Let us avoid just praising whatever we receive from the Treasury or ministries by saying they are good for Kenyans. Sometimes, they are not. We speak for Kenyans. Therefore, let us be wary of some of these amendments that are being proposed. Most of these Bills, from what I have read through, are not good for the country and the people of Kenya. Let us see how best we can cushion Kenyans by looking at the welfare of all of them; whether employees or employers.

Thank you.

Hon. Deputy Speaker: Hon. Rasso is from the other holding areas.

(Hon. Ali Rasso walked to the Dispatch Box)

Hon. Ali Rasso (Saku, JP): Thank you, Hon. Deputy Speaker. I beg to speak on this Bill. What we need to take cognisance of is that extraordinary times call for extraordinary measures. I speak on this Bill on the premise that Kenyans must have food on the table. Kenyans must be safe. After COVID-19, Kenya must stand on its feet. These are some of the things that we must look at as we go through this Bill.

I want to borrow quickly from what Hon. Mbadi has said. We cannot give with our right hand and take what we have given with the left hand. What we are saying on PAYE is that, those who earn less than Kshs24,000 are tax exempt. However, we are likely to impose taxation on some basic things like foodstuff. I believe today that petroleum is no longer exotic. It is a basic commodity. There are things which we must agree on. Bread must be zero rated. You cannot put bread and chocolate on the same side. How many Kenyans consume chocolate?

The other issue is zero rating. I believe once we classify all those basic commodities that go to the ordinary households, then they must be zero rated in this Bill. At the same time, there is an issue like building and construction but, as far as we are concerned at this time, we are not talking about constructing anything. We are talking about saving Kenyans.

With those remarks, I beg to support.

Thank you.

Hon. Deputy Speaker: Very well. I had given Hon. Makali the next opportunity. If he is not in, I will give it to Hon. Kaluma. He is top on the list here.

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you most sincerely, Hon. Deputy Speaker for recognising me and giving me the chance to contribute. In the difficult situation we are in, we already had the challenge of unemployed Kenyans well before COVID-19 came in. The number of unemployed Kenyans is increasing every day. For example, the ladies from Kibra and other slums who hang around residences of the general middle class seeking to wash clothes, now cannot enter into those homes to wash clothes. They go back to their homes without anything. My understanding of how to deal with the situation we are in, is to seek to get whatever we can from people who are in employment and earning to help those who are either out of employment or are vulnerable and have nothing at all. If we do not approach it that way, when conditions become insufferable for people, they will go to search for means wherever they believe they are there. So, you will have people from Kibra going to Karen, people from Mathare going to Muthaiga and people from Kawangware and Kangemi going to Lavington, Kileleshwa, Kilimani and Westlands. You know where they will head next once they are finished with those areas. That is why I am suggesting that for those who can give something, let us do so.

I, therefore, fear that in as much as we are zero rating basic commodities – which is a good thing – we are taking away something like Income Tax from that lower bracket and we are lowering the Income Tax percentage from 30 to 25. If you lower for me Income Tax as a State officer, who is the only person whose job is secured in these difficult times, how will a vulnerable person survive? It may be suitable because we are employed in the Government like many others whose jobs are secured in this situation and can see the benefit in reducing Income Tax from 30 per cent to 25 per cent. However, this is not something that will be helpful because the Government

will still need money to sustain our remuneration. I doubt if, as a nation, there is a ready donor who is going to give us money to sustain the salaries we are earning the way we have been doing.

This is why, when we proceeded last week, I also objected to the reduction of VAT from 16 per cent to 14 per cent. We must find a way through which people who can buy something pay what they have been paying or even more, so that we can have revenue to provide for those who do not have anything at all. That is the only way we will have money to protect the health workers we are talking about. Without anticipating debate, I am seeing provisions on PPEs, risk allowance and the need to employ more staff. Where are we getting this money from if we are also proposing that the Government forgo the only reliable sources of revenue - In income Tax and VAT? Saying that people earning Kshs24,000 and below should not pay Income Tax is very sweet and nice. At least, those people are getting something. When you consider it at the level of each individual, it does not mean much.

The Committee on Finance and National Planning ought to have told us how much revenue the Government will lose by exempting those earning Kshs24,000 and below from paying Income Tax. And what, therefore, does it prevent us from doing to support the sectors on which our vulnerable people depend? That is the matrix I was waiting to hear from the Committee Chair. You need to tell us if we lower VAT from this rate to this rate, how do we secure that it ensures reduction in the prices of goods? Unless we are talking of an economy where prices are controlled, reduction of VAT in itself does not secure the reduction in the prices of goods. We are in a free economy where demand and supply dictate prices. I am, therefore, saying that we must be circumspect. There is a good reason why this matter...

Hon. Deputy Speaker: Unfortunately, your time is over. We will have Hon. Mboni.

(Hon. (Dr.) Chris Wamalwa spoke off record)

What is your complaint Hon. Wamalwa? We need to balance this. Unfortunately, I do not know who are on my right and who are on my left. In any case, even if you look at the representation of parties, you will discover that it is well balanced. Members were here at the same time and so, I am giving Hon. Mboni the opportunity. He is actually a member of the Committee.

Hon. David Mboni (Kitui Rural, CCU): Thank you very much, Hon. Deputy Speaker, for giving me this opportunity to contribute to the Bill. What I can tell Hon. Kaluma is that removal of PAYE for those earning Kshs24,000 and below will see the country lose Kshs18 billion. On reduction of the rate of PAYE, we will lose Kshs81 billion. On reduction of Corporate Tax, we are going to lose Kshs22 billion. I wanted to make that clarity.

The reduction of PAYE and Corporate Tax is supposed to address two things. One, the reduction of PAYE is supposed to address the demand side, so that Kenyans can have disposable income to buy goods and services. Two, the reduction of Corporate Tax is supposed to cushion companies from the effects of the Coronavirus pandemic and enable them to retain workers who are going to be affected. However, we need to understand that increase in disposable income does not always translate to increase in purchasing. It has its own effects. If people have income but there are no goods to buy, then that can cause inflation. And inflation will have an effect on other macro-economic variables in the economy. So, we need to address the issue of supply of goods to the market. If goods are not going to be transported to markets, then we are going to have short supply. That alone is going to cause inflation. The Government should facilitate transporters so

that they can transport goods to the markets. I have seen a proposal to increase fuel prices. This House should reject that proposal because immediately you increase fuel prices, the cost of transport is going to increase.

The other thing that we need to watch are the roadblocks, which are scattered everywhere. Those roadblocks actually delay transportation of goods and services. Any tax measures on agricultural or manufacturing inputs will affect production. That is because the cost of production is going to increase. When that happens, producers will pass the cost to consumers. The intended purpose will not be achieved because the goods will be expensive. Likewise, any tax measures on essential commodities will affect consumption.

There are measures which have been proposed on VAT, like charging VAT on fertilisers, animal feeds, fishing nets, inputs for manufacture of alternative pesticides and farm tractors. If we increase VAT on these items, the cost of production is going to increase. Therefore, we will not be able to achieve the intended purposes. Maize flour, milk and bread should be zero rated. Charging VAT on those goods is definitely going to affect people who consume them.

Tax measures should be fair across a particular sector. The proposal to tax spare parts used by small aircraft and helicopters...

Hon. Deputy Speaker: Your time is over. Remember at exactly 12.00 O'clock, we will be performing what Hon. Musimba had requested. So, I will give an opportunity to a Member, who will take about three minutes, before it reaches that time. We will hear Hon. Ngirici and then next will be Hon. Wamalwa after 12.00 O'clock. We will still have some other few Members speaking to this.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity to speak to this Bill, which I support. I wish to reiterate the fact that some of the proposals by the Treasury are quite ridiculous. As representatives of the people, we need to cushion our people from some of the proposals like increment of VAT on fertilisers, animal feeds and all those things that are consumed daily by the *wananchi*.

I am glad that our Committee was able to settle and cushion Kenyans by reducing the rate of VAT on most of the goods that are consumed daily from the proposed 16 per cent to 14 per cent. I also commend the Committee for reducing tax on spare parts of small aircraft and in trying to cushion the air transport industry, which is right now grounded. Those proposals would not have meant anything or increased any money to the country. As representatives of the people, we should look at proposals that will give effect to what the Government has presented to the country.

Hon. Deputy Speaker: Okay. Hold on, Hon. Ngirici. Hon. Members, we are all going to stand, both Members who are in the Chamber and those in the holding areas. You are free to... I would not really encourage clapping. Please, get a way of applauding them without necessarily having to break the rules. It would only be for a minute.

(Hon. Members stood up in their places and applauded frontline medical practitioners battling the COVID-19 pandemic)

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Hon. Junet, please, clap.

Hon. Deputy Speaker: One minute is over. It is now a minute past 12.00 p.m., Hon. Members. You can now resume your seats.

Hon. Members, that was meant to applaud and appreciate the first-line workers who are helping Kenyans fight with the COVID-19 disease. I heard Members shouting that the Speaker should clap. The Speaker could not break the rules like yourselves. You actually broke the rules, but I was magnanimous enough not to rule you out of order. However, that was a good thing. So, let us proceed. One minute for Hon. Ngirici.

Hon. (Ms.) Purity Ngirici (Kirinyaga CWR, JP): Finally, I also want to commend the reduction of the tax for the elderly. I wish to ask that we continue zero rating the medical equipment as we continue fighting the COVID-19 disease.

Thank you.

Hon. Deputy Speaker: Hon. Wamalwa, the Floor is yours.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Deputy Speaker. I rise to support these tax laws. Kenya is now in extraordinary times and we need extraordinary measures. Many people have said that reggae has been stopped. It is not just reggae that has been stopped, but also schools, mosques and churches. Everything has come to a standstill. It is, indeed, a very difficult time not only for Kenya, but for the entire world.

Hon. Deputy Speaker, if you look at the way these amendments were proposed by His Excellency the President... Yesternight, one chief executive officer of a corporate organization called me and asked what they are supposed to do with this PAYE now that they are paying salaries. Do they go ahead and, maybe, implement the President's proposal? I tried to reach out to some of my colleagues but in vain. The answer is no. This is because Parliament must ratify what the President said before you do any of those things as far as PAYE is concerned. This is to show that Parliament is an essential service provider. This should also go into history. I know we have a list of the essential service providers.

(Applause)

Parliamentarians who are here today should be included in that list of essential service providers. If they were not here today, these measures that are meant to cushion Kenyans cannot be effected.

Hon. A.B. Duale (Garissa Township, JP): National Assembly!

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Indeed, it is the National Assembly as the Leader of the Majority Party has said. Article 95 of the Constitution is very clear. It says that we can debate and resolve any matter that affects our people.

Corporate Tax is critical. We salute His Excellency the President for that reduction of 30 per cent to 25 per cent. This will enable the corporations to continue existing. We know they provide employment. This is the linkage that we need to understand. When you talk about tax exemption for those who get Kshs24,000 and below per month, it is a big relief for them. This is because if you earn a salary of Kshs24,000, the net normally comes to almost Kshs17,000 or Kshs18,000. So, if you can save, say, Kshs4,000 per month, that is a lot of money. They will use that money for essential services. They will buy essential goods like bread, *unga* for *ugali* and whatever. As much as the country is going to lose Kshs8 billion from the tabulation we were given of Kshs18 billion, when you do a cost benefit analysis, you realize that Kshs24,000 is a bigger benefit *vis-a-vis* the Kshs18 billion that goes to the Government.

With regard to PAYE, we are going to lose about Kshs81billion. This is a lot of money. That is why there was a concern from Hon. Kaluma. Are we sure we are going to have the trickle-down effect? Those unscrupulous business people, wherever you are, if you want to make profits at this time of the pandemic, *tunasema ushindwe!* You cannot make abnormal profits at such a time. We are struggling to survive. We are calling upon the big corporations wherever they are... These benefits must go down to the common people. Look at these masks! Hon. Duale just mentioned the VAT and Excise Duty. It is crazy. Everything must be brought to zero. I bought some masks to take to my great people of Kiminini Constituency. The amount being quoted is abnormal. The price of these masks should be lowered. The VAT and Excise Duty on the masks must be removed so that the price comes to as low as Ksh20 for them to be affordable. We cannot be saying something positive and yet, here is something negative that is going on. We have masks being produced in every county. However, from the list that was given by Hon. Sabina Chege, it seems those masks are centralized. I was going to give Hon. Wanga an order immediately. However, I am told that her manufacturing of masks has not been certified by the Kenya Bureau of Standards (KEBS).

Hon. Deputy Speaker: Next, I will call Hon. Mawathe. The Floor is yours.

Hon. Julius Mawathe (Embakasi South, WDM-K): Hon. Deputy Speaker, thank you for giving me an opportunity to contribute to this Bill.

Hon. Deputy Speaker, I think as per the directives of the Ministry of Health, I want to agree with my colleague, Hon. Wamalwa, on the issue of zero rating duty on the masks.

(Loud consultations)

The Ministry of Health has said that we must wear masks when we go out. The people of *Mukuru kwa Njenga* and *Mukuru kwa Reuben* in my constituency have to borrow masks when they are going outside. They are borrowing masks from each other because one is not allowed to go out without a mask. They risk being arrested if they do not wear one. Those are the same people who normally earn Kshs400 to Kshs500 per day. They are paid weekly and that comes to around Ksh2,000 per week. Since factories have been closed in Industrial Area for the last three weeks, they have not had any income. They do not have food to eat. Even if a mask would go for Ksh20 or Ksh30, their debate would be whether to buy masks or put food on the table.

The Government has said that it will supply citizens with masks. Even if they did not say so, we are requesting, and I stand guided, to, please, find a way of fast-tracking the manufacture of masks. We have been told by the Chair of the Departmental Committee on Health that people are producing 300 masks per day, which I think might be impossible. Others are producing 200,000 masks. So, we need to move to the point of distributing masks to our citizens. Otherwise, I know we will lose many lives. In the supermarkets at *Mukuru*, we are being required to wear gloves and after use, you are supposed to dump them. They cannot be shared. So, those are things that my people of *Mukuru* and Embakasi South and even other areas like Mathare, Korogocho and Kibra are not able to afford and yet, they are required.

In accordance with Article 43 of the Constitution, the Government is supposed to feed its people. It is high time we sat here and talked about how we are collecting funds and waiting for three months. Somebody who is paid weekly and has not had a pay for the last three weeks does not have food in their houses. Whatever little we have collected through whatever means, it is time

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the Government started distributing food. I know they did funds disbursement to a few people who had been selected through some lists that were prepared, but it is time we distributed food. Otherwise, we have people who have not eaten for days. Somebody calls you and tells you that he has not had food in his house for the last three or four days and you are telling him to go and buy a mask for Kshs30. There is need for the Government to supply food especially to people in the slums. I am specifically addressing the people of Mukuru kwa Njenga, Mukuru kwa Reuben, Kware, Pipeline and Riara.

Hon. Deputy Speaker: Okay. We will have the Member for Pokot South.

Hon. David Pkosing (Pokot South, JP): I thank you, Hon. Deputy Speaker.

(Hon. John Mbadi stood in his place)

Hon. Deputy Speaker: What is your point of order, Hon. Minority Party Leader? Hon. Pkosing, you will proceed, but let us have this point of order. What is your point of order?

Hon. John Mbadi (Suba South, ODM): Hon. Deputy Speaker, with all due respect, I know issues of finance and taxes are difficult. I know we have three issues, namely the tax laws, the Supplementary Budget coming in the afternoon, and the Duale Motion on COVID-19. Some of the comments I hear from my colleagues can wait for the Duale Motion and we concentrate on the tax laws.

Hon. Deputy Speaker: True. That makes sense. That is perfectly in order. Well, you know, really that should be the position. You will have time for each and every area of your interest. Therefore, let us have the Member for Pokot South.

Hon. David Pkosing (Pokot South, JP): Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute to the Tax Laws (Amendment) Bill, 2020.

From the outset, I support this, of course, for purposes of cushioning the people of this country. I want to raise a specific issue with the deletion of the proposal and I am hoping the Chair of the Departmental Committee on Finance and National Planning might have taken this into consideration. The deletion of Section 22(c) of the Income Tax Cap.407 will affect home owners. This is very critical to be understood. In this country, we have affordable housing as one of the critical areas of the Big Four Agenda. Housing is again a critical area when we are talking about cushioning people against COVID-19. When people are paying rent, our argument is how we can cushion them from paying rent. However, most of the people are paying rent for private houses and that brings a lot of complications. If it was Government-owned houses, it would have been easy to waive the payment of rent. That means that the deletion will affect about 20,000 Kenyans who have already started paying for ownership of houses.

About 400,000 Kenyans have applied for ownership, but people have made contributions of about Kshs245 million. By removing that section, we are removing the benefits that had already been given to them. As we support this, I want to register, as the Chairman of the Committee on Transport and Housing, that my colleagues have realised that to find an equilibrium, as we give benefit to another section of the country in terms of tax, we should not kill another part of the country. I want to urge that as we move to the next level, the owner of the Bill and the Chairman of the Departmental Committee on Finance and National Planning will find an equilibrium, so that Kenyans do not lose.

Finally, I would expect that we concentrate on removing tax on masks. Masks are going to be the second normal or the new normal in this country. It is not debatable. For the people of Kenya to know it is not debatable to wear masks, it will be almost compulsory in our lives. How many years to come, months or weeks is the new normal? Therefore, we would have expected this to be zero-rated and even given out for free. I went to a chemist to buy masks for my family and they sell 25 pieces at a minimum of Kshs5,000. How many Kenyans will afford Kshs5,000? Almost zero except us parliamentarians. I trust the Committee and the owner of the Bill will address this issue, so that the country knows that we are addressing serious issues that affect the people of Kenya.

Hon. Deputy Speaker, I support.

(Hon. Wanga stood in her place)

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

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Deputy Speaker. I rise under Standing Order No.95 to move that the Mover be now called upon to reply. The reason for this is that when Members registered for this first sitting of Parliament, there were two items on the agenda. If this sitting ends, there will be another set of Members coming in the afternoon and those Members are a totally different set, and differently selected depending on the matters on the Order Paper. Therefore, Hon. Deputy Speaker, it is on that basis that I move that the Mover be called upon to reply.

(Loud Consultations)

Hon. Deputy Speaker: Let me just confirm something. Had you spoken on this particular issue? It was on a different thing? If that is confirmed, then I have no choice, but to dispose of that. It is your choice, Members. If you want it, that will be fine. Therefore, Members, Hon. Wanga has proposed that the Mover be called upon to reply.

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

Hon. Deputy Speaker: So, the Mover, you have your five minutes.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, first, I want to thank the Committee and Members who contributed to this very important Tax Laws (Amendmen) Bill. This Bill deals with two main factors and the Cabinet Secretary for Finance and the Committee had to balance between cushioning Kenyans, as Hon. Kaluma said, from job losses, staying at home and at the same time protecting the economy. Every country must protect its people and that is why you see there is also a reduction of the Corporate Tax for companies not to go under. Therefore, the basic things that affect the people of Kenya, which the CS wanted to remove from exemption to zero-rating like bread, fertilizer, animal feeds, and implements have been taken care of. This afternoon, I will bring amendments to ensure that we remove Import Duty and Value Added Tax (VAT) from masks, so that masks can become cheaper all over Kenya.

I beg to reply, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well.

(Question put and agreed to)

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

SPECIAL MOTION

CONSIDERATION OF NOMINEES FOR APPOINTMENT TO TSC

THAT, taking into consideration the findings of the Departmental Committee on Education and Research in its Report on the vetting of Nominees for Appointment to the Teachers Service Commission, laid on the Table of the House on Tuesday, April 14, 2020, cognizant of the provisions of Articles 250(2)(b) and 259(11) of the Constitution and pursuant to the provisions of Section 8 of the Teachers Service Commission Act, 2012, this House rejects the appointment of the following persons as Members of the Teachers Service Commission:

- (i) Mr. Mbage Njuguna Ng'ang'a; and
- (ii) Ms. Leila Abdi Ali.

(Hon. Julius Melly on 14.4.2020)

(Resumption of Debate interrupted on 14.4.2020)

Hon. Deputy Speaker: This is actually resuming debate. The Motion was moved and seconded. Was it not? So, had the Question been put? Just a minute. Let me confirm what happened. It was opposed. So, Leader of Majority.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, this afternoon, I am in a very precarious position. Ordinarily, as the Leader of the Majority Party, I would never oppose a Report of a Parliamentary Committee. However, I oppose the Report of the Departmental Committee on Education and Research on the vetting of the nominees. I want the House to listen to me because I am going to cite constitutional and statutory provisions as my reasons for opposing this Report.

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

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

Hon. Temporary Deputy Speaker, indeed, the procedure for appointment of members of the Teachers Service Commission (TSC) is outlined in the Constitution, the Teachers Service Commission Act No.20 of 2012, and the Public Appointment (Parliamentary Approval) Act No.33 of 2011, in whose enactment processes both Hon. Mbadi and I participated. This Committee was supposed to determine the suitability of these two nominees on the basis of the Constitution and these two statutes. The Committee had no business fishing for anything else outside the law. I will prove that a selection panel was set up, the President was given nine names and he selected these two nominees. Let me go to the Committee's observations, which contradict the Constitution.

Let me start with Mr. Mbage Njuguna Ng'ang'a. He is the former Chairman of the Law Reform Commission, a lawyer with experience of 30 years. In observation 2, the Committee says that Mr. Ng'ang'a has the required academic, professional and management experience, and has complied with all the constitutional and statutory requirements for appointment as member of the TSC. However, in observations 3 and 4, the Committee contradicts its own observations 1 and 2 by purporting to include the nominee's age as a disqualification. This is not in the Constitution. It is not in the TSC Act. Neither is it in the Public Appointments (Parliamentary Approval) Act. I wish the Chairman of the Committee is here to listen. Where did the Committee get the legal authority to disqualify Mr. Ng'ang'a on the basis of his age?

Hon. Temporary Deputy Speaker, this House must uphold the rule of law. The Constitution of Kenya and the TSC Act - which I read last night - do not prescribe age limit for public appointment. In fact, the current Chair of the TSC, Ms. Maria Nzomo, is older than Mr. Ng'ang'a. So, what is the Committee telling us? The TSC Act and the Constitution of Kenya do not mention age limit. It is very sad. Article 27 of the Constitution prohibits discrimination of individuals on the basis of age. So, we cannot discriminate against Mr. Ng'ang'a on the basis of his age. That is why I oppose this Report, and the House must agree with me.

I want Members to read Article 27 of the Constitution. It is clear that you cannot discriminate against somebody on the basis of age. Article 57 requires the State to ensure the protection of all members of the society by ensuring that they fully participate in the affairs of the society and pursue their personal development. One of the best technocrats working in the Jubilee Government today, a man I respect and get along with, is Mr. Joseph Kinyua, the Chief of Staff of the President. Why does the Committee want to deny Mr. Ng'ang'a, and Ms. Maria Nzomo, opportunity to sit in the TSC because of their ages? Ambassador Muthaura served as the Head of the Public Service and Secretary to the Cabinet at an advanced age. Hon. Moody Awori is the Chairman of the Sports Fund. Even if you go to the United States of America (USA) Senate...

Let me come to Leila Ali. I want to say clearly that there is nowhere in the TSC Act that says that the nominee must come from a certain region. The Members must reflect the diversity of the country. So, if you are seated here and saying that we rejected Leila because she is not from North Eastern, that is unconstitutional.

Let me go to what they said about Leila and finish with Ng'ang'a, and I am sure the House will be convinced. Leila Ali was approved by this House. She is a Member of the Competition Authority of Kenya (CAK) at the moment. She was vetted by the Departmental Committee on Finance and National Planning, chaired then by the current Ambassador in Namibia, Hon. Benjamin Langat. So, how can the same House today say that a person they had vetted is not qualified? She presented the same papers.

This House vetted Leila Ali. She presented her papers and they said that she was qualified. Today, you are telling me that she is not qualified. You are imputing bad motive on the House. The President has balanced the nominees. Leila Ali is 44 years old and Mr. Mbage is 60 something. So, he has nominated a youth. Leila Ali was told to present her documents. If you read the Report, she presented all her documents when she was asked.

Section 7 of the Public Appointments (Parliamentary Approval) Act is clear in terms of dual citizenship. I agree Leila Ali is both a Kenyan and a British citizen. Article 78(3)(a) of the Constitution allows her to be appointed to the position. She is not disqualified because as a commissioner of the TSC, dual citizenship does not disqualify her. So, I do not know what went wrong with this Committee. Something went wrong. So, I want to forgive them because maybe it was because of COVID-19. Leila Ali is a British citizen and she complies.

Having perused through this Report, I noted that the Committee received only one memorandum opposing the appointment of Leila Ali as a member of the TSC on the basis that she was not a resident of North Eastern. Even Hon. Junet is the Member for Suna East, but his roots are in Mandera in North Eastern. Leila Ali is from Kiambu, but her roots are in North Eastern. Furthermore, the Committee noted that the appointment to fill a vacancy in TSC did not require the replacement of a region represented by the former members. The reflection of regional and ethnic diversity of all the people of Kenya should be considered holistically, having due regard to the existing members.

The whole Report of the Committee is contradictory and unconstitutional. It does not comply with the Constitution, the TSC Act and the Public Appointments (Parliamentary Approval) Act. Hon. Melly, on this one, you need to be tested!

The Temporary Deputy Speaker (Hon. Patrick Mariru): Leader of the Majority Party, you just have one minute.

Hon. Aden Duale (Garissa Township, IP): Hon. Temporary Deputy Speaker, the rejection of these two Kenyans does not comply with the Constitution, the Public Appointments (Parliamentary Approval) Act and the Teachers Service Commission Act.

I oppose.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You know this is a Report of a Committee. The issue is not the Chair or the Members. Those Members have brought a Report. The Leader of the Majority Party has raised many issues, which is okay. However, please, it is about the Committee and the Report and not the persons in that Committee. The Leader of the Minority Party takes precedence. I see Members want to speak to this. You will get a chance. Let us have Hon. Mbadi first.

Hon. John Mbadi (Suba South, ODM): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Motion. First of all, as a House, the practice and tradition has been that we support as much as possible reports of various committees brought to the House. However, we must also be fair to Kenyans especially where employment or job opportunities are concerned.

A Motion presented to this House which has the effect of denying a Kenyan placement must be considered properly and thoroughly. We must make sure that we are fair to those Kenyans. We all know that getting any job opportunity in this country is not a walk in the park. So, the Committee should have convinced us beyond any reasonable doubt that they have concrete reasons why they are denying these two Kenyans an opportunity to serve as members of the TSC.

The reason given for denying Mr. Ng'ang'a an opportunity to serve in the Commission is the issue of age. This is something that Mr. Ng'ang'a has no control over. He cannot make himself younger. If he does that, it will be forgery, which he will be jailed for. So, what do you expect Mr. Ng'ang'a to do with all the qualifications that he has and he has been offered an opportunity when the only viable reason is age? I know we need to provide job opportunities to the youth, but this is the wrong route to take in providing opportunities to our youth. The best way to handle the youth of this country is to create job opportunities through economic interventions.

As a House, we have a responsibility to come up with suggestions, proposals, methods and a legal framework to ensure that we expand our economy to create jobs for our youth and not the easy fix of looking at commissions and throwing our youth there who are still very energetic and who should even be more productive in other areas. In that regard, it would be unfair for me to deny Mr. Ng'ang'a an opportunity.

Secondly, there is the issue of this lady, Leila. As a House, we had already approved the appointment of this lady to serve in another agency of Government and then today we are saying that we have issues with her. It must be clear and definite. I am even told from the Report that she was provided an opportunity and she brought the documents later. What is wrong with that? In my view, bringing documents later is not wrong. Where I totally disagree with the Committee is on the issue of dual citizenship. I even opposed the rejection of Mwende Mwinzi because of dual citizenship. Once we have agreed as a country that we are recognising those Kenyans with dual citizenship, we need...

Hon. Thuddeus Nzambia (Kilome, WDM-K): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Mbadi! What is out of order, Hon. Nzambia?

Hon. Thuddeus Nzambia (Kilome, WDM-K): Thank you very much, Hon. Temporary Deputy Speaker. I think the Leader of the Minority Party is misleading the House because the vetting of Leila by the Senate on the position of the Director of CAK did not require the same qualifications as that of the TSC.

The qualifications were totally different and this time round, the Departmental Committee on Education and Research is very serious on this vetting.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Hon. Thuddeus Nzambia. You have a point, but I am unable to understand what your point of order is. I am sure you will get a chance to speak to this. Please, do not use that route to prosecute your case. You shall be given a chance as well, but I am sure Hon. John Mbadi takes your advice too.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. I take note of what Hon. Thuddeus Nzambia is saying and I appreciate that he is still learning Parliament procedures.

Hon. Temporary Deputy Speaker, I was on the point of this lady being denied the opportunity because she is holding dual citizenship. Why did we then allow dual citizenship in this country if we cannot allow them to work? There are some duties like serving in the Kenya Defense Forces (KDF) or the National Security Council (NSC) that require total and a hundred percent loyalty. In my view, we are being unfair and these are some of the things that we need to look into when we are amending the Constitution, so that we can make it clear on those areas that do not require dual citizenship.

Hon. Temporary Deputy Speaker, I want to end there because I can see the Chairman wants to rise on a point of order. Really, on issues of dual citizenship, I do not think there is any Point of Order that he can raise on that, unless it is a point of argument.

Thank you, Hon. Temporary Deputy Speaker. I oppose.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Next is Hon. Esther Passaris.

Hon. Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker for allowing me to contribute.

I definitely oppose the rejection of the two members. Having heard what the Leader of the Majority has said, it seems like we are forgetting - as Members of this House - that in due time, we will also be aged and in a position to contribute to our country given our experience, knowledge and the positions we have held. To reject somebody just because of his age when it is not in the Constitution and neither is it in the requirements of the TSC is in bad taste. I believe as Members, we have to support people that we know can perform.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Esther Passaris. I am informed that seats 162, 112 and 167 are vacant. Serjeant-at-Arms, you can facilitate three Members to come in.

Hon. Esther Passaris (Nairobi CWR, ODM): Can I go on, Hon. Temporary Deputy Speaker?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Proceed, Hon. Esther Passaris.

Hon. Esther Passaris (Nairobi CWR, ODM): Hon. Temporary Deputy Speaker, I also note that the qualifications of the two members that the Committee is asking us to reject are in areas that would be complementary to the TSC. There are lawyers. We know that the institution faces many legal battles. There is also need for financial expertise. We all know that mismanagement of financial resources in this country has led to collapse of a number of organizations.

When I look at Leila, the issue of dual citizenship, which has also been raised, is neither here nor there. The Committee on Selection sent nine names and the President chose two. Those two people are qualified to take on the positions. For that, I reject the Report of the Committee.

Thank you, Hon. Temporary Deputy Speaker, I oppose.

The Temporary Deputy Speaker (Hon. Patrick Mariru): The next person is Hon. George Gitonga, who is seated out. So that we can give him a few minutes to come in, allow me to go to my right. Hon. Junet Nuh, you will still get a chance. I can see you on top, but I have to go to my right now. Hon. (Ms.) Rehema Jaldesa.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I also rise to oppose the Report by the Departmental Committee on Education and Research.

Hon. Temporary Deputy Speaker, I will be very brief because the Members who have spoken before me have covered the grounds adequately.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Jaldesa. What is your point of order, Hon. Milemba?

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker. I will be very brief. Given the weight of the matter and how Members have talked about it, especially the Leader of the Majority Party and the Leader of the Minority Party, it is very important that you give the Committee Members a chance to explain themselves to the House because the Committee does not work in vain. You have not given an opportunity to any Committee Member to defend the Committee on what they did.

Thank you, Hon. Temporary Deputy Speaker, for listening.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Milemba, your point is valid. The Members of the Committee shall get a chance to speak not only as Members of that Committee, but also as Members of the House. So, you shall get a chance, Hon. Milemba. This discussion is not coming to an end now. So, you will get a chance.

Hon. Jaldesa, please, proceed.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you, Hon. Temporary Deputy Speaker. He had a chance to contribute and he supported the Report. We heard him last week. I do not think he has anything new to tell us.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Rehema. Proceed.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Hon. Temporary Deputy Speaker, the Report is highly contradictory in that there are no adverse remarks on the nominees. The Committee said that they reject the nominees only in the last paragraph. Otherwise, there is nothing which is mentioned adversely about the nominees.

Two, as it has been said by my colleagues, Mr. Njuguna was rejected for being aged. However, they disqualified a young one who fits the age bracket of being a youth. Therefore, there is a lot of contradiction.

Thirdly, they emphasised on the issue of dual citizenship of Ms. Leila. I know her. Her family spreads from Thika to Kajiado to Nairobi to Eldoret and to Isiolo. Therefore, it is not right for this House to destroy the careers of the citizens of this country when it is very difficult to get a job.

Therefore, I object the Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): I had given an order to Hon. Murugara who was seated outside to come to the Chamber. Please, proceed.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker, for getting me from my confinement. I was observing quarantine. Therefore, I understand the situation I was in.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You have very few minutes, Hon. Murugara.

Hon. George Gitonga (Tharaka, DP): Hon. Temporary Deputy Speaker, I also oppose this Report. A Committee cannot introduce parameters that are not known in law for purposes of defeating candidates who have been nominated for specific jobs.

Let me take the case of Mr. Mbage Njuguna. He was the Chairman of the Kenya Law Reform Commission. For the many years I have served in Parliament, I have been with him in the Kenya Law Reform Commission as one of the agents under the Departmental Committee on Justice and Legal Affairs. He is extremely competent. He is also competent as a lawyer. To come here and say that his age disqualifies him, that is a new parameter that is not known in the

Constitution and law. For those reasons, I oppose the Motion as far as Mr. Mbage Njuguna is concerned.

As regards the other nominee, we were told that she has dual citizenship. As far as we are concerned, that has not been addressed by a particular law. Unless there are other convincing reasons, I oppose the Report. Therefore, this Report does not meet the requirements of the House and should be rejected.

Thank you, Hon. Temporary Deputy Speaker.

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

(Hon. Junet Nuh spoke off-record)

(Laughter)

Hon. Junet Nuh (Suna East, ODM): Thank you, Hon. Temporary Deputy Speaker. I stand to oppose this Report. I do not support in totality. They have not given this House a convincing reason why we should support their decision. We can also say that we will give the Committee Members time to ventilate their Report here. The views of the Committee Members have been presented and have been moved by the Chairperson and seconded by one of the Members. That was enough to lay ground for the House to know what they have decided, but we cannot get rid of Mr. Ng'ang'a Njuguna because of his age. Age is just but a number. This is a man who was chairing the Law Reforms Commission. We cannot finish our old people just like that. The only thing that has been confirmed that finishes old people for now is Coronavirus. Any other issue cannot finish old men and women. They must be here.

(Laughter)

Coming back to Ms. Leila, this is someone that I know very well. She is a Kenyan who has a very outstanding curriculum. This is someone who we cannot doubt her capacity to perform in this job. The only issue that has been raised is that she does not come from the northern region of Kenya. We have ethnic and regional balance. Ethnically, she is a Somali like Hon. Duale, who comes from North-Eastern. I am also a Somali who comes from Migori. You cannot use this against me when I am given a job tomorrow. Once you are ethnically correct, that you are Somali, you can be given a job on behalf of any other Somali in this country.

Therefore, let us not trivialise issues here. Let us not look at things in a very narrow perspective. These are Kenyans who are going to make this country move forward. The problem we have with the Departmental Committee on Education and Research, just as a whip, is that we have filled it with unionists. There are around eight of them and they think the only people who qualify to be commissioner at the TSC should be former teachers and no one else. We cannot allow that to happen.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order!

Hon. Junet Nuh (Suba East, ODM): There are teachers who are serving in other sectors of the country. They must also allow other Kenyans to serve in the education sector. The only qualification they were looking for is a retired teacher and he was not available, but Leila was available.

With those few remarks, I oppose the Report. I urge the House to reject the Report in totality and let us allow these Kenyans to serve the people.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall now have Hon. Milemba. Members, I would like to strongly discourage discussions on the Members of that Committee. This is not about the Members; it is about the Report.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Just a minute, Hon. Milemba. What is it the Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, the element of conflict of interest is important in how we deal with issues in this House. In fact, I remember one time when you were the Chair of the Committee of the whole House and you rejected an amendment from a Member who runs an insurance project. How can a member of the Kenya Union of Post-Primary Education Teachers (KUPPET) or the Kenya National Union of Teachers (KNUT) sit in the Departmental Committee on Education and Research to decide who goes to the TSC because they have an interest? That is what Hon. Junet is saying. That is conflict of interest.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Member! If it is about conflict of interest, as you have raised, I am sure that can be raised in a different way.

Proceed, Hon. Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker. That aside, I do not think I will go into any of that. I have the right to represent the people of Kenya and those of Emuhaya as their Member of Parliament. The said Members and what we have heard from the previous speakers has been an array of what we have learnt in the history of speech as propaganda. We were taught three things that people use to confuse others hurriedly. These are card stacking, which we have seen here; loaded words...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Milemba. There is a point of order. Hon. Junet, you look very agitated. What is it?

Hon. Junet Nuh (Suba East, ODM): Hon. Temporary Deputy Speaker, this is the National Assembly of the Republic of Kenya and Members who sit here are honorable. This is not a KUPPET meeting where Hon. Milemba - who I know is a first timer here - is claiming that what we are doing here is propaganda. He has claimed that what we are doing here is propaganda, and it has gone into the record of the House. It must be expunged. We are not propagandists. We cannot propagate propaganda here. Let that statement be expunged from the records of the House.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Members! Leader of Majority Party, you also look extremely agitated. What is it?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I want anybody, including Hon. Milemba, to answer my question on the disqualification of Mr. Ng'ang'a and Leila by citing the Constitution, the Teachers Service Commission Act and the Public Appointments (Parliamentary Approval) Act. Less than that, it is them who are propagating propaganda.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Milemba. First, Leader of Majority Party, I know the mask is very uncomfortable, but make sure it is worn correctly.

(Several Hon. Members consulted loudly)

Hon. Members, I will not allow that exchange. Hon. Milemba, to the extent that you expressly said that Members are propagandists...

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Speaker, I withdraw the term “propaganda” and proceed to indicate that we have heard loaded words and we have also heard half-truths.

On the people we vetted, beginning with Mr. Ng’ang’a, let me be very fair. At one point during the Committee meeting, I gave Ms. Leila extra time to go and bring her papers because I thought, as a unionist, I should be very fair. In fact, I am on record to have given her a fair chance to bring her papers the next day, which she did. On Ng’ang’a, he seemed to have very good qualifications, but when it came to the issue on whether he is knowledgeable on the Teachers Service Commission Act, on issues concerning the TSC, this particular candidate was unable to show that he was.

Lastly, on Leila, she was unable to prove that she has been serving for the last 10 years and has the requisite experience as one who has been working in the Government. At one point in time, she indicated that...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Milemba. This discussion has attracted a lot of interest. You will be added some minutes to finish your presentation.

Hon. John Mbadi (Suba South, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is it, Leader of Minority Party? You know that Members are quite excited on this one.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Speaker, we need to give respect to this House. When a Member makes certain remarks and is unable to substantiate them, he not only needs to withdraw those remarks, especially if the allegations are directed at colleagues, but he also needs to apologise. When, for instance, you refer to me as a propagandist, it is scandalising. Therefore, Hon. Omboko Milemba should not be let to go with that. He must not only withdraw, but also apologise to the Members who spoke ahead of him, whom he considered propagandists, which we are not.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Members! You cannot have a point of order over another point of order.

Hon. Milemba, I am sure you have heard what Members have raised. They are your colleagues. You also do not want to go on record as having referred to a Member in that term.

Hon. Milemba, you have the Floor.

(Loud consultations)

It is not a point of discussion.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker. I was talking about the theory of propaganda and not Hon. Members.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Do not explain, Hon. Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Within that theory, I was explaining some of the signs...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Milemba. You do not need to give a theory of propaganda. That is not what we are looking for.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Speaker, I cannot hear you. It was about the theory and indicators of propaganda.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Milemba! Withdraw because Members are not comfortable.

(Loud consultations)

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Speaker, as far as withdrawing is concerned, I have already withdrawn.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Milemba. You have withdrawn. You should now apologise for using such a word.

(Loud consultations)

Hon. Milemba, you have the Floor.

(Loud consultations)

Hon. Milemba, proceed to apologise. That is what the Chair is saying.

(Laughter)

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Speaker, what I was talking about was real sense. I have nothing to apologise about it.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Milemba! Have you apologised?

An Hon. Member: Not yet!

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Milemba, we cannot wait for you to apologise.

(Loud consultations)

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kaluma, what is it? Hon. Milemba, we are coming back to you.

(Loud consultations)

Order, Hon. Milemba. Take leave. The House must proceed.

(Hon. Omboko Milemba walked out of the Chamber)

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, as you rule...

The Temporary Deputy Speaker (Hon. Patrick Mariru): That is wrong. Order, Hon. Kaluma! That is behind us now.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, there is a clarification I needed to make.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kaluma, you will be given a chance to speak to this. We must now proceed.

(Loud consultations)

Hon. Members, I must give a direction now. The Motion passed earlier in the morning provided that the Mover will have at least five minutes to reply. We have three minutes to 1.00 p.m., and I will take the liberty to call upon the Mover to reply.

Hon. Julius Melly (Tinderet, JP): Hon. Temporary Deputy Speaker, I beg to reply that the Committee did a good job. I have heard what the House has said. I want you to note that, as the Departmental Committee on Education and Research, we looked at each individual and their merits.

I wish you gave more Members of the Committee an opportunity to contribute to this, so that you can get the meat and the gist of the matter. I will donate a minute to Hon. Eve Obara.

(Loud consultations)

Hon. Temporary Deputy Speaker, just one minute

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Melly has the Floor. He is replying.

Hon. Julius Melly (Tinderet, JP): I stand guided. We did a good job as per the Public Appointments (Parliamentary Approvals) Act. We looked at the issues at play especially on the qualifications, experience and the understanding of the Teachers Service Commission Act by the persons, including Mr. Mbage. Having looked at these issues in totality, we arrived at an agreement that these persons are not suitable to serve as members of the TSC.

I beg to reply.

(Question put and negatived)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, just one minute. In light of that decision by the House, the Speaker will be giving a Communication this afternoon around that decision that the House has very clearly made.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): There being no other business and the time being 1.01 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.01 p.m.