

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Tuesday, 11th May 2021**

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]***PRAYERS****Hon. Speaker:** I will do a short Communication a little later. Let us move on.**PETITION****ENCROACHMENT OF PUBLIC LAND AND WATER
CATCHMENT AREAS IN IGEMBE CENTRAL CONSTITUENCY****Hon. Speaker:** Member for Igembe Central.**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Speaker, for giving me this opportunity to present this Petition.

I, the undersigned, on behalf of farmers and residents of Igembe Central Constituency, draw the attention of the House to the following:

THAT, Article 42(a) of the Constitution provides for the protection of the environment through legislative and other measures for the benefit of present and future generations, while Article 60 requires all land in Kenya to be held, used and managed in a manner that is efficient, productive and sustainable, and in accordance with the principles of sound conservation and protection of ecologically sensitive areas.

THAT, further, Article 69 compels the State to ensure sustainable utilization, management and conservation of the environment and natural resources, to encourage public participation in the management, protection and conservation of the environment, to protect genetic resources and biological diversity, and to establish systems of environmental impact assessment, environmental audit and monitoring of the environment.

THAT, several rivers and water catchments in Igembe Central Constituency such as Kathithi, Murera, Kalika Mieu, Nkanga 1, Nkanga 2, Gakunkuu, Kiruuyu, Ithika, Nkiiri, Kalimikuu, Ntonyiruu and Athindi, as well as Kanjoo, Gatorine, Kamare, Mwomwere and Gitwee together with Buathonaro and Mporoko catchment areas have been encroached upon by lawless individuals, thereby significantly affecting river water levels downstream.

THAT, the perpetual encroachment of these rivers, water catchment areas and public land have negatively affected direct users of these resources including the Canaan Irrigation Water Project, Mwangaza Kathithi Irrigation Project, Kenya Assemblies of God, Kathithine Primary

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School, Saint Cecilia Catholic Church Murera, Zebra Academy and many other institutions and community projects.

THAT, the encroachments pose a problem and threat to the residents of Igembe Central Constituency in the form of possibilities of droughts, extreme floods, reduced afforestation, reduced vegetation cover, pollution, contamination, sedimentation, decline in water levels, decline in water quality, loss of aquatic and terrestrial habitat, disruption of naturally-stable equilibrium, loss of flood attenuation, reduced ecological processes and other regressive effects.

THAT, despite assistance from the Deputy County Commissioner and his office in Igembe Central, efforts by the Igembe Central Environmental Conservation and Protection of stakeholders, as well as the Kathithi Environmental and Conservation Group, to have the matter resolved by other authorities have not borne much fruit.

THAT, the matters raised in this Petition are not pending in any court of law in Kenya.

Now, therefore, humble petitioners pray that the National Assembly through the Departmental Committee on Environment and Natural Resources do the following:

- (i) Investigates the matter with a view of recommending the urgent recovery and repossession of the aforementioned rivers and water catchments that have been encroached upon in Igembe Central Constituency in order to salvage the community's ecological resources and to safeguard availability of sufficient water to the residents.
- (ii) Make any other recommendation that it deems fit in the circumstances of the Petition.

Your petitioners will ever pray.

This Petition is presented by me, Hon. Kubai Iringo, Member for Igembe Central.

Thank you, Hon. Speaker.

Hon. Speaker: The Petition is referred to the Departmental Committee on Environment and Natural Resources.

Next Order!

PAPERS LAID

Hon. Speaker: The Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Tuesday, 11th May 2021, in the Afternoon Sitting – it is quite a lengthy list:

The Legal Notice No. 54 of 2021 relating to the Public Finance Management, Equalisation Fund Administration and Regulations of 2021 and Explanatory Memorandum from the National Treasury and Planning.

The Winding Up of National Government Public Funds.

Banks Provision Report, 2020, from the Central Bank of Kenya.

Reports and Bills adopted at East African Legislative Assembly during its special sitting held from 25th September 2020 to 15th October 2020 in Arusha, Tanzania. The Report of the Committee on Agriculture, Tourism and Natural Resources with stakeholders on budgetary enhancement in the agricultural sector.

The Report of the Committee on Regional Affairs and Conflict Resolution on the Report of the Council on the progress made by the East African Community on the development of its Common Foreign and Security Policies.

The Budget of the East African Community for the Financial Year 2020/2021.

Bills passed being:

- (i) The East African Community Supplementary Appropriation (No. 2) Bill of 2020
- (ii) The East African Community Appropriation Bill of 2020.

Reports, Bills and Resolutions adopted at the East African Legislative Assembly during its Special Sitting held on 6th to 26th November 2020 in Arusha, Tanzania:

Reports adopted and tabled being:

The Report of the Committee on Agriculture, Tourism and Natural Resources on the spot assessment of the activities of Lake Victoria Basin Commission and the Reports of the Committee on General Purpose on reconsideration of the East African Community Appropriation Bill of 2020.

Bill passed:

The Lake Victoria Basin Commission Bill of 2019.

Bills introduced:

The East African Community Livestock Bill of 2019.

The Reports of the Auditor General and Financial Statements in respect of the following institutions for the Financial Year ended 30th June 2020 and the certificates therein:

- (i) The Political Parties Fund, Officer or the Registrar of Political Parties.
- (ii) The Petroleum Development Levy Fund, State Department for Petroleum.
- (iii) The Kenya Energy Sector Environment and Social Responsibility Programme Fund, State Department for Energy.
- (iv) The Government Press Fund.
- (v) The Independent Electoral and Boundaries Commission staff mortgage and car loan scheme.
- (vi) The Roads Annuity Fund, State Department for Infrastructure.
- (vii) The State Servants Housing Scheme, State Department of Housing and Urban Development.

The Reports of the Auditor General and Financial Statements in respect of the following institutions for the year ended 30th June 2019 and the certificates therein:

- (i) Egerton University.
- (ii) Egerton University Investment Company.
- (iii) Privatisation Commission.
- (iv) Laikipia University.

Thank you, Hon. Speaker.

Hon. Speaker: The Chairperson of the Departmental Committee on Finance and National Planning, or the Vice Chair, Hon. Waihenya.

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

The Insurance Professionals Registration Bill (National Assembly Bill No.25 of 2020).

The Public Private Partnerships Bill (National Assembly Bill No.6 of 2020).

Hon. Speaker: Next Order.

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ORDINARY QUESTIONS

Question No. 116/2021

ESTABLISHMENT OF THAGICU SUB-COUNTY

Hon. Paul Nzengu (Mwingi North, WDM-K): Hon. Speaker, I beg to ask the Cabinet Secretary for Interior and Coordination of National Government, the following Question:

- (i) Could the Cabinet Secretary explain the progress made in implementing the President's directive regarding the establishment of Thagicu Sub-County in Mwingi North Constituency made during his visit to the Constituency in July 2017?
- (ii) Could the Cabinet Secretary also explain the progress made with regard to allocation of a Sub-County Code Number to operationalise the functionality of the sub-county?
- (iii) What measures has the Ministry undertaken to ensure that the residents of Thagicu Sub-County of Mwingi North Constituency who are a minority in the area benefit from the government resources and services provided by the sub-county office?

Hon. Speaker: That Question is to be replied to before the Departmental Committee on Administration and National Security.

The next Question is by the Member for Mumias East, the Hon. Benjamin Jomo Washiali, who has requested for its deferment to Thursday. His request has been acceded to. So, Question deferred to Thursday morning.

Question No. 131/2020

CAUSE OF INCREASE IN PRICES OF PETROLEUM PRODUCTS

(Question deferred)

The next Question is by a nominated Member, the Hon. Godfrey Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Speaker, I have fresh information regarding this Question. I had asked the Table Office to defer it. Since they have brought it here, I ask you to allow me to get some time so that I bring it afresh.

Hon. Speaker: Very well. So, we take it out of the Order Paper at your request.

(Question No. 132/2021 dropped)

The next Question is by the Member for Mathioya, Hon. Peter Kihara Kimaru.

*Question No. 150/2021*PROCEDURE FOLLOWED IN APPOINTMENT OF DVC OF
JARAMOGI OGINGA ODINGA UNIVERSITY

Hon. Peter Kimaru (Mathioya, JP): Hon. Speaker, I beg to ask the Cabinet Secretary for Education the following Question:

- (i) Could the Cabinet Secretary confirm whether the right and lawful procedure was followed and adhered to during the recruitment and subsequent appointment of the current Deputy Vice Chancellor of Planning, Administration and Finance of the Jaramogi Oginga Odinga University of Science and Technology?
- (ii) Could the Cabinet Secretary explain why the candidate who ranked third during the interviews for the position of the Deputy Vice Chancellor of Planning, Administration and Finance was appointed, contrary to the recommendations of the University Council?
- (iii) What measures is the Ministry putting in place to ensure that merit, performance and regional balance are considered in the recruitment and appointments of senior university management staff particularly at the Jaramogi Oginga Odinga University of Science and Technology?

Hon. Speaker: The Question will be replied to before the Departmental Committee on Education and Research. The next Question is by the Member for Tharaka-Nithi, Hon. Beatrice Nkatha Nyaga, who has requested for its deferment. Her request has been acceded to.

*(Question No. 151/2021)*MEASURES TO ENSURE MANDATORY GOVERNMENT
SERVICES ARE AVAILABLE AT THARAKA NITHI COUNTY*(Question deferred)*

The next Question is by the Member for Nyeri Town, Hon. Ngunjiri Deric Wambugu.

The next Question is by the Member for Embakasi Central, Hon. Benjamin Mwangi, also known as Ndong' something, Mejjandong'. Is it Ndong' or Dog?

Question No. 160/2021

STATUS OF OWNERSHIP OF LAND L.R. NO. 23917 IN NAIROBI CITY COUNTY

Hon. Benjamin Mwangi (Embakasi Central, JP): Thank you, Hon. Speaker. It is Mejjadonk.

I beg to ask the Cabinet Secretary for Lands and Physical Planning the following Question:

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(i) Could the Cabinet Secretary confirm the status of ownership of a parcel of land L.R. No. 23917 in Nairobi City County and what is the progress of the intended subdivision, if any?

(ii) Could the Cabinet Secretary provide details on the progress made in availing or setting aside land for public utilities?

(iii) What steps has the Ministry taken to ensure that land is set aside for public utilities in Nairobi City County whenever a subdivision is carried?

Hon. Speaker: The Question will be replied to before the Departmental Committee on Lands. The last Question is by the Member for Kabuchai, Hon. Majimbo Kalasinga.

Question No.161/2021

STATUS OF ELECTRICITY CONNECTIVITY IN KABUCHAI

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you, Hon. Speaker. I beg to ask the Cabinet Secretary for Energy the following Question:

(i) Could the Cabinet Secretary provide details on the electricity connectivity to all public schools, health facilities and coffee factories in Kabuchai Constituency, particularly connectivity to Sango, Lubembe, Sirwa, Buyanji, Namikelo, Nagubo and Lwanda primary schools?

(ii) What measures has the Ministry put in place to ensure that schools and other institutions using the Solar PV systems and generators are phased out and that all schools are connected to the national grid?

Thank you, Hon. Speaker.

Hon. Speaker: The Question will be replied to before the Departmental Committee on Energy.

The next segment of that Order is a request for Statement by the Member for Ndihiwa, Hon. Martin Peters Owino.

I am sorry, Hon. Members. I want to go back to the Question by the Member for Nyeri Town.

For the second time, can we have the Member for Nyeri Town?

Hon. Member: He is not in.

Hon. Speaker: Hon. Members, if you do not show up when you have a Question and you have not written to the Speaker or the Clerk or even sent the Leader of the Majority Party and Leader of the Minority Party or the Whips, we do not have an option but to drop the Question. The Question is hereby dropped.

Question No.159/2021

CRITERIA TO DETERMINE PAYMENT OF
ENHANCED HOUSE ALLOWANCE TO TEACHERS

(Question dropped)

REQUESTS FOR STATEMENTS

THE DEBT CEILING IN THE COUNTRY

Hon. Martin Owino (Ndhiwa, ODM): Hon. Speaker, pursuant to Standing Order No.44 (2) (c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding the debt ceiling in the country and particularly the loan amounting to Kshs262 billion from the International Monetary Fund (IMF).

Hon. Speaker, increasingly, Kenya risks breaching the debt sustainability measures that it is a signatory to, such as the East Africa Economic Convergence Criteria, which set debt ceilings for the region. The Kenya Government has continued to borrow more loans from the IMF and other international lenders. However, the reasons listed for borrowing funds from the IMF do not promote businesses that can generate foreign exchange to help settle foreign currency-based debts. Further, they do not address the struggling Small and Medium Enterprises (SMEs) and thus increasing poverty amongst Kenyans.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Finance and National Planning focusing on the following:

(i) Could the Chairperson explain how the loan amounting to Kshs262 billion from the IMF will be utilised and managed to reduce poverty in the country?

(ii) Could the Chairperson provide a strategic plan on how the funds will be used to support vulnerable groups during the third wave of COVID-19 in the country and which Ministries will receive such funds?

(iii) Could the Chairperson explain how the IMF loan will be used to reduce the country's debt vulnerability and further provide details on how the conditions set by the IMF will impact the economy and in particular matters related to taxation in the country?

(iv) Could the Chairperson provide detailed plans on how funding of structural and governance reforms at the struggling State enterprises such as the Kenya Power Company Limited, and the Kenya Airways, among others, will enhance economic growth in these two enterprises with a past history of poor performance regardless of funds being provided?

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Departmental Committee on Finance and National Planning, when will you respond to that Statement request?

Hon. Waihenya, it looks like that microphone is not audible.

Hon. Isaac Ndirang'u (Roysambu, JP): Hon. Speaker, I request the Member to give the Committee time to get these details. We hope to carry out investigation and collect those details as we prepare the Finance Bill during the recess.

Hon. Speaker: I hope you were all here when the Leader of the Majority Party tabled the document on debt levels in the country. Let it be responded to when the House is back from the short recess.

The next request is by the Member for Kajiado East, Hon. Peris Tobiko.

STEPS TAKEN TO FACILITATE TRAFFIC FLOW IN KITENGELA TOWN

Hon. (Ms.) Peris Tobiko (Kajiado East, JP): Hon. Speaker, pursuant to Standing Order No.44 (2) (c), I seek to request for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding heavy traffic flow in Kitengela Town on the Nairobi-Namanga Road.

Hon. Speaker, it is notable that the Nairobi Expressway linking James Gichuru Road, the Jomo Kenyatta International Airport and Mombasa Road, which is scheduled to be completed by 2022 is nearing completion. While appreciating that several bypasses, detours and link roads have been constructed within Nairobi to facilitate a smooth flow of traffic, including dualling of Mombasa Road to Machakos Junction, which is an important measure taken to address traffic flow towards Machakos and its environs, it is of great concern that a gridlock of traffic of two to three hours in Kitengela Town is experienced daily causing inordinate delays of the road users.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing focusing on the following:

(i) What adequate measures has the Ministry put in place to ease traffic and ensure a smooth flow of traffic that will be offloaded by the construction of Nairobi Expressway at the Namanga Junction into Kitengela, Isinya and its environs?

(ii) Could the Cabinet Secretary consider constructing a footbridge/flyover at Kitengela Town to facilitate crossing by pedestrians and ease traffic flow on the highway thus preventing loss of lives through accidents involving schoolgoing children?

Thank you, Hon. Speaker.

Hon. Speaker: Your Statement is referred to the Departmental Committee on Transport and Public Works. However, some of the details in your request are whether the Cabinet Secretary could consider. I am not sure whether the Chairman can assume the role of the Cabinet Secretary.

Let us have Hon. Pkosing.

Hon. Patrick Makau (Mavoko, WDM-K): On a point of order, Hon. Speaker.

Hon. Speaker: Surely, is there something out of order or you just want to be heard saying that there is heavy traffic jam? Let us hear your point of order, Hon. Makau.

Hon. Patrick Makau (Mavoko, WDM-K): Thank you, Hon. Speaker. I have listened to Hon. Peris Tobiko and it touched my heart. I am the MP for Mavoko and I can tell you that, as it has been alluded to earlier, almost 52 MPs reside in Mavoko. I am sure they will bear me witness that in the morning and evening it is crazy. Children cannot reach at school on time.

Hon. Speaker: So, what is out of order now that your heart has been touched? Hon. Tobiko, you have touched his heart. Is that what is out of order? Please, never touch his heart again.

(Laughter)

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Speaker, I am requesting you, now that the Question is by Private Notice, to use your discretion so that this can be expedited and the answer to be availed on Thursday.

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Hon. Speaker: Hon. Pkosing, Member for Pokot South. He is equal to the task.

Hon. David Pkosing (Pokot South, JP): Thank you, Hon. Speaker. I appreciate your good gesture to me which I extended to the schoolchildren. If everybody hears that, the 200 Hon. Members will ask for additional roads or roads to be expanded rather than giving a statement. However, I will take two weeks to get the answer. Now that Hon. Tobiko is here, who is an able Member of my Committee, we will help each other to prosecute that matter towards achieving either an additional lane or another road being constructed. It is true there is a problem. I have heard it and I will deliver the message. Hon. Tobiko is welcome to the Committee when we will be prosecuting her issue.

Thank you.

Hon. Speaker: Hon. Makau, now your heart can be put to rest. The next request is by the Member for Dagoretti South, Hon. John Kiarie.

INQUIRY ON SEIZURE OF VARIOUS PRODUCTS BY THE GOVERNMENT

Hon. John Kiarie (Dagoretti South, JP): Thank you, Hon. Speaker. The opportunity to request for a Statement arising from the inquiry on seizure of various products by the Government is highly appreciated.

Pursuant to the provisions of Standing Order No. 44(2) (c), I seek a Statement and request you to invoke the provisions of Standing Order No. 218(2) to direct the Departmental Committee on Trade, Industry and Cooperatives to undertake an inquiry on the seizure of edible oils, sugar and fertilizer by the Multi-Agency Team (MAT) comprising of the Kenya Revenue Authority, the Anti-Counterfeit Authority, the Kenya Bureau of Standards, the Directorate of Criminal Investigations and the Government Chemist.

During the 2017/2018 Financial Year, the Multi-Agency Team comprising of various State agencies including the agencies that I mentioned seized about 336,656 bags of sugar each weighing 50 kilogrammes and a further 412 bags each weighing 25 kilogrammes and other substandard food products at ports, godowns and market outlets on allegations that they failed to meet the Total Viable Count (TVC), moisture content, yeast and mold content standards among other Kenya Bureau of Standards (KEBS) requirements. Further, about 284 containers of edible oil were seized and held in various Container Freight Stations (CFS) in Nairobi and Mombasa, despite having the diamond mark of quality or Certificate of Conformity (COCs). Part of the consignment was seized due to concerns raised on required standards by the MAT with respect to Vitamin A fortification.

In July 2020, the Government, through the Office of the Head of Public Service and the Principal Secretary in the State Department for Industrialisation, directed the KEBS to release consignments of expired edible oils belonging to one NS Master Freighters Limited to MS Diamond Industries for use in soap manufacturing as was requested by Master Freighters Limited. Following this order, the KRA proposed the utilization of a multi-agency team to handle the release of the consignments which has not been undertaken yet, thereby inconveniencing various stakeholders.

It is on this account and urgent concerns of confiscation of traders' merchandise that I humbly request you to invoke the provisions of Standing Order No. 218 (2) to refer this matter to

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the Departmental Committee on Trade, Industry and Cooperatives, for it to urgently inquire into the following aspects of the matter and to report back to this august House on the findings of the inquiry and its recommendations within 90 days:

- a) To verify and obtain the physical inventory of all seized products in all affected locations and also undertake comparison of the actual physical inventory with the recorded stock known as the book value.
- b) To report on the actual physical stock count of all seized products held in various locations and compare the actual stock against the recorded count.
- c) To cause the undertaking of further tests on the seized goods stored in various warehouses around the country in light of the fact that the initial test by the Government Chemist revealed that some of the impounded sugar had traces of mercury and heavy metals.
- d) To ascertain the measures being implemented or pursued by the Government to safely destroy the contaminated goods, so as to avoid the possibility of access and resale of the condemned goods by criminals considering that the continuous storage of goods laced with heavy metals and toxic impurities raises grave public health and safety concerns.
- e) To establish how the exercise of releasing the expired edible oils to soap manufacturers was undertaken.
- f) Any other related aspect of the seized products that the Committee deems fit to report to the House.

Thank you.

Hon. Speaker: The Chair, Departmental Committee on Trade.

Hon. Ali Adan (Mandera South, JP): Thank you, Hon. Speaker. This is a matter of grave concern. Matters touching on public safety and health need to be expedited with the urgency they deserve. The Committee noted the 90 days within which we are supposed to make our response, but wish to ask for an extension to 120 days because of the COVID-19 Pandemic and the fact that the goods are stored in warehouses located across the country in over 30 counties. Therefore we are asking for an extension to 120 days.

Thank you.

Hon. Speaker: I think you better start with the 90 days that the Member is comfortable with. However, you can make a request, if you will not be ready by the end of the period that he has requested. You do not start by extending. Member for Navakholo.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. I support the Petition. However, coming back to you, we dealt with a Report on the Joint Departmental Committees on Agriculture and on Trade. I wish that the Committee would extract some of the recommendations from the Report. Although it was not discussed in full in the House, the issue of destruction of businesses by the Multi-Agency Team, in terms of what they formed, the seizure of businesses of Kenyans. The seizure was meant to control the influx of 'bad sugar' but what is clear today is that the manufacturers of sugar and cane farmers still pay the cost. There is no harvesting of cane. There is still importation of sugar into this country. In fact, as we talk now, the Government has sanctioned importation of more sugar from neighbouring countries than before. The import of the whole exercise is futile. Therefore, I really support this petition. I

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urge the Departmental Committee on Trade to go to the route of how this thing happened in this country.

Thank you.

Hon. Speaker: Hon. Wangwe, I did not expect you as the Majority Whip to speak on a non-existent petition. This is a request for a statement. As you know, petitions fall under Order No. 4. We are now at Order No. 7; we are long past petitions.

Members, do not raise your fingers. It looks very bad. I may not be able to understand whether you are accusing me of something or not. What is it with fingers? Do you not know how to press the intervention button?

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. You know I have high regard and respect for you. It is only that my intervention button is not working. I definitely used the right finger, not the one for pointing at you.

I want to support Hon. KJ's request for statement. I understand why the Deputy Majority Whip, Hon. Wangwe, would be interested in this matter. I do remember when the issue of sugar came up, I rose in support of Hon. Wangwe. That time the sugar was held up in Webuye before it was moved to Menengai in Nakuru. Of more concern is the issue of how the Government and multiagency teams handle any impounded goods. We have read with concern that goods are impounded by multiagency teams, but nobody ever gets to know what happens with those goods after impounding. Indeed, the issues raised in the request for statement are pertinent.

Hon. Speaker: You know there is no debate on this matter. It is just a request for Statement.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Speaker, I just want to mention that the sugar that was said to be laced with mercury to date we have never known what happened to it. Two, there have been issues of factories that have had their goods impounded. You remember the case of a factory in Thika whose goods were impounded and when the case was still in court, the exhibits were said to have disappeared while under lock and key by the DCI. Therefore, I want to ask the Chair that it is important that these matters are dealt with even before the 90 days requested by Hon. KJ are over. The number of goods impounded and those destroyed by government agencies in the recent past have really hurt businesses. The practice discourages investors. It would be important that the Chair expedites this request. He is telling me he can do it in 30 to 45 days. I would implore him to do 30 days.

Hon. Speaker: But he is the one who asked for additional 30 days. I have also checked the roll of the 349 of you but I have not come across any Member by the name Hon. KJ.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Speaker, Hon. KJ is Kiarie John, who is popularly known as KJ to the entire hustler nation in the Republic of Kenya and beyond. He is a man known not just for his work as the Member of Parliament for Dagoretti South but also in his previous trade which he is still engaged in supporting artists in this country. During the COVID-19 Pandemic, Hon. KJ of Dagoretti South...

Hon. Speaker: Now that is enough about him. There is yet another request by the Member for Ainabkoi, Hon. William Chepkut.

PERSONAL STATEMENTS

DEMISE OF ABRAHAM KIPSANG' KIPTANUI

Hon. William Chepkut (Ainabkoi, Independent): Hon. Speaker, permit me to give a Statement.

Hon. Speaker: Give?

Hon. William Chepkut (Ainabkoi, Independent): Under Standing Order 84, I seek to make a general statement regarding the untimely death of Mr. Abraham Kipsang' Kiptanui, EBS, former State House Comptroller of the late President Daniel Toroitich arap Moi, who passed away on 4th April 2021.

Mr. Abraham Kipsang' Kiptanui was born on 6th July 1939. He started his primary education at Kipsaos Primary School in Elgeyo Marakwet and finished at Tambach Primary School in Elgeyo Marakwet and later proceeded to Chewoyet Secondary School in West Pokot in 1961. He was then admitted to Egerton Agricultural College to pursue a diploma in agriculture.

He was employed as a cooperative officer based in Ainabkoi in Uasin Gishu in 1964 and was later recruited to work for the Ministry of Agriculture as an agricultural officer with the Agricultural Development Corporation (ADC) in Cherangany. He later worked at Farmers' Training College in Bungoma. He was recruited by the Kenya Prisons as an agricultural officer in 1966. In 1971, he rose to the rank of administrator and was assigned to the Kenya Prisons College in Nairobi and later served at the National Registration Bureau when it was established in 1978. He was appointed as a director of Aerodromes in 1979, which is now known as the Kenya Airports Authority (KAA). In 1983, he was appointed Private Secretary and State House Comptroller, serving under the second President Daniel Toroitich arap Moi. This was after Ng'eny passed on.

Abraham Kiptanui retired from public service in 1997. In 2002, he went to politics and vied to be Member of Parliament for Eldoret East but he lost. Hon. Speaker, permit me to thank His Excellency the President because he assisted the family, the State House Comptroller, Kinuthia Mbugua, Matiang'i and Natembeya. I wish to convey my condolences to the family, relatives and friends of the late Abraham Kipsang Kiptanui. We assure the family of our support and may God rest his soul in eternal peace.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Chepkut rose to make that Statement under Standing Order No.84. So, please do not claim to raise on a point of order. It is not going to be debated. In keeping with that trend, let me allow Hon. Jackson Lekumontare, Member for Samburu East to also make his brief statement.

DEMISE OF HON. JOB LALAMPAA

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you, Hon. Speaker. I rise on the same Statement to talk about Hon. Job Lalampaa. Two days ago, we lost Hon. Lalampaa, who was a Member of this House for three terms. He was a leader in our community and a

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respectable person. He was the very first Assistant Minister our place has ever had since independence.

Hon. Lalampaa was very courageous and respected. He came here twice unopposed and was a man of the people. I rise to condole with the family and the entire Samburu East which he represented here. I give my condolences on behalf of my family and the people of Samburu East. May his soul rest in peace.

Thank you, Hon. Speaker.

Hon. Speaker: We now move to responses. The Chairperson, Departmental Committee on Administration and National Security will respond to a request for Statement by Hon. (Dr.) Mohammed Duale.

STATEMENTS

EMINENT CLOSURE OF REFUGEE CAMPS IN KENYA

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Speaker. This is a response to a request for Statement by Hon. Mohamed Duale from the Ministry of Interior and Coordination of National Government.

The Member for Dadaab Constituency, Hon. (Dr.) Mohamed Duale sought a Statement on Eminent Closure of Refugee Camps in Kenya. The Hon. Member particularly sought to be informed on the following:

- (i) The measures the Government is taking to resolve double registration in refugee camps considering that closure of Dadaab Refugee Camp cannot be achieved until this matter is dwelt with.
- (ii) Whether the Government can consider giving citizenship to persons and children born as a result of intermarriages between Kenyan citizens and refugees as provided for in the Constitution of Kenya.
- (iii) The measures the Government is undertaking to ensure a Comprehensive Refugee Response Framework (CRRF) and that the compact agreement signed by the Government is adhered to and followed to the letter considering that the closure of refugee camps may be against the commitment of CRRF agreement and international obligations as Kenya is a member state of international community.

Currently, Kenya hosts a total of 515,464 refugees from Somalia, South Sudan, Democratic Republic of Congo (DRC), Ethiopia, Burundi, Sudan, Uganda, Eritrea and Rwanda. Double registration refers to a state in which persons are registered or found to have attempted to register both as Kenyan and a refugee for purposes of acquiring national and refugee identity cards. The estimated number of persons in multi-registration is 40,000 according to United Nations Higher Commissioner for Refugees (UNHCR) records out of whom 18,794 have applied for regularisation of their registration status.

This population is spread across Garissa, Turkana, Wajir, Mandera, Mombasa, Malindi, Isiolo, Nakuru, Eldoret and Nairobi counties. Some Kenyans were registered as refugees to benefit from free food, increased food rations by increasing the family size, education, resettlements in Third World countries and free health services among other reasons. On the other hand, some refugees registered as Kenyans for free movement, business and job

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opportunities, access to education outside the camps, citizenship, while others wanted voting rights after being lured by local politicians among other reasons.

Vetting of double registered persons was conducted through committees comprised of members drawn from Immigration Department, National Registration Bureau, National Government Administrative officers and elders in the following sub-counties: Wajir South, Habasweni, Wajir East, Buna, Garissa, Ijara and Fafi.

However, a total of 18,794 people were vetted. The emergence of COVID-19 Pandemic slowed down the adoption of the report and regularisation of the status of the persons who were vetted.

The Constitution of Kenya provides that a person is a citizen by birth, if on the day of the person's birth, whether or not the person is born in Kenya, either parent is a citizen of Kenya. The Government will ensure the process of closure of refugee camps is conducted in accordance with both national and international law and this is why UNHCR has been engaged from the outset. The UNHCR will develop a roadmap on how the process will be conducted and the government will work in partnership with UNHCR to implement the roadmap.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. (Dr.) Duale Member for Dadaab, who sought the Statement.

Hon. Mohamed Duale (Dadaab, KANU): Thank you, Hon. Speaker. I am not satisfied with the Statement given by the Hon. Cabinet Secretary to the Committee Chairman because the exercise of vetting Kenyans was done in 2019, even before the outbreak of the COVID-19. I am not convinced that the reason for delay of issuance of identity cards to those Kenyans is well addressed. I would like to get more clarification and the reason why the 18,000 Kenyans who were vetted have not been issued with identity cards.

Hon. Speaker: Hon. Mwathi, is there anything you wish to say in response?

Hon. Peter Mwathi (Limuru, JP): Hon. Speaker, as the Statement has come from the Ministry of Interior and Coordination of National Government, probably the delay may have been caused by issues of COVID-19, as indicated here. They have said they are on course and are working together with UNHCR to develop a roadmap. So I expect that, once that roadmap is done, then they will be able to issue the identity cards.

Hon. Speaker: You are also to issue a second statement.

KILLING OF POLICE OFFICERS IN KAPEDO

Hon. Peter Mwathi (Limuru, JP): Yes, Hon. Speaker. I have a Statement regarding the killing of police officers in Kapedo area, but while here, I received a request from the Hon. Member who had requested for this statement, Hon. Alloys Lentoimaga of Samburu North. He says he is attending to some issue of insecurity in Baragoi. He is requesting that we defer this to the time when he will be here because he would want to get first-hand response and also be able to intervene where he is not satisfied or otherwise.

Hon. Speaker, I seek direction from you.

Hon. Speaker: Since it is the Member who has requested, then you will read out the statement when he will be in the Chamber.

(Reading of the Statement deferred)

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There is a request by the Chairperson of the Departmental Committee on Energy and also another request by the Committee on Delegated Legislation. Who is moving those requests?

EXTENSION OF PERIOD FOR CONSIDERATION OF STATEMENT
ON PETROLEUM PRICING PARAMETERS

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): Thank you, Hon. Speaker. This is a request for extension of the period for consideration of the statement as requested by Hon. Abdullswamad Sharrif, MP for Mvita Constituency to the joint committees of Energy and Delegated Legislation.

Hon. Speaker, as you are aware, a request by Hon. Abdullswamad Shariff Nassir, MP, Member for Mvita Constituency on 25th March 2021 and pursuant to Standing Order No. 218 (2) on the matter of petroleum pricing parameters used by the Energy and Petroleum Regulatory Authority (EPRA), was referred to both the Departmental Committee on Energy and the Select Committee on Delegated Legislation, to undertake a joint inquiry. The inquiry is on the pricing parameters used by the EPRA in determining the maximum wholesale and retail petroleum prices in the country and to report back to the House within 30 days.

In a joint sitting of the two committees held on Tuesday, 13th April 2021, the Committee resolved to seek an extension of the period under which the Committee is required to present its report to the House by a further 60 days. Some of the issues that led to this resolution include:

- (iii) The seven members of the Committee on Delegated Legislation are also members of the Justice and Legal Affairs Committee who were holding joint sittings with the Senate's Justice, Legal Affairs and Human Rights Committee on the Building Bridges Initiative (BBI) Report currently before the House for consideration.
- (iv) Seven Members of the Committee on Delegated Legislation who also are the Members of Justice and Legal Affairs Committee will be vetting the proposed Chief Justice.
- (v) The tabling of the proposed Budget Estimates for the Financial Year 2021/2022 for consideration by departmental committees including the Departmental Committee for Energy. The joint committee has met twice including with Hon. Abdullswamad Nassir, MP and agreed on procedures to follow to undertake the inquiry.

Therefore, the Joint Committee seeks your leave for extension for consideration of this inquiry by further 60 days from 25th April 2021 in order for the Committee to comprehensively address matters referred to it. Thank you, Hon. Speaker. It is signed by Hon. David Gikaria, MP and Co-Chair of the Joint Committee.

Hon. Speaker: Was it a request for Statement? Were you referring to some petition?

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): There was an inquiry which was made by the MP for Mvita to actually look at the pricing of petroleum.

Hon. Speaker: He sought a Statement.

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): Yes, Hon. Speaker.

Hon. Speaker: This is because if it is was a petition I would not allow you. You would have to seek the leave of the House. If it is a Statement, I will grant you the extension.

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): Thank you, Hon. Speaker.

Hon. Speaker: The other one is from the Committee on Delegated Legislation. What did they want to say? The Chair and the Vice-Chair are both absent not desiring to be present. Hon. Kamket and Hon. Njagagua have taken leave.

COMMUNICATIONS FROM THE CHAIR

INACCURATE REPORT ON DIVISION WITH RESPECT TO THE CONSTITUTION OF KENYA (AMENDMENT BILL) 2020

Hon. Speaker: Order, Hon. Members! Before we move to the next Order, allow me to make... Member for Ikolomani, just freeze.

*(Hon. Zachary Thuku walked in the aisle
while the Speaker was on his feet)*

Even that one who is walking like a lone buffalo, you do not do it that way. Hon. Kwenya, you know here it is not like Kinangop. Hon. Members, allow me to make this Communication which is on inaccurate reports on Division with respect to the Constitution of Kenya (Amendment) Bill, 2020.

Hon. Members, as you may recall, on Thursday, 6th May 2021, the House upon a Question for Second Reading of the Constitution of Kenya (Amendment) Bill, 2020 promoted by the Building Bridges Initiative the Houses proceeded to a Roll-Call Vote. At the end of the Vote, I did declare the results as follows:

Ayes: 235

Nays: 83

Abstention: 2

Total Members Voting: 320

Hon. Members, you may also recall that for the first time, and in furtherance of the provisions of Part XXVIII A of Standing Orders (Conduct of Proceedings in Exceptional Circumstances), I permitted Members who could not attend the Sitting physically to vote virtually. As you all observed, it was evident that our staff faced some challenges with regard to recording of some votes that were cast virtually, especially where the voice of the Members present virtually was not clearly audible. This slight challenge was likely to affect the correctness of the results as declared then. In this regard, Hon. Members, pursuant to the provisions of Standing Order No. 75 regarding correction of errors following a vote, I wish to report to the House that upon further verification of the actual video recording of Members who voted virtually, it was determined as follows:

1. The Member for Trans-Nzoia County, the Hon. Janet Nangabo who was initially counted as having voted “YES” did not actually participate in the virtual voting;
2. There were further errors in tallying the total votes for the “NAYS” which resulted in a variation of two votes.

Hon. Members, the errors which affected the results declared with respect to the “Ayes” and “Nays” vote, have since been brought to my attention by the Clerk of the National Assembly. I hasten to affirm that, as your Speaker, it is my duty to ensure that the records of the

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House are correctly and accurately captured and reported at all times. In this regard, I wish to announce that the correct tally after confirmation of the vote in question is as follows:

The “Ayes”	–	234 (<i>and not 235</i>)
The “Noes”	–	81 (<i>and not 83</i>)
Abstentions	–	2
Total Votes	–	317

Hon. Members, allow me to take this opportunity to also speak to the conduct of Members taking part in the virtual Sittings of the House. When the House amended the Standing Orders to provide for virtual participation, the intention of the House was to ensure that no Member desirous of partaking proceedings of the House on any matter is excluded on account of not being physically present in the House.

Indeed, Part XXVIII (A) of the Standing Orders (Conduct of Proceedings in Exceptional Circumstances) is explicitly clear on virtual proceedings. I wish to remind Hon. Members that the august House is a House of rules and that every Member has a duty to observe the rules of procedure and decorum. Suffice to say that the role of a legislator is hallowed and therefore, it ought not to be exercised in multiplicity with third parties at one time.

In this regard, I wish to caution the Member for South Mugarango, the Hon. Silvanus Osoro, MP, who abused the privilege of participating virtually by voting in the company of a crowd. This conduct was not in keeping with the decorum of the House. While I permitted the Clerk to record his vote, let it be clear to the House that, neither such manner of voting nor the conduct by Hon. Osoro shall be permitted in subsequent virtual proceedings.

In view of the foregoing, Hon. Members, and pursuant to the provisions of Standing Order No. 75, I have directed the Clerk to make the necessary corrections to the records of the House to reflect the corrections I have made. Thus the House is accordingly informed.

I thank you, Hon. Members.

POINT OF ORDER

Hon. Makali Mulu (Kitui Central, WDM-K): On a point of order, Hon. Speaker.

Hon. Speaker: Point of order? Is that the Member for Kitui Central?

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you very much, Hon. Speaker. I want to raise a matter which is related to your Communication and it is a matter of grave concern to me. Before I do that, let me thank you for putting the record straight. I know you are at liberty not to change those figures, but because this is a House of records, you have done the right thing to make sure that the records are straight. As you were announcing those numbers; the 235 for the Ayes and the 83 for the Noes, there is an Hon. Member of this House who was tweeting saying that Members had been bribed with Kshs100, 000. This is public knowledge; it is in the social media and it is being aired in the *FM* stations. Members of this House are all Hon. Members. They have been elected by Kenyans. That means every Member has an equal chance of saying Yes or No. The truth of the matter is, this particular Member whom I will be naming, was saying that the 235 Hon. Members who voted yes, could only do that after being given Kshs 100,000. I think this is very wrong, when it comes from an Hon. Member.

Hon. Member: Yes. He should be named. Let them be named.

Hon. Makali Mulu (Kitui Central, WDM-K): It is on the same note that Members of his House, including ranking Members who have been elected four times, three times, twice and those who have been elected for the first time, have a casual way of doing things in this House, which I do not think is good.

On the same day, when we were debating, some Members casually called other Members ‘cowards’ and ‘sellouts’. It is all over. You can see that in clips all over this country. You ask yourself, as a representative of the people, how can an Hon. Member on the Floor of this House call another one a sellout? I was elected and they were elected too. I do not know where they get the courage to call others sellouts or cowards. We, therefore, need your intervention as the leader of this House, to make sure that we remain Hon. Members of this House. It is on that note that I stand on Standing Order No. 108 and I want to invite you to name Hon. Moses Kuria for grossly disorderly conduct in this House.

Hon. Speaker, I submit my case.

Hon. Speaker: Hon. Members, that is a weighty matter. Hon. Sankok, you want to weigh in?

Hon. David ole Sankok (Nominated, JP): Hon. Speaker, this incident was shameful and uncalled for, especially because I voted Ayes and I belong to a political persuasion where the Hon. Member who claims that we received Kshs 100,000 is a member. I voted with my conscience. I voted yes and I will still vote yes, if the Bill was reintroduced today, not because of bribes. I do not think any Member of this House was offered Kshs100,000 to vote in any way. As the leader of this House, I call upon you to protect the integrity of this House. We need to punish such wayward characters that are out to taint the name of this honourable House. There is no way all these Hon. Members can be elected and just come and vote on such a weighty constitutional amendment Bill based on being bribed. I am 100 per cent sure that no Member can be bribed by any amount of money to vote on such important and weighty issue. When I saw that tweet, I had just voted. If it were not for the respect I have for you, I would have used my crutches as weapons of mass destruction. It was pathetic. It was on social media while we were still here. So I beg that you give direction, and let Hon. Members who behave disorderly be punished.

Hon. Speaker: Hon. Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Speaker for giving me this opportunity. This is a House of records. I remember the same incident happened in the last Parliament. Hon. Aden Keynan and I were on *Citizen TV* on Monday discussing matters of BBI referendum. I was surprised when Hon. Caleb Kositany, Member for Soy came out clearly saying that Members were moving around with money to bribe other Members and he was approached. Since we were on national television, we wanted him to substantiate and we gave him a caution that it could land him in the Committee of Parliamentary Powers and Privileges, because such matters are not allowed as per our Standing Orders. He was very confident. So, it is not just Hon. Kuria alone. Hon. Kositany and Hon. Ndindi Nyoro have been on record. Maybe they are not aware of the Standing Orders. It is your responsibility, Hon. Speaker to maintain the dignity of this House. Maybe they said out of ignorance. If they cannot substantiate, our Standing Orders are very clear, they should be put on defence and if not, because a precedent has been set, they should be named. The dignity of this House must be maintained.

I thank you.

The dignity of this House must be maintained. We were elected by the people and we must have respect for each other. This is a House of debate and this is a House of voting.

I thank you.

Hon. Speaker: Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Indeed, Hon. Speaker, I was very disturbed when I saw the tweet that was circulating as we were voting here. Just for the record, this tweet had the following wording, which is the import of what I am saying: "Members of Parliament voting "Yes" currently receiving their 100k from the office of a senior parliamentary leader."

Hon. Speaker, you are the leader of this House.

(Laughter)

So, we know you were seated here with us. I was seated here. Hon. John Mbadi was seated here. The Majority Whip was seated here. The Deputy Whip was here. Hon. Junet Nuh was here. So, by implicating you, you know for the common man out there knows the leader of the House is the Speaker. So, these people have not only brought the leadership of the House to disrepute; but have actually made some very serious insinuations that bring dishonour to the Office of the Speaker of this House. If the chap was very clear that they were receiving from the Whip, then we would be dealing with the Whip. By actually saying, "a senior parliamentary leader", there is only one senior in this House and that is you, Hon. Speaker. These people require to be disciplined so that we have some decorum in this House. This looseness and trying to get cheap political mileage out there against the leadership of this House and Hon. Members ought to be stopped.

I also heard the Member for Ndia, Hon. George Kariuki, addressing his constituents and trying to justify why he voted no because he could not join the people who were being bribed. Again, it is the kind of thing that we are being told that Kenyans are looking at us and saying the only reason we voted "Yes", was because we were bribed. Yet, Members were committed and they stayed here until midnight and nobody was ever approached; nobody was induced.

Indeed, allegations are that the inducements were more to say "No" than to say "Yes". That is unfounded; we do not know. In terms of the people actually putting it on record and sending it to the whole world—these tweets are global, and they are accessible—it is not just bringing disrepute within Kenya, but internationally; that the Parliament of Kenya is a parliament where, for MPs to vote in a certain direction, they go for inducements in the office of a senior leader of the House. That is how serious it can get. We need to take serious action commensurate with the offense.

I support that Hon. Moses Kuria should be named and all those who have ridden on his coattails should follow in the same coattails as they exit the House.

Hon. Speaker: Hon. Members, I can see the thrust is to go by Standing Order No.108. So, again, it is up to you to use it. Hon. John Mbadi, you have the Floor.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. It is quite unfortunate that a historic moment as that of Thursday, last week, where in a long period of time this House managed to vote on a particular matter at over two-thirds majority... That was a fete that defeated us in the 10th Parliament, when we wanted to set up a local tribunal to try post-election cases. Even when His Excellency the President Mwai Kibaki, then sat in the House together with

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his deputy, the Prime Minister, deputy ministers and all cabinet ministers were present; we still failed to get two-thirds majority. We have tried several times to have two-thirds majority to pass the two-thirds gender principle with no success. For the first time, history was made in this House that this House passed the Building Bridges Initiative (BBI) Bill or the Constitution (Amendment) Bill 2020 with an overwhelming majority - 234 Members. Remember we required 233 Members as the two-thirds majority, but we got 234 Members, even with two positions vacant. So, this is a time that this country should have celebrated unity of purpose and cohesion in terms of pushing forward an agenda for this country. However, one of us, who for whatever reason and he is serving his second term in the House, decided to exercise immaturity by behaving disorderly in this House.

Hon. Speaker, I request you to find that the disorderly conduct was in this House in accordance with Standing Order No.108. We should not let this continue because I do not know whether these Members who make unsubstantiated claims have understood why this House is called an august House. We are demeaning the dignity of this House; we have put it at its lowest. A number of times we make unsubstantiated claims about our colleagues and then we are let to go scotfree. For the first time, I want to plead with you to find the Member to be disorderly and name him. I would then request another Member to move a Motion so that this House can make a resolution to have this Member, Hon. Moses Kuria, suspended from the House as a first offense of this nature. We cannot tolerate this.

Hon. Amos Kimunya said you are the leader. No, all of us in leadership stand indicted because he said a senior leader in the House. Hon. Speaker you are there, the Leader of the Majority Party, myself and the entire leadership from both sides, we sat here. How could inducements cause Members who are even out of the country like Hon. Simba Arati to vote from China? We should not joke with serious matters. If you have lost, or your side has lost, that is the spirit of democracy. I have been in this House and I have lost so many votes here. From 2008, there are so many votes we have lost here. We have even fought physically after losing. You cannot scandalise your colleagues for no reason.

Hon. Speaker, in fact, when we were taking the vote, another person from the media called me saying: "Members were being intimidated, and they were being induced". You cannot intimidate a Member. You can issue a party position on a matter. By the way, I want to say this; as I sit down, if parties cannot take a position on a constitutional amendment, then what can a party take a position on? The most critical decision a country would make is to amend a constitution, to change the architect, and to change the contract between the governed and the governors. So, that is the time you cannot claim independence of mind when you are actually dealing with a constitutional amendment, either you follow what your constituents want, which overrides everything else, or you vote because your party has whipped you a particular way. Talking of inducements is in bad taste.

I want to stop there and ask that this Member be named and then we follow it procedurally. We could have another Member ready to move this Motion and we vote on it.

Hon. Speaker: Let us have Hon. (Dr.) Wilberforce Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Speaker, let me also join my colleagues in condemning the cowardly statements made by our colleagues on the Floor of the House. In any democracy, the majority have their way, while the minority have their say. In any

democracy, one must accept that a position will be taken where some will lose and others will win.

Members who sit in this House held very respectable positions wherever they were, even before they came to this House. It is unacceptable for anybody to insinuate that they can be bribed to pass such a critical constitutional amendment Bill. Even looking at the voting pattern, it transcended political affiliations. There were diehard Tanga Tanga members who voted for the Building Bridges Initiative (BBI) Bill, simply because it is the best thing that has ever happened for this country.

Our colleague's statement was even picked up on Facebook. You can imagine the wide reach of Facebook to the ordinary people of Kenya. Many of us who went to the constituencies were humiliated. We were being asked everywhere we went to share the Kshs100,000 that each one of us got late on Thursday night. I urge our colleagues who lose not to be bad losers. When you lose, accept reality, move on and vow to fight another day.

I wholly support my colleagues who said that we must put this bad habit to an end. Disparaging your colleagues and holding your colleagues in bad repute will not take us anywhere. We diminish the exalted position of this House in the society.

(Hon. Raphael Wanjala walked into the Chamber talking loudly)

Hon. Speaker: Hon. Wanjala, you cannot walk in here as if you are shouting in Budalangi. The Member for Funyula was on his feet. It looks like Hon. Wanjala is tired of being in Parliament. You cannot walk in here as if you are in a fish market!

Let us have Hon. Kwenya.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Speaker for this opportunity to weigh in on this weighty matter that is before the House.

I must start by condemning the conduct of our colleagues. I was so ashamed that one of the Members could utter the words that he did on the Floor of the House, as to the way we were voting, to the extent of calling colleagues sell-outs. That was the lowest that this House could get, being a House of honour and having been bestowed the responsibility to legislate on behalf of the people of Kenya.

Every Member of this House sought to consciously and conscientiously do what they are supposed to without any influence. We have been in this House and all of us know that as much as we represent the people, we spend a lot of our money and resources to support the people who voted for us. Someone trying to insinuate that Members were queuing in a certain office in Parliament to get handouts so that they could vote in a certain way was the height of disrespect.

Therefore, in accordance with Standing Order No.108, I call upon you, Hon. Speaker, to name the said Members. In the same Order, we should have a Member from this House who will follow through and table a Motion, so that we take a vote as to the steps that such Members should suffer for such unbecoming behavior.

I support what has been brought to the Floor by Hon. (Dr.) Makali Mulu, so that we can take a step as a House.

Hon. Speaker: Let us have Hon. Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Speaker for the opportunity.

I also join my colleagues to say that this is a House of honour and honourable Members. It is not right for a few of us to come to the House and make allegations which they cannot substantiate. In the same light that Hon. Makali has called upon the House to name Hon. Moses Kuria, I also wish that the Member for Kiharu, Hon. Ndindi Nyoro, is named because he stood in this House and called us sell-outs, cowards and traitors. That is even more serious than what Hon. Moses Kuria wrote.

The tendency of Members making allegations of bribery is on the increase. It looks like even witnesses who appear before our various committees are following suit and making allegations against Members of committees that they have received bribes, houses and vehicles. This is a very serious matter because it touches on the contempt of Parliament. The Powers and Privileges Committee should take it up and come up with very serious recommendations on how this matter will be dealt with once and for all. This is especially important for the witnesses who appear before our committees. When they realise that the evidence before the committee is overwhelming, the easiest thing to do is come up with allegations that Members of the committee have been bribed.

I have a case in point of the Committee on Implementation where I am the Vice-Chair. When one of the witnesses realised that the evidence before us was very overwhelming, they decided to write a letter to you, Hon. Speaker, saying that Members of our committee had received houses from the other party. When the leadership of the Committee wrote to the witness, the witness decided to go on a fishing expedition for evidence. The Committee decided that the Powers and Privileges Committee takes up the matter.

This is a very serious issue. It starts in the House when Members make allegations and then people outside also copy what Members do here and say the same thing. Our functions within the committee are then derailed. This is a very serious matter and I wish the Powers and Privileges Committee takes stern action against the people involved, so that we protect the integrity and the honour of the House.

Hon. Speaker: Let us have Hon. Jude Njomo.

Hon. Jude Njomo (Kiambu, JP): Thank you, Hon. Speaker. In my language, we say that the devil becomes notorious when you keep slaughtering him.

(Laughter)

That is a saying in Kikuyu.

This is not the first time that the said Member has done or written offending messages on Twitter. Last year, when my mother passed away and was buried under COVID-19 protocols, the same Member went to social media and wrote that I buried my mother at night because I did not want the Deputy President to visit my home. It was so painful for me. It was very hurting. He keeps on offending people because no action is taken. Time has come for the House to stamp its feet. The dignity of the House must be maintained. No Member, whoever he or she is, is above the Standing Orders of this House. There are Members who think they are the only ones who can do right. When others do things, those Members think others are wrong and have to be demonised.

I support Hon. Makali Mulu. The Member should be named and stern action taken against him. I do not want us to forget the words of former President Mwai Kibaki. He said that

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every marketplace has its own mad man, but that mad man must be ready for the consequences that befall mad men.

Hon. Speaker: Let us have the Member for Turkana Central.

Hon. Lodepe Nakara (Turkana Central, ODM): Thank you, Hon. Speaker. I join the rest of the honourable Members to condemn our fellow Members who are castigating this House. Hon. Speaker, as much as we were castigating the other side, remember very well that we were in this House on that day. Some Members castigated those who voted against the Bill. They threw some bad words to them. We need to be very careful. We are here because we were elected by our people. We make decisions here according to three issues: the people who elected us and the country, Kenya, that we love. We are here to make laws that govern this country. No matter where you live, this country has laws that govern you. Thirdly, we make decisions here according to a party, as Hon. Mbadi has said. Sometimes, we fail to do what the party wants us to do because its leaders do not use persuasive language to make us to follow what they want.

I remember very well that Hon. Junet threatened me that day. He told me to vote the way I wanted and I would see. That language is not good for the leader who asked me to follow him. I am elected by the people of Turkana Central Constituency. I am here to represent them. Labelling people that they belong to a particular person is very wrong. We are here because people who elected us want us to work on their behalf. The party takes a position sometimes. I am appealing that it should allow us to vote democratically according to our conscience and what our people say back at home.

When I came to vote that day, Hon. Junet threatened me with words that I cannot mention before you. I wish he was here today. He could have apologised. Let us also not kill Hon. Kuria because some cows can be manipulated and they can use somebody's name.

(Several Members spoke off-record)

(Loud consultations)

(Hon. T. J. Kajwang' spoke off-record)

I am saying this as an example. How many accounts does he have? I am not defending him. However, let us investigate. Hon. Kajwang', you are a senior counsel. Before we condemn Hon. Kuria, let us investigate, so that we can know whether he is the one who wrote the information or somebody else used his account. How many people use our accounts?

Hon. Members: Order!

Hon. Lodepe Nakara (Turkana Central, ODM): These are the Members who are saying that we should maintain order in the House but they are misbehaving. It is my time to speak. When you spoke here, nobody condemned you. Keep quiet!

I am here because I was elected by the people of Turkana Central Constituency.

Hon. Speaker: You have digressed now. This is the problem of being elected by the people of Turkana Central Constituency. Sit now and go back to Turkana Central Constituency because you moved away from what was raised.

(Laughter)

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Hon. Jeremiah Kioni.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Speaker. I want to weigh in on this issue and thank Hon. Makali Mulu for introducing it. It will not be let off without punishment. Without answering the Member for Turkana Central, it is important to tell him that the subject of this debate has not retracted. He has not said that anybody hacked his account. So, you cannot defend him, unless you have instructions. I do not believe that the Member for Turkana Central has any instructions from Hon. Moses Kuria.

Schools in this country have mock debates which are tailored on how we conduct our debates on the Floor of the House. When we do the kind of things that we continue doing, including what was uttered by the Member for Kiharu, that is exactly what our young people will do out there. For the sake of our children who look at us as models, they will come to this House after we go, we cannot let this to go without punishment.

(Applause)

These issues have gone far. We have some television stations that pick on programmes which are tailored on this kind of language. The country is heading in the wrong way just because we have given the wrong examples on this Floor of the House. I do not want to go Hon. Jude's way. However, I was insulted on a national platform by the same Member of Parliament. We were debating. I thought that I was debating unequal. All of sudden, the Member of Parliament dragged in my mother into the debate and insulted her on a national television. She was watching the television.

Hon. Member: Shame! It is painful.

Hon. Jeremiah Kioni (Ndaragwa, JP): She is 94 years old. When I arrived home, she asked me what was wrong with that Member. These are not things that should be taken casually. It is not the older days when people did not have access to media information. What you were doing was not the way it was, even in the 10th Parliament. Anything that you do today is sent all over.

When a Member stands on the Floor of the House and faces the side that you are seated and calls Members traitors, sell-outs or con men, you wonder where he is coming from. I voted because I was sent here by the people of Ndaragwa. They can call me that. They are the only ones who can tell me that I did something wrong. As a Member of Parliament, you have no mandate to come and pass judgement on me. We also have the party which we believe that it has a way on us. For the sake of this country and the young generation, forget about the dignity of this House which must be respected, please, allow us to name Hon. Moses Kuria and Hon. Ndindi Nyoro.

(Applause)

Hon. Speaker: Hon. Members, I have heard what you have said. Earlier on, I had seen the Member for Kiharu in the Chamber. He comes frequently. However, the Member for Gatundu South does not come frequently. Last Thursday must have been one of the very few

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days that he has been in this Chamber. The people of Gatundu South do not know how to use Article 103 of the Constitution. He cannot be anywhere near the Chamber.

He is not here to hear the things that we are saying. Let us also not appear like we want to work through Twitter as well. We read what is written in social media spaces. However, the Member is not here. If he was present, we would have given him a chance to say something either in rebuttal or justify his tweets, so that the House can take a decision, one way or the other, about him and that post. He is not present now. If you look at Standing Order No.107, what you are saying is possible. It can be done. A Member can be named and then the consequences are in Standing Order No.110. However, the Member is not present. Many years ago, there is somebody who was given a bond of Ksh500 to keep and maintain peace for six months. The person boarded a ship that same evening after committing murder in Mombasa. I do not know whether many of you have read that story. This is telling somebody to go and keep peace in the high seas where you have no jurisdiction over him. Yes, I hear you but the rule under Standing Order Nos.108 and 110 are such that any decision made by yourselves – if you vote to name him – then the sanction is supposed to apply immediately. So, if they apply immediately today and the Member is not here, they will continue tomorrow and Thursday yet the Member is still not here. As you know, Hon. Moses Kuria is not a very frequent attendee of the proceedings of the House. Maybe he attends the Committees but suddenly he is not very frequent in the plenary, or if he does, he must be one of those who sit somewhere near the pillars there. I cannot see the people who sit behind the pillars.

Now, do we take a decision on a Member who is not present?

Hon. Members: Yes!

Hon. Speaker: Or do we order that he appears here on Thursday at 2.30 p.m. so that he hears the accusations levelled against him and he is given a chance, as per the law of natural justice, to say whatever he may wish to say in response thereto? The House can then make a decision on him when he is present.

(Several Members spoke off record)

The Hon. Moses Kuria and the Hon. Ndindi Nyoro.

An Hon. Member: Caleb Kositany as well.

Hon. Speaker: No, Hon. Members. The House cannot deal with utterances made on television stations. If I recall what Hon. (Dr.) Chris Wamalwa said is that they were debating on some television station and certain things happened. That was on a television station. That is the danger of going to those talk shows with some of these Members. You need to know where they spend the previous night. You could find yourself engaging with someone who has some interesting influence.

(An Hon. Member spoke off record)

So, there is Hon. Mohamed Ali, Hon. Moses Kuria and Hon. Ndindi Nyoro. The order is that the three are hereby directed to be present in Parliament on Thursday 13th May, 2021 at 2.30 p.m.

(Applause)

That is so that, at least in fairness, everybody can be given a chance to be heard. They say that even the devil has a right. Nobody has condemned them. Let them be here so that they will hear what their colleagues are saying; but just to caution what has just been said by the Hon. Jeremiah Kioni. Hon. Members, you may say what you want to say about your colleague but remember that you are also a Member of this same institution. So, when you call your colleagues names, the people out there will never know the difference between yourself and that other one. The damage you cause is not just to your colleague who you may be pointing fingers at and accusing. You are causing greater damage to the institution of Parliament and specifically to the National Assembly. So, Hon Members, let us just have some element of decorum.

Why is it that you are called “honourable” if you cannot respect your colleague? I mean, it is just a way to say that you do not deserve that title of honour. So, please, let us just treat each other with decorum and fairness. You may not like what Hon. Mbadi has said or what he says but, please, allow him to say it. You will also get your chance to say what you want to say but in a respectful manner.

Therefore, the orders are given that the three – Hon. Moses Kuria, Hon. Ndindi Nyoro and Hon. Mohamed Ali of Nyali – be present here in the Chamber on 13th May, 2021 to hear the accusations levelled against them by their colleagues.

Hon. Member: On a point of order.

Hon. Speaker: I am trying to look at whether anybody has pressed the intervention button. There is no name on the intervention button. Why are there so many interventions?

Let us hear Hon. Anthony Oluoch.

Hon. Anthony Oluoch (Mathare, ODM): Hon. Speaker, I had placed the intervention earlier but now that you have given me this chance, I want to thank you for your wisdom because we must remember that as offensive as our colleagues may have been to this House, this House is bound by the Constitution and the right of access to justice is now firmly part of our Constitution.

Hon. Speaker, about seven years ago, I occasioned when the Hon. Opiyo Wandayi was thrown out of the House for gross misconduct. I am aware that this is power of this House and you use very sparingly. This is one of those incidences I think it would be justifiable but not until they have a right to be heard.

I thank you for your wisdom that they should get that opportunity.

Thank you.

Hon. Speaker: Deputy Whip.

Hon. Maoko Maore (Igembe North, JP): Hon. Speaker, I also want to record my thanks to your ruling. I also want to remind you the historic incident where you agree with your colleagues and something happens where Members can turn against what you have agreed. Then in that fury, you can puke words like the ones we heard here. In 1976, in the House of Commons, the then “Tyson of apes” Michael Heseltine agreed on a pairing kind of arrangement during a

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vote. He was Conservative and he had agreed with someone in the Labour side that he would abstain. Then he did not abstain and they lost the vote by one. Out of that anger there was a historic thing which he did. He came forward and carried the mace. That is how he got the nickname “Tyson of the apes” having lived with some apes somewhere.

Hon. Speaker, this is a conduct that if not thoroughly punished, it will bring the entire institution into disrepute like the way it has been done by one Member consistently talking about other Members as if he is not one of them or he knows he is one of them. He has climbed a tree and he wants it to be cut. We agree with you that they need to be here and need to be punished. I remember there was a time we had also discussed the same Hon. Mohamed Ali and you are the one who rescued him. Now since it seems that it is a habitual behaviour, this time round, Hon. Speaker, we beg you not to let him and others off the hook.

Thank you.

Hon. Speaker: Now, let us have Hon. Sauti.

Hon. Raphael Wanjala (Budalang'i, ODM): Thank you, Hon. Speaker. I want to thank you for that ruling. When I came in, you saw that I was a bit irritated. At your age and my age, we now have very grown and mature children. We have been leaders. We have been in this House for quite some time. From 1997 to date is over 20 years. We are men of integrity. It really hurts for someone to bring us down in a day. I came here very angered. That is why you saw me looking at the other side. This is a man, if he was here, maybe you would have seen something different. He cannot keep on scandalizing Members of Parliament.

Hon. Speaker, I agree with your ruling that because he is not here, there is nothing we can do but this is very painful to some of us. Register my sentiments.

(Laughter)

Hon. Speaker: Hon. Members, let us leave it at that. We will deal with it on Thursday. Next Order.

BILL

First Reading

THE CENTRAL BANK OF KENYA (AMENDMENT) BILL

(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Departmental Committee)

Hon. Speaker: The Bill without the Question put automatically is referred to the Departmental Committee on Finance and National Planning.

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE PUBLIC FUNDRAISING APPEALS BILL

The Temporary Deputy Chairman (Hon. Christopher Omulele): Order! Hon. Members, we are now in Committee of the whole House to consider the Public Finance Appeals Bill (National Assembly Bill No.66 of 2019).

Clause 3

The Temporary Deputy Chairman (Hon. Christopher Omulele): There is a proposed amendment by the Chairperson of the Constitutional Oversight Implementation Committee (CIOCI), the Hon. Member for Ndaragwa. Give him the microphone.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman I beg to move:

THAT, Clause 3 of the Bill be amended—

- (a) in paragraph (a) by deleting the words “fundraising appeals” and substituting therefor the words “public collections”;
- (b) in paragraph (b) by deleting the words “fundraising appeals” and substituting therefor the words “public collections”;
- (c) in paragraph (d) by deleting the words “fundraising appeals” and substituting therefor the words “public collections”;
- (d) in paragraph (f) by deleting the words “fundraising appeals” and substituting therefor the words “public collections”;
- (e) in paragraph (g) by deleting the words “fundraising appeals” and substituting therefor the words “public collections”;

The sole purpose for this is to align the Bill with the title of the Bill which has been changed from “Public Fundraising Appeals Bill” to “Public Collections Bill”.

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

Part II

The Temporary Deputy Chairman (Hon. Christopher Omulele): There is a proposed amendment by the Mover, the Chair of the CIOC.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman I beg to move:

THAT, the Bill be amended by deleting the title to Part II of the Bill and inserting therefor the following new title□

“PART II- ESTABLISHMENT OF PUBLIC COLLECTIONS COMMITTEE”

This is again solely for purposes of aligning the Bill to the new Title of the Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): The Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, the proposed amendments by the Chair are in order save for Part (b). I request him to reconsider it. (b) reads, (5) Members of the National Committee shall appoint the person and the vice chairperson from among themselves at the first meeting.

It might sound progressive and democratic. When we are talking of such a critical aspect of public life, I request the Committee to reconsider it at this moment or a recommittal so that we have an appointing authority for the position of Chairman...

The Temporary Deputy Chairman (Hon. Christopher Omulele): The Hon. Oundo, you are actually ahead of us. We are at the heading. We are not yet at Clause 4 that you seem to have picked up.

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

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

(Part II as amended agreed to)

Clause 4

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair of CIOC.

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Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 4 of the Bill be amended

(a) by deleting sub-clause (1) and inserting therefor the following new sub-clause Establishment of the Public

Collections Committee. 4. (1) There is established the Public Collections Committee which shall consist of-

(a) the Principal Secretary for the time being responsible for social protection or a person deputed by him or her in writing;

No. 2 of 2012.
No. 18 of 2013.

(b) two persons not being public officers, who have knowledge and experience in social protection, appointed by the Cabinet Secretary by notice in the Gazette;

(c) one person nominated by the Council of County Governors established under section 19 of the Inter-Governmental Relations Act;

(d) one person nominated by the Public Benefits Organisations Regulatory Authority established under section 34 of the Public Benefits Organisation Act; and

(e) the Director appointed under section 11, who shall be the secretary to the National Committee.

(b) by inserting the following new sub-clause immediately after sub-clause (4)

“(5) The members of the National Committee shall appoint the chairperson and vice-chairperson from among themselves at the first meeting.”

The rationale is to change the name of the committee responsible for public collections to Public Collections Committee in keeping with the changed title of the Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Oundo, this is probably where you wanted to interject.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, my sincere apology for having not followed closely.

I just want to make a request as I had indicated that under (b) they have an insertion coming after sub-clause 4 that requires that members of National Committee shall appoint the chairperson and vice chairperson from amongst themselves at the first meeting. I have difficulties with that in view of the critical role played by public collections and coming from our history. Looking at the members to be appointed, it means, for example, the person appointed under 4(1)(a) who is a Principal Secretary, I do not know if such a person will be eligible for appointment as the Chair, and the person appointed by the Council of Governors. It leaves a lot of room for manipulation and confusion. I request that we reconsider having an appointing authority to appoint the Chairperson and the Vice-Chairperson of the Committee amongst the people constituting it, excluding 1(a), the Principal Secretary. It is a request I need to make to consider.

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Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well.

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

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

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

(Clause 4 as amended agreed to)

Clause 5

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chairperson.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by deleting clause 5 and inserting the following new clause—

Functions of the
National
Committee.

5. The functions of the National Committee shall be to—

- (vi) collaborate with the Authority in the performance of their functions under this Act;
- (vii) oversee the conduct of public collections;
- (viii) receive, vet and process applications for the issuance of a licence to conduct a public collection where such collection is a national collection or is publicly made to members of the public in more than one county;
- (ix) investigate any complaints, misuse of funds raised through a public collection or any issue relating to the conduct of a public collection under this Act;
- (x) conduct inspections of records and audits relating to public collections conducted under this Act;
- (xi) maintain a national register of persons licensed by it to conduct a public collection under paragraph (c);
- (xii) establish mechanisms for the promotion of transparency and accountability in the conduct of public collections under this Act;
- (xiii) carry out sensitization and education awareness regarding the conduct of public collections and the promotion of transparency and accountability in the

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- conduct of public collections;
- (xiv) review applications submitted to it under section 34;
 - (xv) promote the establishment of endowment funds and such other funds and investments that may provide sustained incomes for the benefit of the public;
 - (xvi) monitor the implementation of, and enforce the provisions of, this Act; and
 - (xvii) perform such other functions as may be necessary for the implementation of the provisions of this Act.

The reason is that the implementation of the Bill at the county level should be done by the authority and not the County Executive Committee as we had done before. That is the reason why we have proposed the amendments.

(Question of the amendment proposed)

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

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

(Clause 5 as amended agreed to)

Clause 6

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chairperson.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 6 of the Bill be amended in paragraph (a) by deleting the words “fundraising appeal” and substituting therefor the words “public collection”. This is just to align the Clause with the changed title.

(Question of the amendment proposed)

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

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

(Clause 6 as amended agreed to)

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Clause 7

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chairperson.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you. Hon. Temporary Deputy Chairman. I beg to move:

THAT, clause 7 of the Bill be amended in sub-clause (3) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) a public officer serving in the Ministry, nominated by the Cabinet Secretary;”

This is another technical amendment to just align the referencing with the changed title of the Bill.

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

(Clause 8 agreed to)

Clause 9

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chairperson.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 9 of the Bill be amended—

3. in sub-clause (1) by inserting the word “First” immediately after the words “in accordance with the”; and

4. in sub-clause (2), by inserting the word “First” immediately after the words “Except as provided in the”

This is for the purposes of bringing clarity into that Clause.

(Question of the amendment proposed)

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

(Clause 9 as amended agreed to)

Clause 10

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chairperson.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 10 of the Bill be amended in sub-clause (2) by deleting the words “fundraising appeals” and substituting therefor the words “public collections” This is to align it with the changed title of the Bill.

(Question of the amendment proposed)

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

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

(Clause 10 as amended agreed to)

Clause 11

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chairperson.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, clause 11 of the Bill be amended in sub-clause (1) by deleting the words “planning and social development” and substituting therefor the words “social protection”

The reason is that referring to planning as social development carries two Ministries, so, we needed to ensure that we were specific to the Ministry. That is why we have dropped the word “planning” and replaced it with “social protection”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Sankok.

(Technical hitch)

Give him the microphone.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairman, I do not know why we align the Bill to the Ministries. I would like to ask the Chairperson to reconsider this one because we do change Ministries more often than the Bill. The Bill is for prosperity and you will find that the Ministry that is now in charge of Labour and Social Protection was once the Ministry of Labour, East Africa Co-operation and so on.

So, if the amendment is only because of the Ministry, I do not think we need to change.

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Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well.
Hon. Oundo.

(Technical hitch)

Members, we seem to be having a bit of technical problems with issuing the microphones.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairman. The import of the changes is to imply that the only purpose why we do public collection known as harambee is for social protection. Many a times, we do harambee for many other community development activities. The words “social protection” would essentially kill the spirit of harambee.

We would request the Chairperson to reconsider that because social development encompasses both social protection and actual development that is known in this particular part of the world.

Thank you.

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

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

(Clause 11 as amended agreed to)

PART III

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chairperson.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by deleting the title to Part III and substituting therefor the following new title—

“PART III- REGULATION OF PUBLIC COLLECTIONS AT THE COUNTY LEVEL”

Again, this is to align the Clause to the title of the Bill.

(Question of the amendment proposed)

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

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

(PART III as amended agreed to)

(Clause 12 agreed to)

(Clause 12 agreed to)

Clause 13

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move:

THAT, Clause 13 of the Bill be amended—

(a) by deleting sub-clause (2) and inserting the following new sub-clause—

“(2) Notwithstanding the generality of subsection (1), the County Policing Authority shall –

- (a) receive, vet and process applications for the issuance of a licence to conduct a public collection within the county;
- (b) regulate the conduct of public collections within the county;
- (c) investigate any complaints, misuse of funds raised through a public collection or any issue relating to the conduct of a public collection under this Act within the county;
- (d) carry out inspections of records and audits relating to a public collection within the county conducted under this Act;
- (e) maintain a register of all licenses issued to a person conducting a public collection within the county under this Act;
- (f) monitor and evaluate the conduct of public collections within the county; and
- (g) perform such other functions as may be necessary for the implementation of this Act.”

(b) by deleting sub-clause (3) and inserting the following new sub-clause—

“(3) The County Policing Authority shall have all the powers necessary for the proper discharge of the functions under this Act and without prejudice to the generality of the foregoing, shall have the power to —

- (a) oversee the conduct of public collections carried out under this Act within the county;
- (b) require any information from any person conducting or intending to conduct a public collection within the county under this Act;
- (c) require at any time, before the issuance of a licence and at any time after being issued with a licence such information as it may consider necessary; and

(d) monitor the compliance by persons licensed under this Act, of the provisions of this Act.”

It is technical. It is just to align to the title of the Bill.

(Question of the amendment proposed)

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

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

(Clause 13 as amended agreed to)

(Clause 14 agreed to)

Part IV

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting the title to Part IV and substituting therefor the following new title—

“PART IV- CONDUCT OF PUBLIC COLLECTIONS”

It is to align it to the title of the Bill.

(Question of the amendment proposed)

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

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

(Part IV as amended agreed to)

Clause 15

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 15 and inserting the following new clause—

- | | |
|---------------------------------------|---|
| Classification of public collections. | 15. Public collections shall be classified as— |
| | (a) public collections which shall consist of solicitations made by a public collections manager to members of the public or a section of the public for a public benefit and which shall be licensed as such under this Act; |
| | (b) public collections which shall consist of solicitations made by a |

public collections manager to members of the public or a section of the public for a private benefit and which shall be licensed as such under this Act; and

- (c) private collections which shall consist of solicitations made by a person or class of persons on behalf of a person or class of persons to the members of the family of, or relatives of such person for the benefit of such person, subject to section 16(1).

It is just replacing “fundraising appeals” with “public collections”.

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

Clause 16

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move:

THAT, Clause 16 of the Bill be amended—

(a) in sub-clause (1)—

- (i) in the opening sentence by deleting the words “fundraising appeal” and substituting therefor the words “public collections”;
- (ii) in paragraph (a) by deleting the word “or” appearing at the end of the sentence and substituting therefor the word “and”;
- (iii) in paragraph (b) by deleting the word “good” and substituting therefor the word “purpose”.

(b) in sub-clause (2) by deleting the words “fundraising appeal” and substituting therefor the words “public collection”.

It is for the same reasons, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

Clause 17

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move:

THAT, Clause 17 of the Bill be amended—

- (a) by deleting the words “fundraising appeal” appearing in the opening sentence and substituting therefor the words “public collection”;
- (b) by inserting the following new paragraph immediately after paragraph (b)—
“(ba) soliciting or receiving subscriptions, donations, bequests, endowment funds, gifts and grants that are authorised under the Universities Act or any other written law”.

The reason is to exclude funds raised by institutions of higher learning. These resources are raised for purposes of research and other related courses. So, we seek not to cover it under the Public Collections Act.

(Question of the amendment proposed)

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

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

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

(Clause 17 as amended agreed to)

Clause 18

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move:

THAT, Clause 18 of the Bill be amended by deleting the words “fundraising appeal” and substituting therefor the word “collection”.

(Question of the amendment proposed)

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

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

(Clause 18 as amended agreed to)

Clause 19

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move:

THAT, Clause 19 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “fundraising appeal” and substituting therefor the words “public collection”;
- (b) in sub-clause (2) by deleting the words “fundraising appeals” and substituting therefor the words “public collections”;
- (c) in sub-clause (5) by deleting the words “fundraising appeals” and substituting therefor the words “public collections”;
- (d) in sub-clause (6) by deleting the words “fundraising manager” and substituting therefor the words “public collections manager”;
- (e) in sub-clause (7) by deleting the word “section” and substituting therefor the word “Act”.

It is a question of removing the name from “fundraising manager” and referring to the officer as a “public collections manager”, again aligning it to the theme of the Bill.

(Question of the amendment proposed)

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

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

(Clause 19 as amended agreed to)

Clause 20

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 20 and inserting the following new clause—

Prohibition on
state officers.

20. A state officer who takes part in a public collection shall not—

- (a) use the office or place of work as a venue for soliciting or making public collections; or
- (b) obtain money from a person by using his or her official position in any way to exert pressure.

The rationale or the reason is that we are trying to avoid limiting the Members of Parliament or members of county assemblies from participating in public collections. Instead, we are ensuring that State officers do not use their offices or places of work to solicit for funds. It is also to align it with the Public Officer Ethics Act.

(Question of the amendment proposed)

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The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, this looks a fairly interesting amendment as it might be well-intentioned. In the definition of an office, are we talking about a physical office or an office associated with that state officer? That is where the challenge of implementation will arise. It is because, an office is occasionally an office. The position one holds are taken to be as such. But let us give it a try. We will have a rule, probably when we do regulations, to clarify that aspect.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Leader of the Majority Party, will you have a weigh in on this?

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairman. If Dr. Oundo would have looked at the Bill, he would actually see that we are talking of the use of the office or place of work as a venue for soliciting. It is very clear. I think this wording has been picked from the Public Officer Ethics Act which uses the same wording. So, this Bill is being aligned to the existing law so you do not have a conflict. Right? I think that is the clarity that Hon. Oundo was looking at. So, it is already in the law. Now that we have a substantive Bill on public fundraising, it is also exported from that Act into this to align it here.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Shamalla, we are having a challenge with the gadgets but you will have the microphone.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Hon. Temporary Deputy Chairman. I agree with the Leader of the Majority Party on the definition. The office is really not just a physical space. You cannot solicit funds outside, you use and carry your office with you. That is the Bill. Can we enhance that—your title and your name. You can solicit in other places aside from the physical office itself.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Thank you for that clarification, Hon. Shamalla.

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

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

(Clause 20 as amended agreed to)

Clause 21

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 21 and inserting the following new clause—

Application for a licence. 21. (1) A person shall not conduct a public collection unless the person has applied for, and obtained, a licence in accordance with the

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provisions of this Act.

(2) A person who intends to conduct a public collection shall submit to the National Committee or the relevant County Policing Authority, an application for a licence at least twenty-one days before the date for the conduct of the public collection.

(3) An application under subsection (2) shall be in such form as the National Committee or the relevant County Policing Authority shall determine and shall be submitted together with the following information—

- (a) the full names and address of the person intending to conduct the public collection;
- (b) the purpose of the public collection;
- (c) the necessity of conducting the public collection;
- (d) the date on which the public collection is to be conducted;
- (e) the names and contact details of the persons assisting in conducting the public collection;
- (f) the amount intended to be raised through the public collection;
- (g) the estimated expenses to be incurred in conducting the public collection;
- (h) a statement regarding whether any monies have been received with respect to the matter pertaining to the public collection from any person prior to the date of the proposed public collection;
- (i) the place at which the public collection is intended to be made;
- (j) the expected timeframe for the public collection; and
- (k) such other information as may be necessary.

(4) Where an applicant for a licence under subsection (2) is not the intended beneficiary of the public collection, the application shall be submitted together with—

- (a) the name of every person on whose behalf the person intends to conduct a public collection;
- (b) the common features shared by the class of persons for whose benefit the person intends to conduct a public collection, and the means by which the money or benefit is to be transmitted to that class or is to be distributed among the individual members of that class;
- (c) if any intended public collection is not to be conducted for the immediate direct benefit of one or more people, a description of the cause for which the public collection is to be conducted, and the means by which the money or benefit will be applied to the cause;
- (d) in the case of —

- (i) an adult who is the intended beneficiary, the consent of such adult;
- (ii) an adult who is the intended beneficiary but who lacks legal capacity to consent, the consent of a legally appointment guardian; or
- (iii) a child who is the intended beneficiary, the consent of the parents or guardian of the child;
- (e) a declaration that the intended public collection does not violate the provisions of the Public Officer Ethics Act, the Elections Act or the provisions of any other written law.
- (5) Where the intended beneficiary of a public collection is an organisation or the members of such organisation, an application for a licence under subsection (2) shall be submitted together with the consent of a duly authorised representative of the organisation.

No. 4 of 2003.
No. 24 of 2011.

This is to bring the code county policing authority as one of the bodies that will determine when applications have been sought and also to align it with the title of the Bill.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Let us have Hon. Sankok and then Hon. Oundo.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairman, we will have to talk with the Chair of the Committee because the county *askaris* are directly answerable to the governor, who in this case might be a competitor in an election process and he may use that office to stifle competition. We need to sit and take a good position on this one.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, my only point of concern is sub-clause (2) on the period given of 21 days. Many times, public collections are driven by need of an emergency for; example, a medical emergency. If the Chairman is listening, I would suggest that he reconsiders through a re-committal a provision for a short-term notice period where collections are necessitated by medical emergencies to allow collection of funds to solve such a problem. If the roof of a classroom, church or house has been blown off, the 21 days will not be enough to provide a solution. The Chairman should clarify this because if we do not have room for a shorter notice period, then we might defeat the essence of a *Harambee*.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chairman, do you want to weigh in on this one?

Hon. Jeremiah Kioni (Ndaragwa, JP): I want to thank the Member for that intervention. It is covered under Clause 22, where we have provided for a way in which the Committee deals with an emergency. His concerns have been captured under Clause 22.

I will talk to Hon. Sankok privately.

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The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well. Let us have Hon. Odhiambo Akoth, Member for Suba North.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I must confess that I have also not looked at the amendments. We are talking about public collections. Does it also include online collections that start impromptu? Are they subject to approvals? We are going to get into problems. Members will tell you that online collections start every one hour. Are they subject to the 21-day notice? We need to be more realistic?

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Chairman, do you have a comment on that?

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I am trying to disagree with Hon. Millie. That debate came up in our meeting and I want to confirm that the notice covers the *WhatsApp* collections. You cannot start them without a licence.

(Loud consultations)

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

The Temporary Deputy Chairman (Hon. Christopher Omulele): Just hold on.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Oundo, you already had a say in this matter. Let us have the Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Hon. Temporary Deputy Chairman, how can that be practically implemented? *WhatsApp* is a giant animal that has come into the scene and it is everywhere. Who will license, and how will it be done? I want to ask the Chair to be clearer on this.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Owino, you have made your point.

Hon. Kaluma, we have a problem with the microphones. The system keeps jumping and you may want to follow it. You are still agile enough.

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Temporary Deputy Chairman. The idea is that public collections will be licensed, whether online or physical. The idea is that we are introducing some form of authorization for them to happen so that the facility of public collections is not abused. Whether you will have a notice to gather people online or physically, you must get prior authority.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Kaluma, you have made your point. Let us have Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. I am always very diligent. I want to regret on missing this matter on public fundraisers that affects us as Members of Parliament. I am concerned by the fact that as we try to weed out people who abuse the public fundraising process, we might end up harming people with very genuine needs. During these COVID-19 times, when people have funerals, they do not have 21 days. Sometimes people get notices to join universities when bursaries are not there or

when the funds are not enough, and the only option is a fundraiser. They at times need over Kshs100,000 and they do not have 21 days.

By making these very stringent provisions, we are encouraging Kenyans to build a culture of defying the law. That is a culture of impunity that is getting engrained in the country and we should not be encouraging it by bringing laws that make it difficult. We should come up with laws that encourage people to also obey the law. Once this is passed, we might need to look at it again after six months so that we know whether it is practical or not.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Let us have the Chairman. We must finalise this.

Hon. Jeremiah Kioni (Ndaragwa, JP): I hear the concerns of Members but I want to encourage them to read Clause 17 on what is exempted, and Clause 19 on what is defined as public purpose. I hear their concerns.

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

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

(Clause 21 as amended agreed to)

Clause 22

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move: -

THAT, the Bill be amended by deleting clause 22 and substituting therefor the following new clause—

Urgent applications.

22.(1) The National Committee or the relevant County Policing Authority may dispense with the period specified under section 21 (2) where the National Committee or the relevant County Policing Authority is satisfied that special circumstances exist to warrant the exemption.

(2) An application submitted under subsection (1) shall contain a statement specifying the special circumstances warranting the application.

(3) The National Committee or the relevant County Policing Authority shall consider the application and may, in granting a licence, impose such conditions as it considers appropriate.

Hon. Temporary Deputy Chairman, this is in answer to what the Member was asking on the issue of emergencies.

(Question of the amendment proposed)

(Question, that the words to be left out

be left out, put and agreed to)

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

(Clause 22 as amended agreed to)

Clause 23

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move: -

THAT, clause 23 of the Bill be amended in sub-clause (1) by inserting the words “National Committee or the” immediately after the word “The”.

Hon. Temporary Deputy Chairman, this was an omission when we were doing the typing.

(Question of the amendment proposed)

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

(Clause 23 as amended agreed to)

(Clause 24 agreed to)

Clause 25

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 25 of the Bill be amended in sub-clause (1) by inserting the words “National Committee or the” immediately after the word “The”.

This is another typo error.

(Question of the amendment proposed)

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

(Clause 25 as amended agreed to)

Clause 26

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move:

THAT, Clause 26 of the Bill be amended -

(a) in the opening sentence by deleting the words “relevant committee” and substituting therefor the words “National Committee or the relevant County Policing Authority”;

(b) in paragraph (b) by deleting the words “fundraising appeal” wherever they appear and substituting therefor the words “public collection”.

The import of this amendment is one, a typo error and two, it is to align the Bill to the new title of the Bill.

(Question of the amendment proposed)

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

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

(Clause 26 as amended agreed to)

Clause 27

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 27 of the Bill be amended -

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-

“(1) The National Committee or the relevant County Policing Authority shall issue to an applicant one licence in relation to the conduct of each public collection under this Act.”

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause-

“(2) A licence issued under subsection (1) shall, unless otherwise specified by the National Committee or the relevant County Policing Authority, automatically expire upon the conduct of the public collection to which the licence issued relates.”

This is a typo error. We had left out the words “National Committee”

(Question of the amendment proposed)

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

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

(Clause 27 as amended agreed to)

Clause 28

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 28 and inserting the following new clause.

Refusal to issue licence. 28. (1) The National Committee or the relevant County Policing Authority may refuse to issue to an applicant, a licence to conduct a public collection where—

- (a) the application for a licence does not comply with this Act;
- (b) the applicant —
 - (i) is an undischarged bankrupt; or
 - (ii) has been found guilty of an offence under this Act;

Again, this is to bring in the National Committee. It was a typo error.

(Question of the amendment proposed)

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

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

(Clause 28 as amended agreed to)

The Temporary Deputy Chairman (Hon. Christopher Omulele): There is a further amendment proposed by Hon. Oundo. Hon. Oundo you may want to prosecute it.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 28 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (g) –

“(h) in the opinion of the National Committee or the relevant County Policing Authority, the purpose for which the public collection is to be conducted can be funded through existing national and devolved funds.”

The import of this amendment is to avoid misuse of public collections. Indeed, we have very many devolved funds. We have the National Government Constituencies Development Fund (NG-CDF), county governments’ funds and so many others. Just because a school or any other public facility is at loggerheads with an MP or a county government, they are not going to pick those kinds of funds and burden parents and other Members of the public to undertake a public collection where funds are available or have been misused and they resort to an unorthodox approach to fill up the lost funds. So, I beg my colleagues to accept my proposed amendment so that we insulate this public collection from things that can be done by other funds.

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Thank you.

(Question of the further amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): The Chair of the Constitutional Implementation Oversight Committee (CIOC).

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, that is an improvement to the Bill and as a Committee, we do not have an objection to that proposed amendment.

Thank you.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well. Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairman, I also have not delved deep into this Bill. Do I get it from Hon. Oundo that, for example, that with this law, you cannot do a *Harambee* for a school? Schools are under national Government, they can use NG-CDF and money from the Ministry of Education. Will it be illegal if you do a *Harambee* for a classroom? I just want that clarification.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, allow me to put the Question.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairman, I just asked for a simple clarification.

The Temporary Deputy Chairman (Hon. Christopher Omulele): You are asking for a clarification from Hon. Oundo?

Hon. (Dr.) James Nyikal (Seme, ODM): Yes, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well. Hon. Oundo, do you have that clarity?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, the constructive wording is “can be funded” Where it can be funded, there will be no need for public collection. Where it cannot be funded, then you can do public collection. The constructive words are “can be”.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well. Hon. Members, allow me to put the Question.

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

(Clause 28 as amended agreed to)

Clause 29

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

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THAT, the Bill be amended by deleting clause 29 and inserting the following new clause-

Conditions for
issuance of a
licence.

29. (1) The National Committee or the relevant County Policing Authority may, in issuing a licence to an applicant under section 26, impose such conditions on the applicant in relation to the conduct of the public collection.

(2) The National Committee or the relevant County Policing Authority may, from time to time, issue guidelines relating to the imposition of conditions under subsection (1).

This a typo error and the amendment seeks to align the Bill to the new title.

(Question of the amendment proposed)

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

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

(Clause 29 as amended agreed to)

Clause 30

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 30 and inserting the following new clause-

Grounds for
cancellation of a
licence.

30. The National Committee or the relevant County Policing Authority may, subject to the provisions of section 31, cancel a licence issued under this Act where—

- (a) there are reasonable grounds to believe that the public collections manager is likely to be pursuing an unlawful cause or purpose prejudicial to the peace, welfare or good order of the public;
- (b) the person conducting the public collection fails to comply with the provisions of this Act;
- (c) a person fails to submit any additional information that the National Committee or the relevant County Policing Authority may require to ensure compliance with this Act;
- (d) the National Committee or the relevant County Policing Authority determines that the person submitted false information or statements at the time of application for a licence; or
- (e) the National Committee or the relevant County Policing Authority determines that the licence was obtained fraudulently or through a misrepresentation of facts.

This is to correct a typo error that was in a number of clauses.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Oundo, do you have something to say on this?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, I just want to echo what Hon. Sankok had initially said. Reading sub-clause 330(a), the reasonable grounds to believe public collection managers are likely to be pursuing unlawful course or purpose to be prejudicial to the peace, welfare or good order of the public. If you are in a different political persuasions with the manager in charge of the County Policing Authority, you will be in trouble. Just know that for posterity.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, I will then propose the Question.

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

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

(Clause 30 as amended agreed to)

Clause 31

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 31 and inserting the following new clause-

Notice of non-compliance.

31. (1) The National Committee or relevant County Policing Authority shall, before cancelling the licence under section 30, issue to the applicant a compliance notice in the prescribed form.

(2) A compliance notice specified under subsection (1) shall—

- (a) be in writing;
- (b) notify the applicant of the non-compliance and the steps required to be taken in order to comply; and
- (c) inform the applicant of the period within which the applicant is required to comply with the notice.

(3) The National Committee or the relevant County Policing Authority may, upon request by an applicant and where there are sufficient grounds, extend the period of compliance for such period as it may consider necessary to ensure compliance.

(Question of the amendment proposed)

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

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

(Clause 31 as amended agreed to)

Clause 32

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 32 and inserting the following new clause-

Revocation of licence.

32.(1) Where an applicant receives a notice under section 31 and fails to comply with such notice, the National Committee or the relevant County Policing Authority

shall—

- (a) revoke the licence;
- (b) notify the applicant in writing of —
- (i) the revocation of the licence and the reasons for the revocation; and
- (ii) the date on which the licence was cancelled; and
- (c) amend the register accordingly.

(2) For purposes of this Act, a cancellation of a licence shall take effect on the date on which the licence is cancelled by the National Committee or the relevant County Policing Authority.

The import is to bring clarity. It had left out the name “National Committee”

(Question of the amendment proposed)

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

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

(Clause 32 as amended agreed to)

Clause 33

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 33 and inserting the following new clause-

Duties of a public collections manager on revocation.

33. Where the National Committee or the relevant County Policing Authority revokes a licence under section 32, the public collections manager—

- (a) shall stop any public collection activities that the public collections manager was undertaking immediately before the revocation took effect;

- (b) shall not, without the written consent of the National Committee or the relevant County Policing Authority, pay out or otherwise distribute or deal with any asset obtained as a result of the public collection;

- (c) Shall submit to the National Committee or the relevant County Policing Authority, an inventory of the assets of any public collection conducted by the public

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collections manager within seven days of the revocation;
and

(d) subject to paragraph (c), shall ensure that any assets obtained as a result of the public collection are distributed as soon as is practicable to the intended beneficiaries of the public collection.

This is to allow the National Committee to be part of decision-making when a licence is revoked.

(Question of the amendment proposed)

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

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

(Clause 33 as amended agreed to)

Clause 34

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 34 of the Bill be amended-

(a) in sub-clause (1) by deleting the words “the Authority” and substituting therefor the words “a County Policing Authority”;

(b) by inserting the following new sub-clause immediately after sub-clause (3)

“(4) A person aggrieved by the decision of the National Committee may, within thirty days of the notification of the decision, appeal to the High Court.”

This is to allow those affected by the decision of National Committee to go to the High Court to seek revocation.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairman, we are on page 14 of 28. I am sure we are behind schedule. This thing of County Policing Authority appears everywhere. It appears everywhere, so I think we need to consult widely and see how we can deal with it.

Thank you, Chair.

(Question, that the words to be left out

be left out, put and agreed to)

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

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

(Clause 34 as amended agreed to)

Clause 35

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 35 and inserting the following new clause—

Register of public collections.

35. (1) The National Committee, and the County Policing Authority in each county, shall keep and maintain a register of —

(a) all licensed public collections within their respective jurisdiction;

(b) all licensed public collections managers within their respective jurisdiction;

(c) all cancelled licences within their respective jurisdiction; and

(d) such other particulars as the National Committee or the relevant County Policing Authority may from time to time determine.

(2) A person may inspect any of the registers under subsection (1) and may obtain a copy of, or an extract from the register upon payment of such fee as the National Committee or the relevant County Policing Authority shall determine.

Again, this is for purposes of realigning the Bill.

(Question of the amendment proposed)

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

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

(Clause 35 as amended agreed to)

Clause 36

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 36 of the Bill be amended in sub-clause (1) by deleting the words “Each Authority” and substituting therefor the words “The National Committee and each County Policing Authority”.

Again, this is to realign the Bill.

(Question of the amendment proposed)

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

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

(Clause 36 as amended agreed to)

Clause 37

The Temporary Deputy Chairman (Hon. Cristopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 37 and inserting the following new clause—

False statements.

37. A person who makes an application under this Act containing any matter which is false in any material fact known to that person commits an offence.

This is redrafting for purposes of clarity.

(Question of the amendment proposed)

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

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

(Clause 37 as amended agreed to)

Clause 38

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 38 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “fundraising” and substituting therefor the word “collection”;

(b) in sub-clause (2) by deleting the words “fundraising appeal” and substituting therefor the words “public collection”;

(c) in sub-clause (3) by deleting the expression “(1) and substituting therefor the expression “(2)”.

The amendment is just replacing the word ‘fundraising’ with the word ‘collection’.

(Question of the amendment proposed)

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

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

(Clause 38 as amended agreed to)

Clause 39

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 39 of the Bill be amended by deleting the words “fundraising appeal” and substituting therefor the words “public collection”.

This is for purposes of realigning the Bill.

(Question of the amendment proposed)

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

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

(Clause 39 as amended agreed to)

Heading to Part V

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting the title to Part V and substituting therefor the following new title—

“PART V – RECORDS AND ACCOUNTS OF A PUBLIC COLLECTION”

This is to align the part with the Bill.

(Question of the amendment proposed)

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

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

(Heading to Part V as amended agreed to)

Clause 40

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 40 and inserting the following new clause—

Financial records of a public collection.

40. (1) A public collections manager shall keep a record reflecting the income and expenditure relating to the public collection including—

- (a) details of the persons who make contributions in relation to the public collection and the amounts contributed by each person;
- (b) the name, number and address of the bank into which the monies raised in relation to the public collection were deposited;
- (c) full details of all funds and assets received as a result of the public collection;
- (d) full details of the use to which the funds and assets received were put to;
- (e) full details of—
 - (i) the amount applied to the purposes or objects of the public collection and how it was distributed;
 - (ii) any expenditure on assets;
 - (iii) any expenditure on wages, salaries, commissions and other remuneration in relation to the public collection;

- (iv) any other administrative expenses and other expenditure related to the public collection; and
 - (v) such other information as the National Committee or the relevant County Policing Authority may determine.
- (2) A public collections manager shall ensure that the records are kept in a way that enables them to be conveniently and properly audited.
- (3) A public collections manager shall ensure that accounts containing a summary of the records required by subsection (1) are finalised within three months of—
- (a) the date on which the public collection ends, if the public collection runs for six months or less; or
 - (b) after every six months if the public collection runs for more than six months.
- (4) For the purposes of this section, a public collection ends on the occurrence of the first of these events—
- (a) if the public collection is being conducted by a person whose licence has been cancelled, on the date of the cancellation of the licence;
 - (b) in any other case, one month after the last significant solicitation for money or a benefit is made in relation to the public collection.
- (5) Records relating to any proceeds received after the date a public collection ends but before the accounts for the last period of the appeal are finalised shall be included in those accounts.
- (6) If the public collections manager continues to administer any funds or assets received as a result of a public collection after the public collection ends, the person shall ensure that accounts containing a summary of the records required under subsections (1) and (2) are finalised within one month of the receipt of the funds.
- (7) A person to whom subsection (6) applies shall ensure that accounts containing a summary of the records required by subsections (1) and (2) are finalised within two months of the date the last of the funds or assets ceased to be administered by the person.
- (8) A person who fails to comply with the provisions of this section commits an offence.

This is for purposes of referencing. We are trying to realign the whole of that clause with the Bill. It is a technical amendment.

(Question of the amendment proposed)

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

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

(Clause 40 as amended agreed to)

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Clause 41

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 41 and inserting the following new clause—

Other records relating
to a public collection.

41. A public collections manager shall keep the following records—

- (a) the name and address of each person who participates in the public collection as an assistant to the public collections manager;
- (b) the name and address of each person who gained a financial advantage from the public collection, other than as a person for whose benefit the public collection was held or other than as a supplier of goods or services, and details of the reason for, and nature and amount of, that financial advantage;
- (c) the—
 - (i) name and address of every person; or
 - (ii) name or description of every class of people on whose behalf the public collection was made;
- (d) copies of the consents required under this Act, where applicable;
- (e) the dates on which the public collection started and concluded;
- (f) any other records that may be specified by the National Committee or the relevant County Policing Authority.

We are just replacing the word ‘fundraising’ with the word ‘collection’.

(Question of the amendment proposed)

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

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

(Clause 41 as amended agreed to)

Clause 42

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

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THAT, the Bill be amended by deleting clause 42 and inserting the following new clause—

Storage of records.

42. (1) A public collections manager shall ensure that any records or accounts that the he or she is required to keep under this Part are stored at all times at the address or the registered office or principal place of business of the public collections manager.

(2) A public collections manager shall keep and maintain the records or accounts of a public collection for a period of at least three years after the date on which the public collection ends.

(3) A public collections manager who fails to keep proper records in accordance with this section commits an offence.

(Question of the amendment proposed)

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

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

(Clause 42 as amended agreed to)

Clause 43

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 43 and inserting the following new clause—

Duty to provide
reports and information.

43.(1) Every public collections manager shall submit to the National Committee or the relevant County Policing Authority a summary of the records relating to the public collection conducted by him or her and prepared in terms of this Act within thirty days from the date of the conduct of the public collection.

(2) Notwithstanding subsection (1), the National Committee or the relevant County Policing Authority may require a public collections manager to submit to it, such other information, record or document that it may require in order to enable the National Committee or the relevant County Policing Authority to determine whether the public collections manager has complied with the provisions of this Act.

(3) A public collections manager shall submit the information or document required under subsection (2) within a period of seven days of such request.

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(4) A public collections manager who fails to comply with the provisions of this section commits an offence.

(Question of the amendment proposed)

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

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

(Clause 43 as amended agreed to)

Clause 44

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 44 of the Bill be amended—

(a) by deleting the words “fundraising appeal” appearing in the opening sentence and substituting therefor the words “public collection”;

(b) by deleting paragraph (b).

Again, this is for purposes of realignment.

(Question of the amendment proposed)

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

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

(Clause 44 as amended agreed to)

Clause 45

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 45 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause:

(1) The National Committee and the County Policing Authority in each county may appoint such number of inspectors as they may

consider necessary for purposes of carrying out inspections in relation to public collections.

(b) by deleting sub-clause (2);

(c) in sub-clause (3) by deleting the words “fundraising appeal” and substituting therefor the words “public collection”

The reason for the amendment is that we want to remove the role of appointing inspectors from the Public Service Commission and leave it with the National Committee and the County Policing Authority.

(Question of the amendment proposed)

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

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

(Clause 45 as amended agreed to)

Clause 46

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 46 and inserting the following new clause—

Conduct of
inspection.

46.(1) An inspector appointed under section 45 may, at any reasonable time, enter and inspect the premises of a public collections manager to ensure compliance with this Act.

(2) An inspection under subsection (1) shall be conducted—

(a) with the prior written approval of the National Committee or the relevant County Policing Authority; and

(b) after giving the public collections manager a seven days’ notice of the intended inspection.

(3) An inspector may, in conducting an inspection under subsection (1) —

(a) enter any premises and inspect any books, records or documents required to be kept under this Act or relating to a public collection, expenditure or distribution of contributions;

- (b) inspect, photocopy, print out, or copy onto disk any documents, whether held in electronic or paper form; or
 - (c) remove any document, whether in its original form or as an electronic or paper copy.
- (4) Where any original documents are removed from the premises of a public collections manager under subsection (2)(c), the inspector who removes the documents shall—
- (a) leave at the premises of the public collections manager, a list of the documents removed; and
 - (b) return the documents to the premises as soon as practicable unless doing so would prejudice any investigation being or to be carried out by the National Committee or the relevant County Policing Authority.
- (5) An inspector exercising any power under this section shall, at the time of inspection, possess the appropriate written authorisation, and evidence of identification, and shall produce them to the public collections manager or, as the case may be, the person having possession or control of the books, records, or accounts concerned—
- (a) before first entering the premises; and
 - (b) whenever subsequently reasonably required to do so by the person in charge.
- (6) A person who obstructs an inspector in the conduct of an inspection under this section commits an offence.

The reason is that we are trying to ensure before the inspectors move to inspect any premises, they get permission from the National Committee or the County Policy Authority and they need to give a notice of seven days for the intended inspection.

(Question of the amendment proposed)

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

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

(Clause 46 as amended agreed to)

Clause 47

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

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Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 47 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “fundraising appeal” and substituting therefor the words “public collection”; and

(b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) Despite subsection (2), a person who makes a false representation in terms of this section shall surrender to the National Committee or the relevant County Policing Authority, any collections or donations received in the course of the public collection activity.”

Again, this is realigning the Bill.

(Question of the amendment proposed)

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

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

(Clause 47 as amended agreed to)

Clause 48

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 48 and inserting the following new clause—

Misappropriation of
funds.

48. A person who applies the funds received pursuant to a public collection for a purpose other than for which the public collection was held commits an offence.

Again, this is for purposes of realigning.

(Question of the amendment proposed)

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

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

(Clause 48 as amended agreed to)

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(Clause 49 agreed to)

Clause 50

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 50.

The reason is that Income Tax provides exemption of certain incomes from being taxed like contributions to charity.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Nyikal are you seeking clarification?

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Chairman. This is a very important clause because you have a lot of details of where you are giving the money for *Harambee*. Therefore, it will make sense that the money be tax exempt because by deleting it we are saying it is not necessary.

I would like to know the reasons for deleting. This is because even though there are provisions, as it is now it is very difficult to put those monies together, get good evidence to say, "I contributed this money in *Harambees* and would like tax exemption." The new law makes this possible and if we put this it will strengthen it.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well. Hon. Oundo. As Chair, you prepare to respond to Hon. Nyikal's concerns.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairman. There could be two different implications of this amendment, one is that in a way we have legalised tax avoidance by contributing to *Harambees*, but if you look at the other way I totally support. You should only contribute from your net income after taxation and not before taxation to avoid tax avoidance. Probably, he needs to clarify the intention of this amendment to the Members here. Does it amount to tax avoidance or it is the intention that you can only contribute after you have paid your taxes, so that you only contribute on your net income? Probably this clarification is necessary.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Odhiambo. I will give you, Hon. Sankok.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. If I am getting Hon. Oundo well then, the direction he is taking is not very good. In many countries when you give to society it should be counted when you are giving tax. This is because you are already doing service to the public. If you look at the amount of money, he is saying MPs give to the public and the tax they pay after giving is so much. Almost all your salary is going to the public and then you are taxed. That, tax should rather go direct to the public.

I think we should incentivise the public into giving especially to those who are unfortunate and do not have through fundraisers and others. Many people have actually been

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brought up through fundraisers. The person who is giving should not be punished for giving. I know when I was in the United States of America (USA) that is what they used to do. Whatever you give to charity counts when you are being taxed and a percentage is taken into account. So, it should not be what Hon. Oundo is saying that it should be the net, actually it should be part of the gross.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie and Hon. Oundo, you can be sure that position gets a lot of sympathy from this Chairperson. Hon. Sankok as the Chair of the CIOC prepares to respond to these concerns you can weigh in.

Hon. David Sankok (Nominated, JP): I think there is a difference which needs clarity. Will we not be taxing the money collected by those who have been donated to, or it is the people who are donating who will not be taxed. For me I think both sides should be covered but mostly those who are receiving. I want you to understand because it will go along way. We receive international donations especially for persons with disabilities. The problem is that some of these donations are overtaxed to an extent that the donor feels there is no need to donate again. I do not know if the person getting donations should not be taxed or the donor. If it is the donor like Hon. Millie Odhiambo has said, how we will know because all of us do not give equally. How will we know what Hon. Millie gave to the constituents so that we know what to tax or not tax?

The Temporary Deputy Chairman (Hon. Christopher Omulele): That must be the conundrum, Hon. Sankok. Hon. Shaban.

Hon. (Dr.) Naomi Shaban (Taveta, JP): Thank you, Hon. Temporary Deputy Chairman. In as much as I hear what my colleagues are saying, it is true as you give to charity you should get that incentive. Again, the main problem is how do you quantify it? I think that is where the problem is. How will it be quantified and recorded you have donated so much so that you can claim an incentive from it? I think those are questions which should worry everybody and that are subject to abuse.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well. Hon. Walter Owino. No, Walter is my friend from Awendo, Martin Owino.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Chairman. I think if we are using laws of practice, this is where we need clarification from the Chair. Donations are not supposed to be taxed but the donor having paid, the person receiving the payment should receipt what they have been given. This receipt can be used for tax deduction when filing taxes. This is the motivation and incentive being talked about here. Unless we do that there will be a lot of confusion but globally, according to how Hon. Millie was saying, that is what is done across.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Member for Nyando. Hon. Members, you have to key in. My eyes are not very good to see. Is that the Member for Rabai behind there? You will have an opportunity.

Hon. Jared Okelo (Nyando, ODM): I thank you, Hon. Temporary Deputy Chairman. I believed the import of this Bill was to control and curtail unnecessary fundraisers. Members of Parliament will tell you how subjective this has been to them. Therefore, this Bill was birthed in order to set up some controls. If we have to do an extra mile to now invite the wrath or otherwise of Kenya Revenue Authority (KRA), then we are losing the gist of this Bill. It has always been automatic that fundraisers that are done together with the collections are not subjected to any taxation whatsoever and if we are going to invite KRA to pry on these proceeds, then we are

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definitely losing them out. I know in the USA, where I have had the privilege to stay, they do declare at the end of every financial year what has been given out as charity and hence not subjected to any sort of taxation. So, if we are going to take that route and the kind of returns that we submit to the KRA, it will be very untidy at the end of the day. I know much legislation have been preferred up to now and including what is happening with land matters where an insight of regulations have been preferred even on units that people hold. That is a way of raising more revenue to the Exchequer.

So, I want to believe that the originator of this Bill, who is the Chair of CIOC did not envisage a situation where we are going to have additional declarations inviting the wrath of KRA, which is very punitive in nature on matters finances from fundraisers. I thank you.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Member for Rabai.

Hon. William Mwamkale (Rabai, ODM): Hon. Temporary Deputy Chairman, I think the Chair of the Committee should really tell us why he intends to delete this clause given the fact that it is really...

(Loud consultations)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Let us allow the Member for Rabai to have his say. Let us be fair to him.

Hon. William Mwamkale (Rabai, ODM): It is implementable given the fact that if this becomes law, it is possible for the collections which are licensed through this Appeals Committee... It will not be a problem quantifying because they are supposed to keep records and send them to either the county or national collection appeals committees. So, it is implementable and to me, I think these incentives would really make Kenyans give donations knowing that it will be recognised even by the tax collection agencies.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Finally, let us have Hon. Eve Obara. Did you want to weigh in on this?

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Thank you, Hon. Temporary Deputy Chairman. My intervention was actually on the part that Hon. Millie raised on giving a tax rebate to those who have contributed. In our current setup as it is, it may not be practical to get that rebate. I think it will be so much complicated in the Kenyan system as it is now. Are you talking about contribution at an individual level or at a corporate level to get that rebate? Maybe you need to clarify that before we proceed with the amendment.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair, now you may want to deal with your proposed amendment.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I have heard the contribution of Members and I want to drop that amendment.

(Proposed amendment to Clause 50 dropped)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, then allow me to put the Question.

(Clause 50 agreed to)

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Clause 51

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 51 of the Bill be amended in sub-clause (1) by deleting the words “The Authority” and substituting therefor the words “The County Policing Authority in each county”.

Again this is bringing “The County Policing Authority” in place of “Authority”.

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

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

(Clause 51 as amended agreed to)

Clause 52

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 52 and inserting the following new clause—

Social development
funds.

No. 18 of 2012.

52. (1) The National Committee and each County Policing Authority shall, in compliance with the provisions on the establishment of public funds as set out in the Public Finance Management Act, set up a Social Development Fund which shall contain—

5. funds or proceeds from sale of assets surrendered to the Authority;
6. licence fees received by the Authority; and
7. any other donations made to the Authority.

(2) The funds specified in subsection (1) shall be utilised in promoting social development in the area of operation of the National Committee or the relevant County Policing Authority.

(3) The National Committee or any County Policing Authority which utilises the funds under subsection (1) for any other purpose without the approval of the Cabinet Secretary commits an offence and its members shall be held jointly and severally liable for the offence.

(4) The Cabinet Secretary shall issue guidelines for the utilization of the monies contained in the funds established under this section.

That was a typo error.

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

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

(Clause 53 agreed to)

Clause 54

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 54 of the Bill be amended in sub-clause (2)—

(xviii) by deleting the word “fundraisers” appearing in paragraph (a) and substituting therefor the words “public collections”; and

(xix) by deleting the words “relevant Authority” appearing in paragraph (f) and substituting therefor the words “National Committee or the relevant County Policing Authority”.

Again this is realigning the Bill to the new title.

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

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

(Clause 54 as amended agreed to)

Clause 55

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 55 of the Bill be amended by deleting the words “relevant Authority” and substituting therefor the words “National Committee or the relevant County Policing Authority”.

Again this is tidying it up to align the Bill.

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

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

(Clause 55 as amended agreed to)

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Clause 56

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 56.

I propose that this clause be deleted for the reason that it is actually provided for under Clause 24. This is a repetition.

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

(Clause 56 deleted)

(Clauses 57, 58 and 59 agreed to)

(First Schedule agreed to)

Second Schedule

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting the Second Schedule and inserting the following new Schedule—

SECOND SCHEDULE (s. 59)

CONSEQUENTIAL AMENDMENTS

The National
Police Service
Act.
No. 11A of 2011.

s. 41 (9)

Insert the following new paragraphs immediately after paragraph (k) —

- (l) receive, vet and process applications for the issuance of a licence to conduct a public collection within the county;
- (m) regulate the conduct of public collections within the county;
- (n) investigate any complaints, misuse of funds raised through a public collection or any issue relating to the conduct of a public collection under this Act within the county;
- (o) carry out inspections of records and audits relating to a public collection conducted under the Public Collections Act;
- (p) maintain a register of all licenses issued to a public collections manager under the Public Collections Act;

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and

(q) monitor and evaluate the conduct of public collections within the county.

This is to ensure that we include the National Police Service Act functions of the County Policing Authority as provided for in the Act.

Question of the amendment proposed)

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

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

(Second Schedule as amended agreed to)

Clause 2

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move;-
THAT, the Bill be amended by deleting Clause 2 and inserting the following new
clause—

Interpretation.

No. 11A of 2011.

2. In this Act, unless the context otherwise provides—

“Authority” means the County Policing Authority established under section 41 of the National Police Service Act;

“beneficiary”, in relation to a public collection, means —

(a) any person, class of persons or cause listed as beneficiary by the person conducting the public collection when applying for registration; or

(b) any person who is acting on behalf of such a person, cause or class of persons referred to under paragraph (a);

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to social protection;

“Ministry” means the Ministry responsible for matters relating to social protection;

“National Committee” means the Public Collection Committee established under section 4;

“person” includes a company, association or other body of persons whether incorporated or unincorporated;

“public collections” means an appeal to the public or any section of the public, made by means of visits from premises to premises or of soliciting in a public place or at a public meeting, or by any or all such means, to give, whether for consideration or not, money or other property, not being—

(a) money or property due or about to fall due from the donors under or by virtue of any written law, contract or other legal obligation;

or

(b) money or property collected by or under the authority of a recognised representative of a religion or religious community for—

(i) the upkeep of any recognised place of religious worship or house of prayer; or

(ii) any purely religious or charitable purpose;

and “public collections manager” means, in relation to a public collection, a person who makes such an appeal by any of the said means;

“public collections manager” means a person who is licensed under section 26 to conduct a public collection and who has the managerial or financial responsibility in relation to the public collection;

“register” means the register of public collections kept by the National Committee and the County Policing Authority under section 35;

This is for purposes of cross-referencing to align them with the new title of the Bill.

Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

Title

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting the Long title and substituting therefor the following new Long title—

“AN ACT of Parliament to establish a regulatory mechanism at the national and county levels for the collection of money and property from the public; and for connected purposes”

Question of the amendment proposed)

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

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

(Title as amended agreed to)

Clause 1

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 1 of the Bill be amended by deleting the words “Fundraising Appeals” and substituting therefor the word “Collections”. This is to harmonise the citation of the Bill with now the title of the Bill.

Question of the amendment proposed)

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

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

(Clause 1 as amended agreed to)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, you will hold on for a moment I will need to clean up a little because we dropped the proposed deletion to Clause 50. Hon. Chair you may want to do something about that so that it becomes regularised.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, we dropped the amendment so there will be a recommittal. It comes later. The way it is, it reads fundraising as opposed to public collections.

The Temporary Deputy Chairman (Hon. Christopher Omulele): That is alright. You will reorganise yourself. You may move to reporting now.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Chairman, I beg to move that the Committee doth report to the House its consideration of the Public Fundraising Appeals Bill and its approval thereof with amendments and seek leave to sit again.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE PUBLIC FUNDRAISING APPEALS BILL

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya: Hon. Members, I now call upon the Chair to report to the House.

Hon. Christopher Omulele (Luanda, ODM): Hon. Speaker, I beg to report that a Committee of the whole House has considered the Public Fundraising Appeals Bill and approved the same with amendments.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Speaker, I am hesitant because there is a recomittal, I need to get it right.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya: You will be guided accordingly.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Temporary Deputy Speaker. Sorry for that.

Hon. Temporary Deputy Speaker, I beg to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words “subject to recomittal” and I request Hon. Kaluma to second the Motion.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, I second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya: Hon. Chair, I am not sure I heard you specify the clause that needs to be recommitted.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Speaker, I beg to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words subject to recomittal of Clause 50 of the Bill and I request Hon. Kaluma to second the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya: That is in order. Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya: Hon. Members, I am just confirming but I know that there are many Members out there in the lobby.

(Question put and agreed to)

Hon. Members, we, therefore, proceed to the Committee of the whole House.

COMMITTEE OF THE WHOLE HOUSE

(Order for committee read)

*(The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya)
left the Chair)*

IN THE COMMITTEE

*(The Temporary Deputy Chairman (Hon. Christopher Omulele)
took the Chair)*

THE PUBLIC FUNDRAISING APPEALS BILL

Recommittal of Clause 50

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, we are now back in the Committee of the whole House for recommittal of Clause 50 of the Public Fundraising Appeals Bill (National Assembly Bill No. 66 of 2019).

Clause 50

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 50 be amended by deleting the words "fundraising appeals" and substituting therefor the words "public collections."

(Question of the amendment proposed)

Hon. Members: Put the Question.

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

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

(Clause 50 as amended agreed to)

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Public Fundraising Appeals Bill (National Assembly Bill No. 66 of 2019) and its approval thereof with amendments.

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(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE PUBLIC FUNDRAISING APPEALS BILL

Hon. Christopher Omulele (Luanda, ODM): Hon. Speaker, I beg to report that the Committee of the whole House has considered the Public Fundraising Appeals Bill (National Assembly Bill No. 66 of 2019) and approved the same with amendments.

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

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Speaker, I beg to move that the House do agree with the Committee in the said report. I request Hon. Peter Kaluma, my Vice Chair, to second the Motion for agreement with the Report of the Committee of the whole House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Peter Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, for the sake of time, I second.

(Question proposed)

Hon. Members: Put the Question.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Should I continue to put the Question?

Hon. Members: Yes.

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Mover, now move the Third Reading.

Hon. Jeremiah Kioni (Ndaragwa, JP): `Hon. Temporary Deputy Speaker, I beg to move that the Public Fundraising Appeals Bill (National Assembly Bill No. 66 of 2019) be now read a Third Time. As I ask Hon. Peter Kaluma to second, I thank the Committee for the work that it did on the Bill and also for the Members who sat with us through the Third Reading. I appreciate them in a special way. *Mwenyezi Mungu awabariki*. I ask Hon. Peter Kaluma to second. May God bless you all.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Chair, you know that you are erring on the side of observing the Standing Orders. I am sure the Chair knows. I think he is just being naughty. Did you use sign language?

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Temporary Deputy Speaker, I said may God bless you all. That is not being naughty.

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

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Temporary Deputy Speaker. My Chair worked under President Mwai Kibaki, he is one of the best Presidents Kenya has ever had. We are enacting this Bill to make the matter of fundraising under control. We are in a situation where this good facility is now being exposed to possible abuses. This is what we have controlled. So, may it go outside there that we are not prohibiting public fundraising but we are putting control so that people contribute to meaningful causes not those which are not genuine or those exploitative or opportunistic ones. The control will still ensure that needy cases receive necessary public intervention.

With all that, I thank the Members who sat through supporting the Committee in this Bill.

I second.

(Question proposed)

Hon. Members: Put the Question.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Should I proceed to put the Question?

Hon. Members: Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, let us not gag Members, only that we should note that we are in the Third Reading. So, comparable to the Second Reading, you just make comments in passing. Hon. (Dr.) James Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker. Actually, what you may not realize is that this is a great day in this country. This principle and practice of *Harambee*, the history goes back to some old *mzee* known as Omollo Willo, Omollo Harambee which was taken up by Mzee Kenyatta and made a very great movement in this country but has remained unregulated, has been abused, and people have not even accounted for the money raised in many instances.

I support that this Bill be now read a Third Time and passed. That means it will now be regulated, the amount of collections will be known, for what reasons it is being done, how it has been applied and can be audited. That is a great step forward. I may add, as I end, that it is one of the Bills, when it becomes an Act of Parliament and a law, will need a lot of work for its implementation considering the amount of details, the structural arrangements and the organization that will go into it, including even regulating the social media so that that collection is also brought in. We will have to find a way of dealing with M-PESA. So, I appeal to the Committee on Implementation of this House to follow up and get to this law, when it is assented to, implemented.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. David ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. As Hon. (Dr.) Nyikal has said, *Harambee* has remained unregulated. If you watch our social

media space, if you see *WhatsApp*, there are fundraisings left and right that are not regulated and people who have abused them. You can see somebody who has constructed a storey house inviting people to open his house so that they can fundraise. Some people who come to fundraise are themselves living in mud houses. We have seen baby showers turning into fundraisings. We have seen birthdays turning into fundraising events. We have even seen bishops and pastors requesting for cars from those who do not even have bicycles. We need to regulate public fundraising.

I support the Bill. I request our President to assent to it as quickly as possible. The Committee on Implementation should follow up so that we implement it to the letter.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Abel Ogutu.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Thank you, Hon. Temporary Deputy Speaker. I also rise to join the rest of the Members who have applauded the passing of this Bill.

What impresses me most about the Bill is not only the fact that it is regulating the collections that we have previously experienced, but also the level of accountability that we are introducing into our systems of operation. I see an opportunity in this Bill for our young people who have excelled in computer science and ICT to help this country keep record and track the performance of individuals in society in many ways that have not been previously recognised. That is the most impressive part of the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Osotsi. Keep it brief.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker. I also join other Members in commending the House for passing this very important law. As other Members have said, it is important to regulate *Harambees* in this country, so that we ensure that there is maximum accountability and transparency, and that the good spirit of *Harambee* is not abused. We have seen a lot of abuse especially in our churches and schools. This particular law will try to streamline this very noble process.

Sixty days after the law has been passed, the Committee on Implementation is required by the Standing Orders to ensure that the process of implementation starts. I assure the House, on behalf of my Chair who is not here, that we will take up this matter very seriously, as the Committee on Implementation, to ensure that the law is implemented to the letter.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Nakara.

Hon. Lodepe Nakara (Turkana Central, ODM): Thank you, Hon. Temporary Deputy Speaker. I add my voice to what other Members have said. Those who will implement the law should not discriminate against others. They should make sure that they help the needy and helpless in the community. Let us ensure that we do not use this law to refuse help to other people in the community.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Odoyo.

Hon. Jared Okelo (Nyando, ODM): Thank you very much, Hon. Temporary Deputy Speaker.

We are not cheapening *Harambees* or trivialising the entire process of fundraising. We are only putting in place certain measures that will help to create accountability in matters of financing through *Harambees*.

We also recognise that students, who would have otherwise dropped out of school, were able to finish, graduate and get jobs courtesy of fundraisers. Churches that were hitherto shanties and schools that were dilapidated are now back on their feet and enjoying modern facilities courtesy of fundraisers. We are not stopping people from carrying out *Harambees*. That should be out there. Our Press and media should tell the truth about this. The headlines that may be out there tomorrow is that Members of Parliament have refused *Harambees*. That, therefore, paints us in bad light. It is good that there will be measures in place.

Members of Parliament will tell you that we get invitations through *WhatsApp* to more than 30 different *Harambees* on a daily basis. You ask yourself why all that happens. When you refuse or do not have money to contribute, it turns into blackmail. We have been called all sorts of names out there. We agree that this Bill will put a lot of measures in place to regulate *Harambees* but we are not stopping people from carrying out *Harambees*.

As Members of Parliament, we recognise the importance of fundraisers. They have been of great help to our people out there. So, the members of the Press should be our collaborators. They should not bash Members of Parliament for putting remedial measures on fundraisers. They also agree with us that this is something that has been utterly abused by many people out there.

Finally, Hon. Temporary Deputy Speaker, in my community, especially days preceding elections, five women come together to form women groups and they call for fundraisers. Immediately it is done, they subdivide the money right there. So, you ask, what was its cause? Other women in the next homestead also come up with fundraisers and then it becomes a wave across the constituency which are all meant to siphon money from candidates. This is not only done to sitting Members of Parliament but also candidates in general become very good targets of these women groups and youth groups.

I thank you, Hon. Temporary Deputy Speaker. I support the Bill.

(Applause)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Lastly, Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. This Bill will promote giving, especially when those who donate get tax rebates. We are not gagging those who used to donate traditionally. For example, when you wanted to marry and you did not have cows, people used to donate. We are not gagging them not to donate. However, we are sanitising and formalising donations, so that we can have order.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Ochanda, I can see that you are protesting.

Hon. Gideon Ochanda (Bondo, ODM): Hon. Temporary Deputy Speaker, the cumulative amount of money that goes to *Harambees* or fundraisers annually is bigger than the public development vote. If one looks at this, what does our development vote do against what *Harambees* do? This is the time that we will sanitise public fundraising.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Budalangi.

Hon. Raphael Wanjala (Budalangi, ODM): Thank you, Hon. Temporary Deputy Speaker. This is not the first time we are trying to regularise these *Harambees*. This is just another time that we are doing it. We hope that other Members of Parliament will not come and change the law.

There is no government that has ever been developed on the basis of *Harambees*. When President Kibaki became the President in 2002, we came up with Constituencies Development Fund (CDF) to contain *Harambees*. Those people who worked in Government would steal development money, spend little on *Harambees* and keep more, instead of leaving it to develop this country. That is how corruption started in this country. You have seen the millions that some people carry in bags which they take to churches which do not ask how they got it, when everybody is poor. They receive it and they praise and pray for you. When someone else goes with the same amount the following day, he is prayed for and told that he would win in the elections.

We have been betrayed and blackmailed because of *Harambees*. Some of the officers steal from the Government because they want to run for parliamentary seats. They use that money to induce people. This Bill will bring sanity in politics.

Thank you, Hon. Temporary Deputy Speaker.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuyu): Hon. Members, because of time, we have to bring this debate to a close. Order Members! Having ascertained that the House is properly constituted for purposes of taking a decision, I will put the Question.

(Question put and agreed to)

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

Next Order.

BILL

Second Reading

THE NARCOTICS, DRUGS AND PSYCHOTROPIC SUBSTANCES CONTROL (AMENDMENT) BILL

(Hon. Paul Koinange on 2.3.2020)

(Resumption of Debate interrupted on 25.3.2021 – Afternoon Sitting)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuyu): Hon. Members, we are continuing with debate that had started. I see that Hon. Robert Mbui had a balance of four minutes but he is not in the House. I have about 12 requests. I believe they are on this Order.

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Hon. Ombaka, Member for Siaya County, do you want to contribute on this one?

Hon. (Dr.) Christine Ombaka (Siaya CWR, ODM): Actually, I did not mean to but it is good to take this opportunity to say that I support the Narcotics, Drugs and Psychotropic Substances Control (Amendment) Bill (National Assembly Bill No.27 of 2020). Although I have not read so much of it, I know that it deals with crimes of narcotics. The Bill is dealing with issues where punishment is meted on those who are involved in some of these drugs.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Sirisia, Hon. Waluke. Member for Igembe North, Hon. Maoka. Members, you do not seem to be focused on what is on the Floor.

Hon. Maoka Maore (Igembe North, JP): Hon. Temporary Deputy Speaker, the Narcotics, Drugs and Psychotropic Substances Control Act was enacted in this House for the first time in 1994. Between then and now, a lot of things have happened, including the new law that came to give a lot of rights to narcotics users. The right time to amend that Act is now. The timing should also include addressing something about the Schedule.

If you noticed, over the last few years, several countries have got the chance to get into the psychotropic substances Act whereby *cannabis sativa* or *bhong* is classified as a serious narcotic. It remains so and it should remain so. However, there has been a trend where there is a lot of money to be made by the countries that will be swift and quick to adopt the issue of growing medicinal *marijuana*.

There is a difference between growing medicinal *marijuana* and legalising *marijuana*. This should come out very clearly when our people are addressing the issue because I know there is a mix-up. Medical *marijuana* is highly controlled with very few licences issued. I am told that Uganda issued four licences only. So, it is only four companies which can produce it for the purpose of taking it into laboratories and then for export. We can end up with billions of shillings out of this venture if as a country we can move swiftly and amend the Psychotropic Substances Act and introduce the issue of medical *marijuana*. If we are slow, it will be out of myopia, which is not very wise. If there is money to be made and medical benefits to be realised, I hope in the process of these deliberations, we will get people like Hon. (Dr.) Nyikal to do an insight into the benefits of medical *marijuana*, and how its production and processing can be controlled.

Hon. Temporary Deputy Speaker, when we talk about narcotics, this country has had a lot of laxity in the enforcement of these substances. I remember in 2004 we had an incident where a big consignment of drugs was seized in Malindi. The big names that were invoked were very vicious and to show how powerful they were, one of the evenings, actually after 7.00 O'clock, after the then Director of Public Prosecutions, Philip Murgor, had ordered investigations of certain individuals and because he was a bit rough and focused, he saw a fax. There were no emails at that time. It was a fax. By the time the paper finished running, it was firing him. That is how he got fired in 2004 at 7.00 O'clock. He pursued the so called untouchables in the narcotics trade. They had serious protection.

We are talking at a time when not even Members of Parliament are privileged anymore. In those days, we could import a car duty free. The Constitution changed that and everybody has to pay tax. That time, the President was above the law but after the 2010 Constitution he has immunity on a few items while in office. What we are talking about is that when we enforce some laws specifically this type of law that involves trade in illegal substances, we need to have

the law blind. It should not be for selective people, it should not be left alone for people who have gone rogue and have protection.

I do not wish to extend beyond there. I just wanted to mention those few items: that we need to modernise the Act. Thank you.

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

Hon. John Kiarie (Dagoretti South, JP): Thank you very much Hon. Temporary Deputy Speaker. I am really honoured by the opportunity you have given me to contribute to this very important Bill.

The first thing I need to mention is that the Committee has done an amazing job. In fact, the biggest job the Committee has done is to bring our laws up to speed with what the world is doing today. Drugs, narcotics and psychotropic substances is an emotive issue for good reason. If left unattended to, peddlers, dealers and other people making business out of drugs can run this country awash with drugs and destroy an entire generation. It is in that respect that I stand to support the work that has been done by this Committee in bringing the Bill up to date.

As we talk about the bad things that should not find their way to the market, we should also be looking at the good things that should find their way to the market. So in this Bill, as we penalise the illegal substances, we also need to start making a distinction between what is illegal, what is harmful and what should be legal and is not harmful. What the esteemed ranking Member, Hon. Maoka Maore has said is important to this House. There should be a distinction between what is called *marijuana* and industrial hemp. These are two extremely different issues that should be distinguished so that as we ban what is illegal and harmful, we also should find a legal way of getting the very legal things that are useful to market.

When it comes to Committee of the whole House, I will move some amendments to the Bill that will seek to make a case for substances that are not harmful, should not be illegal, but would be meaningful, not only to the health of the people of this country, but also a big boost to the economy. I am talking about the industrial and medicinal use of hemp as a product, and the distinction between hemp and *marijuana*.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kiarie, you need to wind up.

Hon. John Kiarie (Dagoretti South, JP): Thank you very much, Hon. Temporary Deputy Speaker. I respect the time. I will pick it up from there in the next session.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Alright, Hon. Kiarie. You will have a balance of eight minutes when debate on the Bill resumes. Put your thoughts in order.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Members. Hon. Members, the time now being 6.31 p.m., this House stands adjourned until today at 7.00 p.m.

The House rose at 6.31 p.m.