

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Tuesday, 3<sup>rd</sup> December, 2019**

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]***PRAYERS****Hon. Speaker:** We may commence.**PETITION**DEGAZETTEMMENT OF KABOLET LAND (LR NO. 12886)  
IN CHERANGANY CONSTITUENCY**Hon. Speaker:** Member for Cherangany.**Hon. Joshua Kutuny** (Cherangany, JP): Hon. Speaker, I rise to table a public Petition regarding degazettement of Kapolet Land LR No.12886 in Cherangany Constituency.

I, the undersigned, on behalf of members of the Sengwer Community living in Cherangany Constituency, Trans Nzoia County, draw the attention of the House to the following:

THAT, access to and ownership of land as a factor of production is a fundamental right that enables the realisation of better standards of life through exploitation of our capacities to utilise it for generations.

THAT, Article 27 of the Constitution provides that every person is equal before the law and has a right to equal protection and benefit of the law.

THAT, Article 63 of the Constitution provides that community land shall vest in and be held by communities identified on the basis of ethnicity, culture or similar community of interest, 'community land' being land lawfully registered in the name of group representatives under the provisions of any law, land lawfully transferred to a specific community by any process of law, any other land declared to be community land by law, and land that is held, managed or used by specific communities as community forests, grazing areas or shrines, ancestral lands and lands traditionally occupied by hunter-gatherer communities, or lawfully held as trust land by the county governments on behalf of the communities for which it is held.

THAT, the Community Land Act gives effect to Article 63 (5) of the Constitution providing for the recognition, protection and registration of community land rights; management and administration of community land including the role of county governments in relation to unregistered community land.

THAT, in 1997, the Government, through the then Provincial Administration, established Kobolet Settlement Scheme, measuring approximately 3,000 acres, for the settlement of the Sengwer Community into two phases; Phase 1 and Phase 2.

THAT, in the same year, the Kenya Forest Department, now Kenya Forest Service handed over the entire land to the Sengwer Community.

THAT, out of Phase 1, the Sengwer Community received 1,846.57 acres that was surveyed in preparation for issuance of title deeds, which, regrettably, is yet to be completed.

THAT, the Sengwer Community still claims a balance of 1,153.43 acres, which was to be excised from the natural forest under Kobolet Forest Station acres, so as to attain the total of 3,000 acres as allocated by the Government.

THAT, members of the Sengwer Community who were not settled in Phase 1 proceeded to occupy the balance of the promised land measuring 1,153.43 acres, awaiting Government formalities to transfer the said land to the community.

THAT, in disregard of the fact that the Sengwer Community was entitled to 1,153.43 acres of land in Kobolet Forest and contrary to the provisions of Article 63 of the Constitution on community land, the Kenya Forest Service established its offices on the disputed land, planted exotic trees and imposed rent on the residents, including public utilities like schools within the said area.

THAT, attempts by the community to engage the county government, the Kenya Forest Service and the Ministry of Lands on the matter have been unsuccessful;

THAT, the matter in respect of which this Petition is made is not pending in any court of law, constitutional or legal body;

THEREFORE, Your humble Petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural resources:

(i) investigates and inquires into all matters raised in this Petition; and,

(ii) recommends that, pursuant to the provisions of Section 34 of the Forest Conservation and Management Act, 2016, the responsible Cabinet Secretary initiates a process of de-gazetting 1,153.43 acres of Kobolet Land L/R No. 12886, being the balance of land allocated to the Sengwer Community in 1997 with a view of registering it as community land and availing it for settlement of members of the community.

And your Petitioners will ever pray.

**Hon. Speaker:** Hon. Speaker: I can see that the Member for Endeless wants to say something.

**Hon. (Dr.) Robert Pukose** (Endeless, JP): Thank you, Hon. Speaker. I stand to support the Petition by the Member for Cherangany, Hon. Joshua Kutuny, on the issue of Sengwer also called the Cherangany people.

The Sengwer have lived in the Kobolet Forest for generations. On the side of the Mt. Elgon, we have the Ndorobo who have also lived in Chepkitale. Those are lands that are considered to be trust lands by the communities. This is where they have lived. Chepkitale is moorland where the Ndorobo have been living for all the generations. They even have their graves there just like the Sengwer in Kobolet. This is a timely petition. They have stayed there for a long time and the Government was supposed to have de-gazetted the land in 1997. We now have a new Constitution and the Sengwer people should have a fair hearing on this matter.

The other day, they walked all the way from Cherangany to Nairobi and to Mombasa for their recognition and return to their ancestral land. This is a timely prayer that the Committee should move with speed and look into it.

Thank you.

**Hon. Speaker:** Member for Kanduyi.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Thank you, Hon. Speaker. I also rise to support the Petition by the Member for Cherangany, Hon. Kutuny. We have similar problems in Bungoma of de-gazettement of land from Mt. Elgon Forest. When it comes to the provisions of Article 63 of the Constitution where community and communal land is properly provided for, the people of Mt. Elgon who have lived in the moorland in Chepkitala where the forest cannot grow, where you cannot do any kind of farming... It is just grassland and the trees you find there are only shrubs. They have lived there forever since time immemorial. It is important that, as this petition is being considered; those who live in Mt. Elgon should also be considered.

By your direction, Hon. Speaker, the Committee should also look at other parts of the country where there are similar problems.

Thank you.

**Hon. Speaker:** Member for Ndaragwa.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Speaker. I stand to support that Petition by the Member for Cherangany. I filed a similar Petition on behalf of the people of Ndaragwa. It is important to note that there are many parcels of land in this country which are still within the forest area, but which have since been developed. They have been developed to serve the public. We have public institutions, public schools and hospitals within those areas. It is only fair that the boundaries for the forest in those areas be altered, including what the Member for Cherangany has requested for.

The reason I wanted to say something is because I have gone through this process and I am aware that there are many Members who would want to go through the same process. What I can ask them is to read Section 34 more carefully and be familiar with it. If they are not careful, they will go through the same route that I have gone where you come to the Floor, you go to the Committee and you are sent back. There are some things you need to have done way before you even filed the Petition in compliance with the provisions of Section 34 of the Forest Act. If Members were to do so, then the petitions would be processed faster by the Committee.

Thank you.

**Hon. Speaker:** Finally, for one minute, Member for Kiminini.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker. I rise to support this Petition by Hon. Kutuny. Pertaining the land in Kabolet, as per what is stipulated in Article 63 of the Constitution, it is ancestral land. Those people have suffered for a long time. We call upon the relevant committee to move with speed to expedite this matter so that those people can have what they are looking for.

Thank you.

**Hon. Speaker:** The Petition stands committed to the Departmental Committee on Environment and Natural Resources for consideration.

Next Order!

### PAPERS LAID

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

List of nominees to National Government Constituencies Development Fund Committee for Baringo South Constituency from the National Government Constituencies Fund Board.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Public Investments Committee on the inquiry into the safety of ferries as observed in the audited accounts of the Kenya Ferry Services for the Financial Year 2016/2017.

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

Reports of Departmental Committee on Finance and National Planning on its consideration of:

1. The Nomination of a representative of the Parliament Service Commission to the Salaries and Remuneration Commission
2. The Nominee for approval as the Controller of Budget.

### COMMUNICATIONS FROM THE CHAIR

**Hon. Speaker:** Order, hon. Members! I have two Communications. One regards a delegation from the Republic of Sudan.

#### VISITING DELEGATION FROM THE REPUBLIC OF SUDAN

Hon. Members, I wish to recognise the presence of a group of visitors from the Republic of Sudan who are seated in the Speaker's Gallery. The visitors are drawn from the Sudan Youth Civil Society Partners. The group is in the country to engage in a series of training workshops and study tours to key governance institutions. Those activities which are spearheaded by the International Republican Institute (IRI) with the support from the US Department of State are focused in youth empowerment on civic education. The group is accompanied by members of staff from IRI. On my behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements during their stay in the country.

I thank you.

Hon. Members, I have this other Communication.

#### ESTABLISHMENT OF AN AD HOC SELECT COMMITTEE ON PUBLIC DEBT

I wish to draw the attention of the House to a Notice of Motion submitted by the Member for Gatundu South, the Hon. Moses Kuria, MP. It is for consideration by the House Business Committee. The Motion which was considered by the House Business Committee last week seeks to move the House to establish an *ad hoc* committee on public debt to be known as the Select Committee on the Public Debt Situation in Kenya.

In addition, the Motion proposes that the mandate of the *ad hoc* Select Committee includes the following:

- (a) to investigate and inquire into the borrowing trends of the Government of the Republic of Kenya (GoK) in the past 20 years;
- (b) to investigate and inquire into the processes, terms and status of the GoK's, past and current domestic and external debt;
- (c) to study and inquire into the GoK's past and current revenue collection, taxation measures and public expenditure;
- (d) to inquire into the effects of the public debt to the economy and to the current and future generations; and,
- (e) to report and make recommendations on possible alternatives, mitigation measures, and any other related proposals within ninety (90) days.

As is the practice, when a Member submits a Notice of Motion seeking the establishment of an *ad hoc* select committee, it is a requirement that the membership of the select committee is provided. In this regard, Hon. Moses Kuria has proposed that the membership of the select committee comprises the following:

1. The Hon. Moses Kuria, MP – Chairperson.

(Laughter)

2. The Hon. David Mboni, MP.
3. The Hon. Samuel Atandi, MP.
4. The Hon. John Sakwa Bunyasi, MP.
5. The Hon. Memusi Kanchori, MP.
6. The Hon. Abdullswamad Sharrif Nassir, MP.
7. The Hon. Kathuri Murungi, MP.
8. The Hon. Shakeel Shabbir, MP.
9. The Hon. (Dr.) Chrisantus Wamalwa, MP.
10. The Hon. Caleb Kositany, MP.
11. The Hon. Purity Ngirici, MP.
12. The Hon. Beatrice Adagala, MP.
13. The Hon. Rozaah Buyu, MP.
14. The Hon. Soipan Tuya, MP, and
15. The Hon. Jessica Mbalu, MP.

Hon. Members, for a select committee to be set up to inquire into any matter, it would be expected that the matters proposed to be considered either cannot be adequately addressed by the existing committees or the matters are cross-cutting, making it impossible to be considered by a specific committee, or the matters are beyond the mandate of existing committees. Noting the request and the mandate of the proposed *ad hoc* select committee against the mandate of the other existing committees, I have declined...

(Applause)

I have declined to approve the Notice of Motion on the following grounds:

- (i) Conflict with mandate of existing committees.

The matters which the Motion intends to be addressed by the proposed *ad hoc* select committee fall squarely under the mandate of the Departmental Committee on Finance and National Planning. For clarity, under Standing Order No. 216 as read together with the Second Schedule to the Standing Orders which provides for the mandate of Departmental Committees, the subjects that are dealt with by the Departmental Committee on Finance and National Planning include public finance, monetary policies, public debt, financial institutions excluding those in securities exchange, investment and divestiture policies, pricing policies, banking, insurance, population, revenue policies including taxation, national planning and development. In this regard, the House Business Committee is of the view that the matters listed in the proposed Notice of Motion perfectly fall within the mandate of the Departmental Committee on Finance and National Planning.

(ii) Conflict with Standing Order No. 86.

This provision of the Standing Orders prohibits any Member from referring to substance of any matter that is before a committee of the House. Members will recall that since the commencement of this Parliament, the National Treasury has always submitted statutory reports and statistics on the status of the loans contracted or guaranteed by the national Government, the National Debt Management Strategies and related reports. These matters are still pending before the Departmental Committee on Finance and National Planning and some before the Budget and Appropriations Committee. Indeed, the Member for Gatundu South is a member of the latter Committee.

Hon. Members, having said that, I now direct the Departmental Committee on Finance and National Planning to expedite its examination of public debt related documents that have been submitted to this House. The documents include the following:

- 1) A Report to Parliament on all new loans contracted by Government from 1<sup>st</sup> February 2017 to 30<sup>th</sup> June 2017;
- 2) A Report on all new loans contracted by the Government of Kenya from 1<sup>st</sup> July 2017 to 31<sup>st</sup> October 2017;
- 3) A Report to Parliament on all new loans contracted by the Government of Kenya from 1<sup>st</sup> November 2017 to 28<sup>th</sup> February 2018;
- 4) A Report to Parliament on all new loans contracted by the Government Kenya from 1<sup>st</sup> July 2018 to 31<sup>st</sup> December 2018;
- 5) A Report to Parliament on all new loans contracted by the Government of Kenya from 1<sup>st</sup> January 2019 to 30<sup>th</sup> April 2019;
- 6) A Report to Parliament on all new loans contracted by the Government of Kenya from 1<sup>st</sup> May 2019 to 31<sup>st</sup> August 2019;
- 7) The 2018/2019 Estimates of Revenue Grants and Loans of the Government for the year ending 30<sup>th</sup> June 2019;
- 8) The 2019 Medium Term Debt Management Strategy;
- 9) The 2019/2020 Estimates of Revenue Grants and Loans of the Government for the year ending 30<sup>th</sup> June 2020;
- 10) Report of the Auditor-General on the Financial Statements of the Government Investment and Public Enterprises (Statement of Outstanding Loans) for the year ended 30<sup>th</sup> June 2018;

The Committee is expected to submit its report to the House early next Session. The House and the Member are accordingly guided. I thank you, Hon. Members.

Yes, Hon. Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, thank you very much for that Communication.

Along that line, Inshallah, as we approach the new Session, the institutions of Government in this country are answerable to the National Assembly; not even the Senate. They make quarterly reports. Some of those institutions are the Office of the Director of Public Prosecutions, the Ethics and Anti-Corruption Commission (EACC), the Office of the Auditor-General, the Controller of Budget and even the Judiciary on the state of the Judiciary. Going forward, I think you need to give direction that the respective Committees must look at those reports and bring a report which will be tabled and debated in this House. It does not make sense to always table the quarterly report of the EACC and yet the Departmental Committee on Justice and Legal Affairs does not give us a report on it. We should discuss the annual reports. These are constitutional provisions. It is just like the state of the nation address by the President. That is why you have made it very clear today that the national Treasury has been giving to this House quarterly reports on the debt management strategy and the loans the national Treasury has acquired. That is a function of the Departmental Committee on Finance and National Planning.

I really ask Hon. Moses Kuria to know that he now has an opportunity to appear before the Committee and enough time to campaign for his presidential ambition. I think select committees are very complicated. He will lose a lot of time. The Speaker has saved him. He needs to go and popularise his candidature.

**Hon. Speaker:** Hon. Members, if you look at the Constitution, we always get reports from the Director of Public Prosecutions (DPP), the EACC and the Chief Registrar of the Judiciary. Those reports are referred to the relevant committees mandated to deal with them because they oversight. It will be useful that those committees also, after studying those reports, report to the House what they have found out from them. They are not meant to be kept in the shelves. So, as we move forward and, indeed, as the Leader of the Majority Party had communicated earlier, even Cabinet Secretaries (CSs) will be required to comply with this directive. They are required under the Constitution to submit reports to this House about the functions of their ministries. So, we will want to see every committee getting seized of the reports referred to them and act on them so that we do not have this unusual penchant for setting up *ad-hoc* committees. I am mindful that the Member for Soi has just approached me and complained that I have denied him a job that he was being given by the Member for Gatundu South. I can see Hon. Atandi is also anxious to comment that he has also lost a job.

(Laughter)

I am sure you are in other committees. I suspect that Hon. Atandi is in the Departmental Committee on Finance and National Planning. Therefore, the matter is safe. This matter which Hon. Kuria wanted you to go and spend time on is a matter that your Committee can deal with. You would have had to leave your committee to go and sit in another one. So, Hon. Atandi, instead of doing that, you will be gainfully employed within the Departmental Committee on Finance and National Planning.

Hon. Atandi, I do not think there is an issue.

**Hon. Atandi:** Hon. Speaker, I want to agree with your ruling. Hon. Moses Kuria mentioned my name and, in fact, added it in the *ad-hoc* committee. He had proposed it without consulting me. It will be important for anybody who wants to form an *ad-hoc* committee to engage the membership first before they include any Member to that committee.

Having said that, Hon. Moses Kuria is a Member who is not known to participate actively in the Chamber. This Parliament should not be used by people who want to be activists. I know Hon. Moses Kuria. He is a former banker like me. I know that he transacts his business in funerals, local Kikuyu radio stations and other forums on television and political rallies. So, the matters that he has raised, as you have ruled, squarely fall within the mandate of our Committee. The Departmental Committee on Finance and National Planning is the most active committee of this House. The issues that he has raised concerning debt are issues that we continue to transact. In fact, the Debt Strategy Paper for the last financial year is with us. We are going through it.

Hon. Speaker, thank you for your ruling. I want to disassociate myself with the activities of Hon. Moses Kuria of including my name in his political endeavors to politicise and publicise the activities of *Tanga Tanga*.

Thank you.

**Hon. Speaker:** Member for Mandera South, you have an intervention.

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Speaker. I wanted your direction on a matter that was directed to my Committee last week.

**Hon. Speaker:** We are not yet there. Hon. Cheptumo.

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Speaker. I agree with your direction. Indeed, as requested by the leader of the Majority party, it is the business of committees when they receive reports to come back to this House with their reports. I want to confirm to this House that, already, my Committee has tabled a Report on the Judiciary Annual Reports for financial years 2016/2017 and 2017/2018. We are in the process of going through the Ethics and Anti-Corruption Commission's (EACC) Report and the Director of Public Prosecutions (DPP's) Report. So, I agree with you. That will help this House to understand the operations of those institutions and where they need to be strengthened. I request my colleagues to understand that it is important to do so.

Thank you.

**Hon. Speaker:** Very Well. Hon. Kioni.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Speaker. I want to agree and support the direction that you have given. There is a habit that seems to be forming within Members of failing to be familiar with the rules of this House and the workings of the House. What we are now doing is going to radio stations and everywhere else but Parliament, and issuing sensational statements. It is unbelievable that a Member can stand on a public platform in the countryside and say that this House is made up of *wakoras*. Looking for populism by tarnishing the image of this House does not help this country. In some of the social places we go to, because of this kind of approach, we are told that we cannot be trusted with any work as Members of Parliament (MPs) because we can be bought with Kshs10,000 and disappear into the toilets. These are statements that were issued by Members on the floor of this House and amplified out there in public places. If there are Members that feel so inadequate to have been elected, there are ways of giving in and going elsewhere where they can get their balance and relevance. But putting MPs in a basket and say that they can be bought by Ksh10,000 and when things are being defeated on the floor of the House, they are in the toilets speaks volumes about you who is saying that and not others. It is important that those who have not woken up to the roles that they were given... Those who are not embarrassed enough, why did they offer themselves to be elected if they think they are *wakora*? If you are worth Kshs10,000, why the hell did you bother to come to Parliament? You can get Ksh10,000 elsewhere. If it is a toilet you are looking for, there are public toilets out there where you can go and canvass with people. You



will find those kind of populism stunts done in radios. People will talk of things that are properly before committees in a casual manner that demeans the status of this House.

I thank you, Hon. Speaker for that ruling. It is wake-up call. Do not write something that you heard people say in a bar and bring it to the Speaker to act on it.

Thank you.

**Hon. Speaker:** Hon. Members, I did not want this to become a debate so that we can get into serious business. There is a lot of work that is there. Hon. Olago Aluoch.

**Hon. Olago Aluoch** (Kisumu West, FORD-K): Thank you, Hon. Speaker. The issue that the House is talking about now seems to be going where Hon. Kioni is taking it to; that is the right way. Members of this House are sinking to the lowest levels I have never seen. I have never seen MPs going out there to insult themselves and their colleagues in Parliament. It is embarrassing for all of us to talk carelessly outside there. Time has come for the House leadership – Hon. Duale is not listening - I now have his attention – to consider seriously having a *kamukunji* for us to educate ourselves on what we should say about each other outside and what demeans all of us generally without us knowing.

For me, being a ranking Member of this House, I feel hurt and embarrassed when I see colleagues in the media talking badly about us and them. Let us mature up as Members of this House and see how best we can handle issues even if we differ on some of the issues that we discuss here. We may differ on the issues on the Floor of Parliament, but we all deserve to be respected inside and outside this House.

Thank you.

**Hon. Speaker:** Hon. Nyamai, do you have an intervention?

**Hon. (Ms.) Rachel Nyamai** (Kitui South, JP): Yeah! I was being strategic so that I can respond to the statements that had been sought. I was given today as the last day. But I am also very happy about the ruling you have given because it gives legitimacy to the work that is being done by the committees. So, I also appreciate the ruling.

**Hon. Speaker:** It has been suggested by Hon. John Olago Aluoch and the HBC should consider what he has just said. When we retreat later this evening when the House rises, that is a matter that we need to all sit and agree, possibly in a *kamukunji*. The trend that is beginning to take shape, now that we are almost at the tail-end of this Session, with another two months out there, I do not know whether when you come back, you will have any faces. You may have smeared yourselves so much that you may need to be taken to some factories for some cleansing. So, there may be need for the HBC to seriously consider what has been suggested by Hon. Olago Aluoch. We will leave it at that point. We still have some time and we will see whether we can have as many of you present so that people can discuss matters in-house.

Let us go to the next Order.

## NOTICES OF MOTION

**Hon. Speaker:** Chair of NG-CDF or the Vice-Chair.

### APPROVAL OF NOMINEES TO BARINGO SOUTH NGCDF COMMITTEE

**Hon. Omar Mohamed (Mandera East, EFP):** Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Section 43(4) and (10) of the National Government Constituencies Development Fund Act, 2015 and paragraph 5(2) and (10) of the National Government Constituencies Development Fund Regulations, 2016, this House approves the list of nominees for appointment to the Baringo South Constituency Committee of the National Government Constituencies Development Fund, laid on the Table of the House on Tuesday, 3rd December 2019 as follows:

- |                                       |   |   |
|---------------------------------------|---|---|
| 1. Samuel Kiprotich Bungei            | - | Male Adult Representative.                    |
| 2. Geoffrey Kibut Kosgei              | - | Male Youth Representative.                    |
| 3. Zakia Jemuge Kiptusang             | - | Female Youth Representative.                  |
| 4. Hellen Cheptoo                     | - | Female Adult Representative.                  |
| 5. Christine Chepkemboi Kandie        | - | PWD Representative.                           |
| 6. Eunice Tarkok Kiprotich<br>Office. | - | Female Nominee of the Constituency<br>Office. |
| 7. Justice Kiprono Chebii<br>Office.  | - | Male Nominee of the Constituency<br>Office.   |

I thank you, Hon. Speaker.

**Hon. Speaker:** The Chairman, Departmental Committee on Finance and Planning.

#### APPROVAL OF PSC NOMINEE TO THE SRC

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in its Report on the vetting of the nominee for approval as a representative of the Parliamentary Service Commission to the Salaries and Remuneration Commission, laid on the Table of the House on Tuesday, 3rd December 2019, and pursuant to the provisions of Article 252(b) and Section 7(11) of the Salaries and Remuneration Commission Act, this House approves the appointment of Hon. Amina Abdalla as the representative of the Parliamentary Service Commission to the Salaries and Remuneration Commission.

Thank you, Hon. Speaker.

**Hon. Speaker:** Proceed with the other one.

#### APPROVAL OF NOMINEE FOR CONTROLLER OF BUDGET

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in its Report on the vetting of the nominee for approval as the Controller of Budget, laid on the Table of the House on Tuesday, 3rd December 2019, and pursuant to the provisions of Article 228(1) and Section 4(10) of the Controller of Budget Act and Section 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of Dr. Margaret Nyang'ate Nyakang'o as the Controller of Budget.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Chairman of PIC.

#### ADOPTION OF PIC REPORT ON SAFETY OF FERRIES

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Investments Committee on the inquiry into the safety of ferries as observed in the audited accounts of the Kenya Ferry Services for the Financial Year 2016/2017, laid on the Table of the House on Tuesday, 3rd December 2019.

Hon. Speaker, with your permission, as a rejoinder, considering that the House is going on recess and equally considering the importance of this because lives are at stake here, if it will please the House through the HBC, the PIC would beg that the HBC consider this as an issue of priority so it can be discussed this week to avert any further danger so that we can finalise on this matter of the safety of ferries.

**Hon. Speaker:** It is my hope that the two leaders, Hon. John Mbadi and Hon. Duale, have heard your plea.

#### QUESTIONS AND STATEMENTS

**Hon. Speaker:** The first Question is by the Member for Buuri Constituency, Hon. Rindikiri Mugambi Murwithania, but at his request, because he is out of town on committee business, the question is deferred.

*Question No. 515/2019*

#### REHABILITATION OF ISIOLO-RUIRI ROAD

*(Question deferred)*

We move to the next Question by the Member for Gatanga, Hon. Nduati.

*Question 516/2019*

#### IRREGULAR TRANSFER OF LAND IN THIKA

**Hon. Joseph Nduati** (Gatanga, JP): Thank you very much, Hon. Speaker, for giving me a chance. I would like to ask the following question:

(i) Could the Director of Public Prosecutions (DPP) provide a progress report of investigations and persecutions, if any, regarding the irregular transfer of property on land L.R. No. 305/5 in Thika belonging to M/S. Swani Coffee Estate Limited to M/S. Chania Riverbank Estate Limited allegedly by M/S. Terra Fleur Limited?

(ii) What action has been taken against those involved in the irregular transfer considering that the transfer was facilitated by public officials?

(iii) What is the policy of the Office of the DPP with regard to addressing complaints lodged by the public?

Thank you, Hon. Speaker.

**Hon. Speaker:** You have indicated that you want a written reply?

**Hon. Joseph Nduati** (Gatanga, JP): Yes.

**Hon. Speaker:** Very well. The Clerk should indicate to the DPP that the written reply should be provided within...

Hon. Omulele, what is your point of order?

**Hon. Christopher Omulele** (Luanda, ODM): Hon. Speaker, I am looking at the Question that my brother Hon. Nduati seeks to be responded to by the DPP. Is he sure that he wishes to know whether the DPP is carrying out persecutions?

**Hon. Speaker:** Investigations and prosecutions.

**Hon. Christopher Omulele** (Luanda, ODM): In my paper it shows persecutions. If it is prosecutions, then it is okay.

**Hon. Speaker:** Hon. Omulele, actually you are right. I believe this is a typographical error. It reads: "...investigations and persecutions...". Whoever typed missed the correct word. It is "prosecution". The answer should be provided within 14 days from the date hereof.

Next Question is by the Member for Embakasi Central, Hon. Benjamin Mwangi.

*Question No. 523/2019*

STATUS OF OWNERSHIP OF L.R. NUMBER NAIROBI/BLOCK 156/1

**Hon. Benjamin Mwangi** (Embakasi Central, JP): Thank you, Hon. Speaker. I rise to ask Question No.523/2019 to the Cabinet Secretary for Lands and Physical Planning:

(i) Could the Cabinet Secretary confirm the current status of ownership of a 5-acre piece of land known as L.R. Number Nairobi/Block 156/1, allotted by Housing Finance Group in Komarock Ward in Embakasi Central Constituency earmarked for a public school?

(ii) When will the piece of land be released to the Ministry of Education to enable the publishing of the Registry Index Map (RIM) and lease prepared for school construction to commence?

**Hon. Speaker:** Very well. The Question will be responded to before the Departmental Committee on Lands. I believe they will do so when the House resumes.

Hon. Members, that concludes Question Time. Hon. Sankok, what is your intervention about?

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Speaker. I just wanted to bring to the attention of the House that today is the World Disability Day. It is a day that persons with disability celebrate the gains that they have got in their respective countries. Kenya ratified the United Nations Convention on the Rights of Persons With Disability (PWDs) in 2008. However, what we have already gained as PWDs seems to have retracted because none of the Members of this House has taken part in today's World Disability Day.

Hon. Speaker, it is very important that we celebrate with our brothers and sisters because they are also part of our constituents. Even on the issue of BBI, we are marginalised just as are women. So, if a governor is male, then the deputy governor should either be a female or a PWD. We cannot leave out PWDs and yet, we normally group them in the Affirmative Action Group.

Thank you very much Hon. Speaker.

*(Loud consultations)*

**Hon. Speaker:** Well, I think that is a matter that should be addressed by the Bill that is pending before the House. It seeks to implement Article 100 of the Constitution.

Hon. Iringo, what is your point of order?

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Speaker. I seek your intervention. Sometime back in October 2019, I asked a Question through the Departmental Committee on Defence and Foreign Relations. I have been expecting an answer but it has not been forthcoming. I am worried that this Session is about to close and my Question might lapse.

**Hon. Speaker:** Which committee?

**Hon. Kubai Iringo** (Igembe Central, JP): It is the Departmental Committee on Defence and Foreign Relations.

**Hon. Speaker:** I am not seeing the Chairman of the Departmental Committee on Defence and Foreign Relations. He normally sits right in front of you.

**Hon. Kubai Iringo** (Igembe Central, JP): I was with him at lunch hour and he promised to give an answer today. I do not know why he ran away before addressing it. I had informed him that I was going to raise the matter with you.

**Hon. Speaker:** Maybe, the Leader of the Majority Party should take up the matter though he is also busy. I do not know who is going to take up the matter. Leader of the Majority Party, there is a complaint there about a Question that was to be responded to by Hon. Katoo.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I will pick up with the Chair and Vice-Chair of the Departmental Committee on Defence and Foreign Relations and the relevant Cabinet Secretary so that we can see whether we can do it before we leave on Thursday.

**Hon. Speaker:** Hon. Haji, the Floor is yours.

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Speaker. I want to seek guidance on a matter that the Committee is seized of. On 12<sup>th</sup> November 2019, Hon. Cecily Mbarire, the Deputy Whip of the Majority Party, made a request for a Statement on the Departmental Committee on Agriculture regarding declining prices of milk and milk products in the country. She further sought your indulgence to refer the matter to the Committee, which you did. We were given 60 days within which to prosecute this matter. Now that the House is expected to proceed on recess, and as it is the tradition, committee business may stand suspended as well until February, we are seeking your guidance. This matter of milk and milk products is both sensitive and emotive. The Committee is keen to conduct a thorough inquiry into what is actually ailing the milk industry. Therefore, we seek your guidance on how we are expected to proceed during the recess.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Haji, are you asking for more time or what?

**Hon. Ali Adan** (Mandera South, JP): No. During the time the House is on recess, how are we expected to deal with this matter? We do not want it to lapse. This is a very important matter which is before the Committee. We have already started the inquiry. We have invited the CSs involved. As we progress, we fear that you may give direction that the Committee may not sit until February. In our view, that is going to hamper our operations. That is the direction and guidance I am seeking from you.

**Hon. Speaker:** When is the 60 days period expected to expire in your estimation?

**Hon. Ali Adan** (Mandera South, JP): The second week of February. We got seized of this matter from 12<sup>th</sup> November.

**Hon. Speaker:** The second week of January?

**Hon. Ali Adan** (Mandera South, JP): Yes.

**Hon. Speaker:** You need to prepare a Procedural Motion to seek leave of the House to extend to some date when the House resumes. However, it is a tradition that the staff of Parliament also get some time off. They also have families. They need some little time to also be with their families. However, we will be consulting with the Clerk to see what best period we can give. However, before the end of this week, prepare to come and move for extension of time.

**Hon. Ali Adan** (Mandera South, JP): Okay, thank you.

**Hon. Speaker:** Hon. Limo, do you also have an intervention?

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, I must have pressed the button when I was planning to present the documents.

**Hon. Speaker:** I think the Member for Cherangany does not know how to communicate with the Speaker. He thinks he can whisper from his place. Please, spend a little more time in the House. That is how you will learn that you cannot whisper and expect that you are passing any information. I only hear some hissing from you. As you know, it is only snakes that hiss.

*(Loud consultations)*

The Hon. Member is saying that he was inquiring from the Hon. (Dr.) Pukose on how to catch the Hon. Speaker's eye. Now the Hon. Speaker's eye has been caught by Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Speaker, the other Thursday, you granted leave that the statement which came from the Teachers Service Commission (TSC) on the matter of interdiction of teachers would invite some comments from me and the Hon. Members interested.

Hon. Speaker, I have read this statement on the matter and having been in Parliament for two terms, I can only confirm that this statement is not only inadequate, but also contemptuous of the parliamentary process which was invoked.

In terms of the information sought under sub-paragraph (b) (c) and (d), the TSC has not offered any response. Instead, it has invoked the *sub judice* rule stating that there are two matters in court and so, they cannot respond to the matters. Those two matters are stated to have been set for hearing on 15<sup>th</sup> October 2019 and on 17<sup>th</sup> October 2019. That is well before the statement I had requested for was laid before the House. What it means is that we cannot confirm from the statement the status of those matters and whether truly under Standing Order 89 of the National Assembly Standing Orders, they are undergoing active litigation.

Secondly, TSC is not telling us how the grant of this information in respect of those matters they talk about will prejudice the fair determination of those matters pending in court. Hon. Speaker, I am treating the denial by the TSC of responses with regard to those three questions b, c and d as evasive and as a matter taking Parliament for granted. I did state when I was requested for this statement that a number of the teachers who were interdicted passed on following the shock of interdiction. It is confirmed to me that some colleagues in this House attended the send offs or the burial of some of those teachers affected.

Hon. Speaker, I am telling this House because it is very painful for me. We all are processed by teachers at some point in time but, in response, the TSC, indeed, confirms that the teachers I was talking about died following the shock of interdiction. They actually died. There

is, on the list provided by the TSC at No.12, a lady called Ogolla Pamela Ngura. She is confirmed to have died following the interdiction. The TSC has confirmed in this Statement that a total of 245 teachers were interdicted. This is despite the shortage of teachers we have across the country.

Hon. Speaker, when we were dealing with the situation of North Eastern in the last Parliament where even untrained personnel were now being requested to step in and teach, the TSC is telling us boldly in this response that despite the known shortage, a total of 245 teachers were interdicted. They have confirmed in the statement thus:

“Following the interdiction, we subjected all the affected teachers to some form of disciplinary process”, for what they termed as incitement against the Competence Based Curriculum (CBC).

Hon. Speaker, the list given in terms of the determinations by the TSC in those disciplinary processes is what will shock people. You get a situation where teachers cited for the same offense and same details, are being meted against very different and discriminate sentences. You get teachers who have been cited for incitement according to the list, some are being dismissed totally from the teaching profession, others have their TSC numbers revoked totally; meaning they cease to be registered teachers. Others are getting mere warning; others get suspension for six months, others three, four or two months. What I am confirming is that TSC is, at the request of Parliament - following the request of this statement - is confirming that they discriminated against teachers by failing to mete out equal penalty for equal blames. They confirm an appellate process has been availed and they are saying only 45 have availed themselves for the process and they are thinking it will be fair.

We are not being told in the statements what were the responses to the individual teachers and what were the specific claims against teachers. Hon. Speaker, you limited my time. However, looking at these statements, I cannot help but conclude that the TSC has run rogue. Teachers are being treated as if they are even below children. Even children's rights are protected. They are being interdicted, dismissed so casually without due process. That makes me request thus...

I know the procedure invoked for seeking this information was very limiting because it does not open this process up for deeper interrogation.

Hon. Speaker, I want to make a plea to you as the Head of this House that, because of the seriousness of this matter and the gravity of the issues raised in the response from the TSC, considering that these are not things we seek for ourselves but for Kenyans outside there, you accept to invoke your powers under Standing Order 1 that this matter goes before the Departmental Committee on Education and Research so that it can be interrogated deeply so that we can have TSC meet - because of the limitation of this process - with the Hon. Members whose teachers (constituents) are affected and Hon. Members who feel passionately about this issue - appreciating due process - interrogate and have a conversation in this House of leadership before the relevant committee so that we can have a Report here which is actionable. I will be praying before this Committee that all those teachers who were so casually dismissed from service have to be reinstated. I think we need to do so.

Secondly, there is a request that I am going to make. There is need for this House to think deeply about the composition of the TSC. If you look at the Judicial Service Commission, the Chief Justice, the Deputy Chief Justice, a judge elected to represent Court of Appeal, a judge elected to represent the High Court and the Magistrate's Court. Then commissioners elected by advocates are sitting there because it is about the legal profession. In the National Police Service

Commission, the police officers are represented there. The TSC is the only Commission under the sun that is taking charge of a professional body and dealing with professional people and those very people are not represented at all. I think it is a matter we need to begin taking seriously as a House and, if there is need for an amendment, we do it.

Hon. Speaker, based on the direction you will give... I know I was being limited but I have never seen a request for statement or request for information from a ministry coming to this House treated this casually. Whatever directions are given, I am already being moved by the teachers on whose behalf I moved this petition to bring a petition for the removal of all commissioners at TSC, including the CEO. Hon. Members, when we present this petition, I request for your support so that we can stop this situation where a commission thinks that they own the people under the sector and that teachers who processed all of us cannot be treated with the dignity they deserve.

I thank you, Hon. Speaker.

**Hon. Speaker:** There is no debate. The Member seated next to Hon. Kaluma wants to...No! That is not the way we transact business. I think Hon. Kaluma has sufficiently prosecuted the matter. He has made a compelling case for this matter to be referred back to the Departmental Committee on Education and Research to invite the relevant Commission and dig deeper into the issues he sought answers to.

This is in keeping with our traditions even in the former system where Questions would be responded to by Cabinet Ministers, if the answers given were not satisfactory. There would be direction for further interrogation by the relevant Committee of the House.

Therefore, in this case, your request, Hon. Kaluma, is granted. The matter is referred back to the Departmental Committee on Education and Research to invite all persons necessary to enable them get a solution to the matter you raised in the request for statement. This is ordered accordingly.

There is no need for further debate on this because Hon. Kaluma has done justice to the matter. The Members who have put requests, I hope they are not about this because we cannot just deal with one issue. Hon. Joshua Kutuny, Member for Cherangany.

**Hon. Joshua Kutuny** (Cherangany, JP): Thank you, Hon. Speaker. I having listened to the Chair of the Departmental Committee on Agriculture and Livestock and it has confirmed my fears. This is because he has said that the Report concerning milk and dairy farming will be ready around February.

Hon. Speaker, the dairy farmers will not wait because they are suffering. Right now, because of the long rains, the production is high. The Chairman should commit himself to sorting out these issues. Recently, there was a stakeholders meeting organised by the Strategic Food Reserve (SFR). Part of the short-term mitigation measures was that they would give Kshs1 billion to Kenya Co-operative Creameries (KCC) so as to level the prices. These are ongoing issues and KCC was requesting for an extra Kshs1.2 billion so that the price can be managed at Kshs36 per liter. The Chair has stood here and told us they will discuss this issue and give a report in February. Yet, this Committee has left farmers to suffer in the hands of cartels. It reminds me of the challenges the maize farmers are going through.

**Hon. Speaker:** What is your issue?

**Hon. Joshua Kutuny** (Cherangany, JP): My issue is very simple: That a report should not be brought in February, but be done in 14 days. Thank you.

**Hon. Speaker:** You know unlike in the past - and I know Hon. Joshua Kutuny sat in the 10<sup>th</sup> Parliament when the House was not responsible for its own calendar - now this House is



responsible for its own calendar. In those days, you never discussed issues of when the House would recess because you could be anticipating debate.

These days, there is a requirement that the calendar is even printed. The Calendar for this year was adopted by this House on 13<sup>th</sup> February this year. So, this House is scheduled to recess on 5<sup>th</sup> December. Now, you are saying the Chairman should do something in the next two weeks. I am not too sure whether you have taken into account that in two weeks' time, that is around 17<sup>th</sup>, many of you will be preparing to be with your families and, perhaps, be in other places.

Are you suggesting that the House will come for a special sitting? Unfortunately, if it is to be so, under the law, you do not have the authority to write to the Speaker to call for that special sitting. You would have to convince Hon. John Mbadi or Hon. Duale to write and indicate there is need for that. Be that as it may, can the Chairman finalise the report before Thursday? It looks impossible. You can say he should but, even if they were to invite people, the requirements of the law is that you should give them, at least, seven days' notice. What if they do not hear evidence from the people they needed to hear from? All other committees have been busy scrutinising the Supplementary Estimates. Are you suggesting that you are so ignorant of what you have been doing in the last few weeks?

Every Committee has been busy with the Supplementary Estimates. You are expecting the Chair of Departmental Committee on Agriculture and Livestock was not involved in the consideration of the Supplementary Estimates and was sleeping with cattle or camels. He too, just like you as an MP, was busy with the Supplementary Estimates. I do not think the request he made is unreasonable. In any event, I have told him to move a motion for extension of time. It is a reality that the House will be on recess. Unless you convince the two leaders to write to me and persuade me that the business is special! I also need to be persuaded that discussing the report of that Committee is special.

It looks like there are too many hurdles on the way. One, the House is going on recess. The other is that Hon. Joshua Kutuny will have to persuade Hon. John Mbadi or Hon. Aden Duale to write to me and request for a special sitting indicating the definite business to be transacted. Also, I have to be persuaded that, indeed, this is urgent and definite; in as much as this is good business for *bonga* points. But, the reality of the situation is that, it is impossible. So, Hon. Joshua Kutuny, the point you have raised is good but, persuade the Chairman because I want to go by the Calendar of the House. Then, you can persuade the other two gentlemen.

I see an intervention by the Member for Nyando.

**Hon. Jared Okelo** (Nyando, ODM): Thank you, Hon. Speaker. God has extended his grace, opened the skies and we are experiencing pounding rains. Consequently, at the moment, we are experiencing ravaging floods particularly in Nyando Constituency. I am seeking to lay before you an Adjournment Motion tomorrow, so that we can delve into this issue in depth.

**Hon. Speaker:** You do not have to give notice. You just have to write and then the Clerk will deal with it. Let us hear the Chair of the Departmental Committee on Lands.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Speaker. On Thursday on the Floor of the House, I promised to do my best and respond to the statements raised by Hon. Osotsi and Hon. Mwirigi.

Hon. Speaker, I would like you to allow me to read. A Statement was sought by Hon. Godfrey Osotsi. He wanted to know from the Cabinet Secretary (CS) for Lands and Physical Planning whether requisite notice was given to the victims before evictions were carried out. This was the Statement on the forceful evictions carried out by security forces on October 9<sup>th</sup> 2019 in Chemusei Sub-County, Nandi County. The honourable Member wanted to know:

- (i) Whether requisite notice was given to the victims before evictions were carried out;
- (ii) Why security forces used excessive force in evicting peaceful peasant farmers;
- (iii) Why the Government has been slow in providing humanitarian support;
- (iv) Circumstances under which numerous households in Kiptuiya and Kapkangani areas have been issued with eviction orders yet they have occupied the land for years; and,
- (v) Whether there are plans by the Government to compensate the affected families or allow the families to occupy the land as promised by the CS and the timelines for the same.

Questions (i), (ii) and (iii) fall outside of the mandate of the Ministry of Lands and Physical Planning. The CS recommends that the Committee invites the relevant Government agencies to respond to those issues. Those matters have to do with security.

In this response, background and context are given. The Nandi/Kapkangani 272 land was registered to Kipkosgei arap Cheptulu. This registration was done on April 29<sup>th</sup> 1983 for the Nandi/Kapkangani registration section. Kipkosgei arap Cheptulu was the first registered owner of the parcel of land. The parcel of land measured approximately 11.2 hectares. On October 30<sup>th</sup> 2013, the title was closed on sub-division, giving rise to 14 portions numbering from 1371 to 1384 registered in his own name. Following a Succession Case No.221 of 2015 in the Kapsabet Law Courts, Sammy Kiprotich Kosgei and Clement Kiprotich Langat were appointed as administrators in the estate of the deceased vide grant of letters of administration dated November 30<sup>th</sup> 2015. The confirmation of grant yielded the titles issued on April 16<sup>th</sup> 2019. Certified copies of green cards are attached to this as Annexure 1 for reference by Hon. Osotsi.

The matter has been in court for more than three decades with counter-appeals. The High Court sitting in Kitale on January 22<sup>nd</sup> 2019 ruled in favour of the title's owner. On March 7<sup>th</sup> 2019, the Court issued execution orders that led to evictions in the above referenced parcels of land. A copy of the execution order is attached as Annex No.2A and the ruling on the Land Case No.167 of 2017, formerly Eldoret Environmental and Land Court No.270 of 2017, is also attached for reference by Hon. Osotsi.

The CS in the Ministry of Lands and Physical Planning and the then County Commissioner of Nandi visited the area on July 2<sup>nd</sup> 2018. Following the visit, we engaged the administrators of the said parcel on the possibility of the Government acquiring the parcels of land for purposes of settling the affected persons. However, the owners were not agreeable to the proposal of the Ministry and the then County Commissioner. They opted for the orders granted by the Court. This is private land. The Government can only acquire it through compulsory acquisition or purchase it if the owners are agreeable. There have been circumstances where Government has negotiated with land owners to allow squatters to remain on the contested parcel of land in exchange for money as compensation.

In conclusion, the evictions were carried out as a result of a court order. The order can only be verified by a court of law in the absence of an agreement to purchase. That was the response from the CS for Lands and Physical Planning, Hon. Farida Karoney. The attachments are here for Hon. Osotsi - who I can see is in the House - for reference.

Hon. Speaker, please allow me to go to the second matter which was a Statement sought by Hon. John Paul Mwirigi on the eviction of residents of Amugenti B Adjudication Area in Igembe South Constituency. The response reads as follows.

**Hon. Speaker:** Just a minute. We are running short of time and we need to transact very urgent business. I hope the Members will take time to study the statements. This issue of

interrogating the statement is just giving us...How long is that one, Hon. Nyamai? Just read it out very quickly. Just summarise and table it.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Speaker. I will try to summarise. I will not go to the background because the person who asked the Question understands.

Regarding this matter, *barazas* were held to sensitise community members from the area in question. The larger adjudication section was divided into four small sections for ease of adjudication. Demarcations were done in the four areas. The current status is that in Amugenti B, the adjudication register has already been published and it was done on 14<sup>th</sup> October 2019. Attached are the members of the committee for the Member to refer. It is also the same in Amugenti C. The adjudication register was published on 8<sup>th</sup> October 2019. In Amugenti D, 672 parcels were demarcated and surveyed. 45 per cent of the work is done and work is ongoing. In Amugenti E, the adjudication register was published on 6<sup>th</sup> November 2019. This shows that work is ongoing.

I beg to table the Statement.

**Hon. Speaker:** For both Hon. John Paul Mwirigi and Hon. Osotsi, get the statements.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): In the statement by Hon. Osotsi, the owners of the land have refused to be engaged by the Ministry on matters of compulsory acquisition to settle the people. There is a court order and the Ministry says there is nothing they can do.

**Hon. Speaker:** Very well. Unfortunately, earlier this morning, we had a meeting. Several of you raised a lot of questions but, by the time the questions were being responded to, 95 per cent or 97 per cent of you had already walked out. I must ensure that this other business is transacted. That is my direction. Pick the statements and study them.

Hon. Nyamai, are you available in the Chamber tomorrow afternoon?

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): I will be here only that since it is the CS who responded to the Question and not me, I can only take note of the supplementary issues that they raise. I will not be in a position to respond to him directly.

**Hon. Speaker:** Perfect. Study the statements, Hon. Mwirigi and Hon. Osotsi. Be here tomorrow afternoon. If there are any issues that you think the Chair of the Committee can take up with the CS, she can take note and give you a progress report later when the House convenes. The Member who is raising his hand, is there an issue? What is your intervention?

**Hon. Justus Makokha** (Matungu, ANC): Hon. Speaker, my intervention is on an agricultural matter. The Chairman is not in, but I am a Member of the Committee.

**Hon. Speaker:** Which Chairman?

**Hon. Justus Makokha** (Matungu, ANC): Your advice, Hon. Speaker, was sufficient.

**Hon. Speaker:** Let us go to the next Order.

## PROCEDURAL MOTION

### REDUCTION OF PUBLICATION PERIOD FOR SUPPLEMENTARY APPROPRIATION BILL

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

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, there are only two languages, English and Kiswahili, that can be spoken in this House. There are Members speaking in their

mother tongues behind me here. You may think they are in one of the county assemblies in the mountain. That should stop.

Hon. Speaker, I beg to move the following Motion:

THAT, notwithstanding the provisions of Standing Order No.120, this House resolves to reduce the publication period of the Supplementary Appropriation (No.2) Bill (National Assembly Bill No. 81 of 2019) to one day.

This is important. We only have tomorrow and the day after. We have serious business that includes a Public Accounts Committee Report, a number of Bills and vetting to do. You know why we should pass this Motion. We must pass this Bill for our constituencies to get money for school fees and for transition to take place. We want this Bill to be signed by the President latest Thursday morning. I ask Members to agree with me in passing the Procedural Motion.

I ask the Member for Kikuyu, the Chair of Budget and Appropriations Committee, to second.

**Hon. Speaker:** Hon. Ichung'wah.

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

*(Hon. (Ms.) Catherine Waruguru stood up in her place)*

**Hon. Speaker:** Let the Member smiling take her seat. Do not smile permanently.

*(Hon. Jared Okello took water from the Dispatch Box)*

The water supplier! The Member for Nyando just complained that the Almighty has been very kind and given a lot of water, but he has now become the supplier.

*(Laughter)*

*(Question proposed)*

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

**Hon. Speaker:** It is the desire of the House that I put the Question.

*(Question put and agreed to)*

## BILL

### *First Reading*

#### THE SUPPLEMENTARY APPROPRIATION BILL

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

## MOTIONS

## CONSIDERATION OF REPORTS AND THIRD READINGS

## THE COMPETITION (AMENDMENT) BILL

**Hon. Speaker:** Hon. Members, the process of the Committee of the whole House was completed and what remained was for the Question to be put for agreement.

*(Question put and agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move that the Competition (Amendment) Bill (National Assembly Bill No.49 of 2019) be now read the Third Time.

I request the Chair of the Departmental Committee on Finance and Planning, Hon. Joseph Limo, to second.

**Hon. Speaker:** Hon. Limo.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, I beg to second.

*(Question proposed)*

**Hon. Speaker:** I now put the Question having confirmed that you comply with Article 121 of the Constitution.

*(Question put and agreed to)*

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

## THE INSURANCE (AMENDMENT) BILL

*(Loud consultations)*

**Hon. Speaker:** Just relax. I know sometimes these processes are very confusing.

The House concluded debate on consideration of this Bill in Committee of the whole House. The Question could not be put because the House did not at that time comply with Article 121 of the Constitution, which it now does.

*(Question put and agreed to)*

**Hon. Speaker:** Mover.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move that the Insurance (Amendment) Bill (National Assembly Bill No.50 of 2019) be now read the Third Time.

I request Hon. Limo the Chair of the Departmental Committee on Finance and Planning to second.

**Hon. Speaker:** Hon. Limo.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, I beg to second.

*(An. Hon. Member stood up in his place)*

**Hon. Speaker:** Take your seat. Pay attention to what happens here.

*(Question proposed)*

**An. Hon. Member:** Put the Question.

**Hon. Speaker:** Hon. Members, is it the desire of the House that I put the Question?

**Hon. Members:** Yes.

**Hon. Speaker:** Again, because you comply with Article 121 of the Constitution, I put the Question.

*(Question put and agreed to)*

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

#### THE NUCLEAR REGULATORY BILL

*(Loud consultations)*

**Hon. Speaker:** What is that now? Hon. Members, this is important for even those who are in a hurry to do what you are saying. The House considered this Bill, but did not complete it. Therefore, the Motion reads as follows, which is the Question.

*(Question put and agreed to)*

The House will sit again in the Committee of the whole House when we get to that business. That is the net effect of the vote.

Next Order.

### MOTIONS

#### ADOPTION OF REPORT ON ANNULMENT OF LAND REGISTRATION (ELECTRONIC LAND TRANSACTIONS) REGULATIONS, 2019

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Land Registration (Electronic Land Transactions) Regulations, 2019 (Legal Notice No. 101 of 2019), laid on the Table of the House on Wednesday, November 13, 2019 and, pursuant to the provisions of Section 18 of the Statutory Instruments Act, 2013 and Standing Order 210 (4) (b), annuls in entirety the said Regulations.

*(Hon. Daniel Maanzo on 27.11.2018)*

*(Resumption of Debate interrupted on 27.11.2018)*

**Hon. Speaker:** Mover? Hon. Maanzo.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Hon. Speaker, I beg to reply.

*(Question put and agreed to)*

ADOPTION OF REPORT ON EXTENSION OF TIME TO SUBMIT  
CBK ANNUAL REPORTS FOR 2018/2019

THAT, this House adopts the Report of the Public Investments Committee on the Extension of Time Limit for submission and publishing of the Financial Reports of the Central Bank of Kenya, laid on the Table of the House on Wednesday, 20<sup>th</sup> November 2019 and pursuant to the provisions of Section 90 of the Public Finance Management Act, 2012, approves the extension of time limit for submission and publishing of the Financial Reports of the Central Bank of Kenya for the Financial Year 2018/2019.

Amendment proposed

THAT, the Motion be amended by inserting the following words after the expression "2018/2019" "for a period not exceeding six (6) months pursuant to provisions of Sections 54 and 55 of the Central Bank of Kenya Act (Cap 491, Laws of Kenya)".

*(Hon. Abdullswamad Nassir on 27.11.2018)*

*(Resumption of Debate interrupted on 27.11.2018)*

**Hon. Speaker:** Hon. Members, as you would recall, after a number of you had contributed to the Motion which was moved by Hon. Abdullswamad, the Chair of the Public Investments Committee (PIC), an amendment was proposed. It is that amendment which needs now to be voted on. The reasons for it were explained by the Chair after which, if the House so desires, we can go back to the Motion as amended.

*(Question of the amendment proposed)*

I suspect many of you may not understand the net effect of that amendment. I am sure Hon. Abdullswamad explained the reason why there was need to bring this amendment. You still do not have an Auditor-General in this country. There is a requirement under the Central Bank of Kenya Act that the accounts of the CBK must be signed off by the Auditor-General. Given that it is now more than three months since the former Auditor-General left, there will be need for further extension. He had only moved the amendment and it had been seconded. Is it the desire of the House to go back to the Motion?

**Hon. Members:** No!

**Hon. Speaker:** Then we call upon the Mover to reply.

**Hon. Members:** Yes!

**Hon. Speaker:** Very well, Hon. Hon. Abdullswamad.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you, Hon. Speaker. I respect the leadership of the House. However, within 60 seconds, I just want to state one thing, which is that the CBK and the National Treasury need to be aware that we have extended this from three to six months, but the possibility of the Auditor-General being appointed before the expiry of this extension is very unlikely considering that we are going on recess. It is important that the CBK and the National Treasury write early and not write after the expiry of the particular deadline. I am hoping that either through communication or through any other means, they are hearing this. It is only right for them to respect the sanctity of this House and the law. For further extension, they need to write early enough. Otherwise, they will be making a mockery of this House.

Thank you. I beg to reply.

**Hon. Speaker:** You are at liberty to propose sanctions for whoever it is that is going to act in breach of this resolution. Your Committee is one of those ones that continue to meet for some time. It is a matter about which you should invite either the National Treasury or the CBK and draw their attention to the possibility of them being in breach. We have been magnanimous as a House to make this extension.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you, Hon. Speaker. We will definitely do so considering the allowable time for committees to sit again. We will check our diaries and immediately do so.

We stand guided. I beg to reply.

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

*(Question of the Motion as amended put and agreed to)*

*Resolved accordingly:*

THAT, this House adopts the Report of the Public Investments Committee on the Extension of Time Limit for submission and publishing of the Financial Reports of the Central Bank of Kenya, laid on the Table of the House on Wednesday, November 20, 2019, and pursuant to the provisions of Section 90 of the Public Finance Management Act, 2012, approves the extension of time limit for submission and publishing of the Financial Reports of the Central Bank of Kenya for the Financial Year 2018/19 for a period not exceeding six (6) months pursuant to provisions of Sections 54 and 55 of the Central Bank of Kenya Act (Cap 491, Laws of Kenya).



**BILL***Second Reading*

## THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Speaker, I beg to move that the Supplementary Appropriation (No.2) Bill (National Bill No. 81 of 2019) be now read a Second Time.

As Members are aware, we finalised the Report on the Supplementary Estimates. You have just reminded the Members that they had two weeks of vigorous consideration of the Supplementary Estimates that were submitted to this House a few weeks ago.

This Appropriation Bill will authorise the National Treasury to issue a sum of Kshs73,173,074,113 out of the Consolidated Fund and apply it towards the supply granted for service of the year ending 30<sup>th</sup> June 2020.

This is divided between both recurrent and capital expenditure for the financial year being the first Supplementary Budget. I do not want to belabour many of the things that were said during debate on the Report by the Budget and Appropriations Committee. The Committee noted the concerns raised in the previous debate on a Supplementary Budget that for the first time, we are seeing a Supplementary Budget, which ordinarily ought to reduce Government expenditure, increasing expenditure to the tune of about Kshs73 billion, as I have mentioned. The Committee noted the concerns, not just of increased expenditure, but also the risk of the country getting into more borrowing. Worrying enough, probably even from the domestic market, is as a result of this increased expenditure in the backdrop of an economy that is not doing very well. It is on record that we closed the last financial year with a financing gap on our revenues of about Kshs91 billion. This, as the Cabinet Secretary had insinuated, is what necessitated a review of our revenue estimates for the Financial Year 2019/2020.

We appreciate the effort the National Treasury has made in terms of trying to mop up resources from our parastatals, many of which were holding money against provisions of the Public Finance Management (PFM) Act and the Public Finance Management Regulations. As we discuss the issue of the audited accounts of the Central Bank of Kenya, I hope the Chair of the Public Investments Committee, Hon. Abdullswamad Nassir, Member for Mvita, could listen to this. This is because we have just approved an extension of time on the audited accounts of the CBK. You will realise that out of all the parastatals where the National Treasury has been able to mop up resources, the CBK still holds many resources in terms of retained revenues.

Even as you look at the audited accounts when the Auditor-General is formally appointed, you ought to engage with the CBK and the National Treasury on how the CBK can release some of these resources for use in other priority areas like reconstruction of roads in Nyando Constituency, where you have heard there are issues of floods. Even areas like West Pokot, where the Chair of the Departmental Committee on Transport, Public Works and Housing comes from, where we recently had landslides, need these resources. The areas include Murang'a and Garissa where people are being washed away by floods. Therefore, hopefully, as we move towards the end of the financial year and resume next year, it will be important for the Ministry of Transport, Infrastructure, Housing and Urban Development and the National Treasury to consider an affirmative fund to restore infrastructure especially roads that have been destroyed by the ongoing rains.

It is important and I hope the National Treasury would come up with an amendment to this Appropriation's Bill to provide adequate resources to ensure people in Nyando, West Pokot and other areas where people are suffering because of the ongoing floods are provided with relief.

The other concerns that were expressed even during the previous debate are on issues of using the budget to interfere with the independence of both Parliament and the Judiciary. The Committee was emphatic in safeguarding the independence of the Judiciary. We were able to rationalise the budget of the Judiciary to ensure that we maintain their financial autonomy and safeguard their independence, and also for Parliament.

The other concern was the slow pace with which capital expenditure is being disbursed by the National Treasury. Again, we have raised that with the National Treasury. We hope that with the approval of this Supplementary Appropriation Bill, the National Treasury will move fast to upload all the resources dedicated to development into the IFMIS system and further provide Exchequer to ministries, departments and agencies of the Government for them to implement the projects that will have been approved by the Government. It is important to note that we are in the sixth month of the financial year. If the Government or the MDAs are to absorb this money, it will be necessary for them to disburse the money to the Exchequer in good time.

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

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

Hon. Temporary Deputy Speaker, I do not want to belabour many things. It will just be a repetition of what we did during debate on the Report. Therefore, I wish to conclude with that and urge the House to support the Supplementary Appropriation Bill. Also, I remind the House that the Departmental Committee on Finance and National Planning negated the amendments that had been proposed by the National Treasury on the National Government Constituencies Development Fund (NG-CDF). We agreed with them. Therefore, the NG-CDF funds are secure. We also hope the National Treasury will move fast to ensure the Exchequer is available and released to Members of Parliament, so that we have adequate resources to implement development projects in our constituencies even as we break for the Christmas recess.

With that, I beg to move. I request Hon. Mutunga to second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mutunga.

**Hon. John Mutunga** (Tigania West, JP): Hon. Temporary Deputy Speaker, thank you for the opportunity to second this Motion on the adoption of the Report by the Chairman of the Committee.

The Supplementary Budget came to make adjustments which were necessary at that point in time. This will fast-track development. We will make resources available to the people. We shall also clear pending bills as we support the Big Four Agenda. The Big Four Agenda was a major area of focus in this Supplementary Budget.

This is one Supplementary Budget in which we saw a reduction in the recurrent expenditure and an increase in the development expenditure which is a routine we should be observing over time. We hope it will go that way. We were also able to sustain the requirements of the Judicial Service Commission, so that we can protect their independence.

There was also a clear agreement with the National Treasury that they should be observant to the context and content of law when making Supplementary Estimates. Therefore,

the interpretations that they get from various corners, especially the Attorney-General should be cross checked for certainty.

I second.

*(Question proposed)*

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Is that the mood of the House?

**Hon. Members:** Yes.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, if it is, then allow me to comply with the mood of the House.

*(Question put and agreed to)*

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

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

*[The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya)  
took the Chair]*

### THE NUCLEAR REGULATORY BILL

*(Resumption of consideration interrupted  
in Committee of the whole House on 28.11.2019)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Order Members! We are now in Committee to consider the Nuclear Regulatory Bill (National Assembly Bill No.27 of 2019). We are resuming from Clause 85.

*Clause 85*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): There is an amendment by the Chairperson of the Departmental Committee on Energy.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 85 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

When we were last here deliberating on this Bill, I explained why we proposed to change from “Commission” to “Authority”. So, it is for the same reason that I am proposing this change from “Commission” to “Authority”.

Thank you.

*(Question of the amendment proposed)*

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

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

*(Clause 85 as amended agreed to)*

#### *Clause 86*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): We have an amendment on Clause 86 by the Chairperson of the Departmental Committee on Energy.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 86 of the Bill be amended by deleting the word “Commission” appearing immediately after the word “The” and substituting therefor the word “Authority”.

The import is the same as in the previous amendment.

*(Question of the amendment proposed)*

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

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

*(Clause 86 as amended agreed to)*

#### *Clause 87*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): The Chairperson of the Departmental Committee on Energy.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 87 of the Bill be amended by deleting the word “Commission” appearing immediately after the word “The” and substituting therefor the word “Authority”.

The import is the same as in the previous amendment.

*(Question of the amendment proposed)*

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

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

*(Clause 87 as amended agreed to)*

*Clause 88*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): The Chairperson of the Departmental Committee on Energy.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 88 of the Bill be amended by deleting the word “Commission” appearing immediately after the words “to the” and substituting therefor the word “Authority”.

The import is the same as in the previous amendment.

*(Question of the amendment proposed)*

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

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

*(Clause 88 as amended agreed to)*

*Clause 89*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): The Chairperson of the Departmental Committee on Energy.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 89 of the Bill be amended in sub-clause (1) by deleting the word “Commission” appearing immediately after the word “the” and substituting therefor the word “Authority”.

The import is the same as in the previous amendment.

*(Question of the amendment proposed)*

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

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

*(Clause 89 as amended agreed to)*

*Clause 90*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): The Chairperson of the Departmental Committee on Energy.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 90 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

The import is the same as in the previous amendment.

Thank you.

*(Question of the amendment proposed)*

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

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

*(Clause 90 as amended agreed to)*

*Clause 91*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): The Chairperson of the Departmental Committee on Energy.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 91 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

The import is the same as in the previous amendment.

*(Question of the amendment proposed)*

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

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

*(Clause 91 as amended agreed to)*

*(Clause 92 agreed to)*

*Clause 93*

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT, Clause 93 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

The reason is that commissions are independent offices which are created through a constitutional amendment. The Act, therefore, puts it as an Authority.

*(Question of the amendment proposed)*

*(Question, that the word 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 93 as amended agreed to)*

*(Clauses 94, 95 and 96 agreed to)*

*Clause 97*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuyu): Chair.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 97 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

We are replacing “Commission” with “Authority” for the same reasons given.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuyu): I see an interest from Hon. (Dr.) Nyikal, Member for Seme.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Whereas I support that, if you look at Clause 98, where there is Authority design, is it sitting or citing? If it is citing, is the spelling then correct? I support changing Commission to Authority. Maybe the Chair can see whether that can be amended.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuyu): Chair, do you want to say something?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): It is citing. You do the citing of the place where you are going to put the nuclear power, not sitting. It is a typographical error. Thank you.

*(Question, that the word 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 97 as amended agreed to)*

*Clause 98*

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

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 98 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

We are deleting “Commission” and substituting with the word “Authority” for the same reason.

*(Question of the amendment proposed)*

*(Question, that the word 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 98 as amended agreed to)*

*Clause 99*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Chairman.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 99 of the Bill be amended in sub-clause (2) by—

(a) deleting paragraph (b);

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

(d) members of the former Radiation Protection Board and the Chief Radiation Protection Officer shall continue to serve in the Authority in the corresponding positions as members of the Board and Director General respectively for their unexpired term.

This is unnecessary provision as all subsidiary legislation remain in force unless revoked by the Cabinet Secretary. To delete the references to the commission, the Committee resolved to



rename the Kenya Nuclear Regulatory Commission as the Kenya Nuclear Regulatory Authority. The Board is the administrative organ of the 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 99 as amended agreed to)*

*Clause 100*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): I see there are two proposed amendments. Let us have the Chair first.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 100 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

To delete references to the commission, the Committee resolved to rename the Kenya Nuclear Regulatory Commission as the Kenya Nuclear Regulatory Authority because commissions are independent offices which are created by a constitutional amendment.

*(Question of the amendment proposed)*

*(Question, that the word 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)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): We have to go back to the Chair of the Departmental Committee on Health. It is your turn. I see Hon. Kimunya engaging vigorously with her. It is Clause 100 on Page 2490 of the Order Paper.

**Hon. (Ms.) Sabina Chege** (Murang’a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 100 of the Bill be amended by inserting the word “budget” immediately after the word “asset”.

Currently, the Radiation Protection Board is fully financed by the National Treasury to the tune of around Kshs80 million through the Ministry of Health. It is, therefore, critical to have this budget maintained by the Authority since the Bill is intended to repeal the Radiation Protection Act (Cap. 243) and provide for a more comprehensive legislative framework with a broader regulatory space to cover all areas of interest, in line with the Kenya development

agenda and the current expanded use of radiological or nuclear materials and associated technologies.

I beg to move.

*(Question of the amendment proposed)*

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

*(Clause 100 as amended agreed to)*

#### *Clause 101*

**Hon. Robert Pukose** (Endebess, JP): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 101 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

*(Question of amendment proposed)*

*(Question, that the word 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 101 as amended agreed to)*

#### *Clause 102*

**Hon. Robert Pukose** (Endebess, JP): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 102 of the Bill be amended by deleting the word “Commission” wherever it appears and substituting therefor the word “Authority”.

*(Question of amendment proposed)*

*(Question, that the word 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 102 as amended agreed to)*

#### *Schedule*

**Hon. Robert Pukose** (Endebess, JP): Hon. Temporary Chairlady, I beg to move:

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

PROVISIONS AS TO THE CONDUCT OF  
BUSINESS AND AFFAIRS OF THE BOARD

Tenure of office. (1) The Chairperson or a member of the Board other than an ex-officio member shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment for one further term.

(2) The members of the Board shall be appointed at different times so that the respective expiry dates of the members' terms of office shall fall at different times.

Disqualification  
of members.

2. (1) No person shall be appointed or shall, as a member of the Board if such person is—

- (a) a member of Parliament or a county assembly; or
- (b) a person who holds any office or position, in a political party.

Vacation of office.

3. (1) A member of the Board other than an ex-officio member may—

(a) at any time resign from office by notice in writing to the Cabinet Secretary;

(b) be removed from office by the Cabinet Secretary on recommendation of the Board if the member—

(i) has been absent from three consecutive meetings of the Board without its permission;

(ii) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;

(iii) is convicted of a corruption or economic crime or other criminal offence involving dishonesty, fraud or moral turpitude or any other criminal offence under any law punishable with imprisonment that amounts to a felony under the Laws of Kenya;

(iv) is of unsound mind or is incapacitated by prolonged physical or mental illness for a period exceeding six months; or

(c) is otherwise unable or unfit to discharge his functions.

Meetings.

4. (1) The Board shall meet at least once in every three months.

(2) Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least five members, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every members of the Board.

(4) The Chairperson shall preside at every meeting of the Board and in his absence, the members present shall elect one of their number, from among the members appointed under section 8, to preside and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(5) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(6) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members of the Board.

(7) Nothing in this paragraph shall prevent the Chairperson from authorising a member of the Board to use live telephone conferencing or other appropriate communication or multimedia facilities to participate in any meeting of the Board where, prior to the meeting, the member, by notification to the Chairperson, has requested for such authorisation.

Committees of  
the Board.

5. (1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Board shall appoint the Chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The Board may where it deems appropriate, co-opt any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subparagraph (1) shall be ratified by the Board.

Secretary to the  
Board.

6. (1) The secretary to the Board shall be responsible to the Chief Executive Officer for—

- (a) arranging the business of the Board's meetings;
- (b) keeping records of the proceedings of the Board; and
- (c) performing such other duties as the Board may direct.

(2) The Commission may in the absence of the secretary appoint any member of the Board or staff of the Authority to temporarily perform the functions of the secretary under subparagraph (1).

Disclosure of  
interest.

7. (1) A member of the Board who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who willfully contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand shillings.

Contracts and instruments. 8. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Board for that purpose.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Member for Seme, the Floor is yours.

**Hon. Dr. James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairlady, that is a major change. It is a whole Schedule replacing another Schedule. It would be important that the salient changes in the two schedules be pointed out for the Members to make the decision.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Chairperson, the Floor is yours.

**Hon. Robert Pukose** (Endebess, JP): Hon. Temporary Chairlady, in this Schedule, we are deleting the references to the Commission. The Committee resolved to rename the Kenya Nuclear Regulatory Commission the Kenya Nuclear Regulatory Authority. The Board is the Administrative organ of the Authority. Two, we also want to reduce the term of the members of the board from four years to three years, renewable once. This is what we have achieved by that.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): I hope the Member for Seme is satisfied.

*(Question of 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)*

*(Schedule as amended agreed to)*

*(Loud consultations)*

## *Clause 2*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): We have two proposed amendments. Chairlady, the Departmental Committee on Health, I hope you are less distracted now. I think it is also important to be clear that should your proposed amendment pass, then the one proposed by the Chair of the Departmental Committee on Energy will be moved without Paragraph (c) because it serves the same purpose as what the Chair of the Departmental Committee on Health is putting across.

**Hon. (Ms.) Sabina Chege** (Muranga CWR, JP): Hon. Temporary Deputy Chairlady, I want to move this amendment with a further amendment; an amended form.

THAT, Clause 2 of the Bill be amended by deleting the word “Interior Security” and substituting therefor with the word “Health,” and not “Nuclear and Radiation Safety.”

It is a further amendment. We will delete the word “Interior Security” and substitute therefor the word “Health”. I am doing a further amendment from what I had proposed after consultation with the Chair of the Departmental Committee on Energy.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): So, you are doing your amendment in an amended form?

**Hon. (Ms.) Sabina Chege** (Muranga CWR, JP): Yes.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Okay. I think that is a proper way.

**Hon. (Ms.) Sabina Chege** (Muranga CWR, JP): Hon. Temporary Deputy Chairlady, thank you. I moved the justification. Exposure to radiation and radiological or nuclear materials beyond the established limits may lead to birth defects, abnormalities, cancers, radiation shock, death and long-term contamination of the environment, therefore, rendering it inhabitable. These are purely health issues and will, therefore, be well handled by the Authority when placed under the Ministry of Health instead of the Ministry of Interior and National Coordination of National Government, which is just about security.

I beg to move.

*(Question of amendment proposed)*

**Hon. Dr. James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairlady, I stand to support that amendment. I think it is important that the Chair of the Departmental Committee on Health has explained what it means because of the importance of health matters in radiation generally. That is an important amendment.

I support.

*(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)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Let us have the Chair of the Departmental Committee on Energy. The Floor is yours, but you will have to omit (c).

**Hon. Robert Pukose** (Endebess, JP): Hon. Temporary Deputy Chairlady, I beg to move as per the Order Paper excluding (c).

THAT, Clause 2 of the Bill be amended—

(a) by deleting the definition of “activities” and substituting therefor the following new definition— ““activity” means the production, use, import and export of radiation sources for industrial, research and medical purposes; the transportation of radioactive material; the siting, construction, commissioning, operation, and decommissioning of facilities; radioactive waste management activities and site remediation;”

(b) in the definition of “authorisation” by deleting the word “Commission” appearing immediately after the words “by the” and substituting therefor the word “Authority”;

(d) by deleting the definition of “clearance levels” and substituting therefor the following new definition— “clearance levels” means values established by the Authority and expressed in terms of radioactivity concentrations or total activity, at or below which sources of radiation may be released from regulatory control by the Authority;

(e) by deleting the definition of “Commission” and substituting therefor the following new definition in it proper alphabetical sequence— “Authority” means the Kenya Nuclear Regulatory Authority established under section 5;”

(f) in the definition of “consumer products” by deleting the word “ionising” appearing immediately after the word “generates”;

(g) in the definition of “Director General” by deleting the word “Commission” appearing immediately after the words “of the” and substituting therefor the word “Authority”;

(h) in the definition of “exemption” by deleting the word “Commission” appearing immediately after the words “by the” and substituting therefor the word “Authority”; (i) by deleting the definition of “facilities” and substituting therefor the following new definition— “facility” means—

(a) a nuclear facilities or any other location that an authorised person has control over;

(b) a radiation source facility;

(c) a radioactive waste management facility and any other premises where radioactive material is produced, processed, used, handled, stored or disposed of, on such a scale that consideration of protection of safety is required;

(d) a reactor, critical facility, conversion plant, fabrication plant, a reprocessing plant, isotope separation plant or a separate storage installation; or

(e) any location where nuclear materials in amount greater than one effective kilogram is customarily used;”

(j) in the definition of “inspection” by deleting the word “Commission” appearing immediately after the words “by the” in paragraph (b) and substituting therefor the word “Authority”;

(k) by deleting the definition of “non-iodising radiation” and substituting therefor the following new definition— ““non-ionising radiation” means optical radiation, radio frequency radiation, low-frequency electric and magnetic fields, ultrasonic radiation and any other radiation with similar biological effects;”

(l) in the definition of “notification” by deleting the word “Commission” appearing immediately after the words “to the” and substituting therefor the word “Authority”;

(m) in the definition of “radiation source” by inserting the word “not” immediately after the word “material”;

(n) in the definition of “radioactive material” by deleting the word “Commission” appearing immediately after the words “by the” and substituting therefor the word “Authority”;

(o) in the definition of “radioactive waste” by deleting the word “activity” wherever it appears in paragraph (a) and substituting therefor the word “radioactivity”;

(p) in the definition of “source” by deleting the word “radiation” appearing immediately after the word “cause”;

(q) by inserting the following new definition in its proper alphabetical sequence— ““Board” means the Board of the Authority established under section 8”.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Do you want to expound on that.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): What we are giving are definitions in the first part of the clause where we talk of what activity as per this Act means. So we are just cleaning up and giving definitions which are self-explanatory.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. Member for Seme.

**Hon. (Dr.) James Nyikal** (Seme, ODM): It is not clear to me and I want to get it. This is about exposure to radiation. That is why Clause 2(i) provides for the definition of “facility” under (a), (b), and (c). So, here we are talking about the facilities. I would like to get more explanation on how (c) needs to be excluded from Clause 2. The only place I can see (c) is on Page 946 of the Bill.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Hon. (Dr.) Nyikal, (c) has already been expunged by virtue of the amendment passed by the Chair of the Departmental Committee on Health. That amendment sought to do the same thing as what the Chair of the Departmental Committee on Energy was to do under (c). So, automatically, it gets expunged. You should not even be making reference to it because it does not exist anymore. Are you okay?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Maybe, Hon. (Dr.) Nyikal could go to what is on the computer. It is labelled from (a) all the way to (q). It gives definitions excluding (c) and so, we have a whole range. Indeed, there is definition of radioactive waste, source and many other terminologies. It gives a wide range. It is just about definitions.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): Yes, it is on Page 2474 of the Order Paper.

*(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 agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuya): I now call upon the Mover to move reporting. Hon. Gikaria.

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Nuclear Regulatory Bill, National Assembly (Bill) No. 27 of 2018 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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



**REPORT AND THIRD READING**

## NUCLEAR REGULATORY BILL

**Hon. (Ms.) Soipan Tuya** (Narok CWR, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Nuclear Regulatory Bill, National Assembly Bill No.27 of 2018 and approved the same with amendments.

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. (Dr.) Pukose to second the Motion for agreement with the Report of the Committee to the whole House

**Hon. (Dr.) Robert Pukose** (Endebess, JP) seconded.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, I direct that the next necessary steps on this particular business to be undertaken when the matter will be set down for consideration again.

*(Putting of the Question deferred)*

Next Order.

**MOTION**ADOPTION OF REPORT ON CONSIDERATION OF CENTRAL BANK OF KENYA  
(MORTGAGE REFINANCE COMPANIES) REGULATIONS, 2019

**Hon. (Ms.) Gladys Boss Shollei** (Uasin Gishu CWR, JP): Hon. Temporary Deputy Speaker, I beg to move:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Central Bank of Kenya (Mortgage Refinance Companies) Regulations, 2019 (Legal Notice No.134 of 2019) laid on the Table of the House on Thursday, 21<sup>st</sup> November 2019 and pursuant to the provisions of Section 18 of the Statutory Instruments Act, 2013 and Standing Order 210(4)(b), annuls Regulation 26(2) and Regulation 42 of the said Regulations.

Hon. Temporary Deputy Speaker, I am proud to report before this House today and for the final time this Session, to move this Report of the Committee on Delegated Legislation. It has been a busy Session with a lot of businesses referred to the Committee. In terms of business, the Committee considered 75 published instruments, 22 draft instruments and two Bills from the Senate. Out of the 75, the Committee recommended the annulment of 39 instruments and approved 36 instruments. I am happy to report that the Committee expeditiously considered all the published instruments without seeking extension of time and none has lapsed in our hands. This is a track record that the Committee is determined to maintain and I am immensely proud of it.

Hon. Temporary Deputy Speaker, I will now delve into the subject matter of this Motion. The Central Bank of Kenya Mortgage Refinance Company's Regulations 2019 were made by the Governor of CBK pursuant to Section 57(1) of the CBK Act Cap 491. The Regulations were published in the Kenya Gazette via Legal Notice No.134 of 2019 on 2<sup>nd</sup> August 2019 and received by the Clerk of the National Assembly on 11<sup>th</sup> September 2019 and tabled before the House on the same date.

The CBK Mortgage Refinance Companies Regulations 2019 are intended to operationalise the mortgage refinance legal regime introduced to the CBK through the CBK Act and the Finance Act 2018. The Finance Act amended the CBK Act to provide a legal framework for licensing and regulating the mortgage refinance business by the CBK. Section 57(1) of the CBK Act Cap 491 provides that the bank may make regulations, issue guidelines, circulars and directives for the purpose of giving effect to the provisions of the Act and generally for the better carrying out of the objects of the bank under the Act.

The Regulations contain mortgage refinance business, issues relating to licensing, governance, loans, risk classification, provisioning of loans, capital requirements, liquidity management, internal controls, reporting requirements and guidelines on voluntary liquidation.

The Committee observed that the statutory timelines set out in Section 11 of the Statutory Instruments Act were adhered to by the CBK. The Regulations were brought before the Clerk of the National Assembly on 11<sup>th</sup> September 2019 and tabled before this House on the same date. The Committee also observed that consultation and public participation as required by the Statutory Instruments Act with persons and stakeholders likely to be affected was undertaken.

The regulation making authority subjected the draft regulations through various meetings with stakeholders such as commercial banks, micro-finance banks, Saccos, the National Treasury and the general public. The draft regulations were also placed on the CBK website on February 2019. Sections 6, 7 and 8 of the Statutory Instruments Act require that the regulation making authority must carry out a regulatory impact assessment and submits to Parliament a Regulatory Impact Statement if the proposed regulations have significant cost or impact to the community or section of the community.

The regulation making authority, in this case the CBK, did not conduct a Regulatory Impact Assessment, neither did it submit a Regulatory Impact Statement to the House as required by the law. Also, the Statutory Instruments Act, Section 13, requires that the Regulation should not inappropriately delegate legislative powers to another body. Therefore, Regulation 26(2) gives the CBK the power to provide guidelines, other forms and manners in which the place of business may be opened, located or closed. Regulation 42 gives the CBK power to issue guidelines on group structures and mortgage refinance companies.

By so doing, the CBK in these Regulations improperly delegated certain legislative powers. Therefore, this is irregular. For that reason, the Committee, having examined the CBK Mortgage Refinance Companies Regulations 2019 against the Constitution, the Interpretation and General Provisions Act Cap 2, the CBK Act, Cap 491, and the Statutory Instruments Act No.23 of 2013, recommends to this House that pursuant to Standing Order No.210(4)(b), the House annuls Regulation 26(2) and 42 as they contravene Section 13 of the Statutory Instruments Act by inappropriately delegating legislative powers to the CBK to issue guidelines.

As I conclude, allow me for the umpteenth time to acknowledge the tireless efforts of the members of staff of the Committee on Delegated Legislation for their exceptional service. I also want to thank the Members of the Committee on Delegated Legislation for their spirit of

excellence in their service to the Committee. Finally, I wish all Members of this House happy holidays and a wonderful long recess after this busy Third Session.

Hon. Temporary Deputy Speaker, I beg to move and request Hon. Sir George Murugara, Member for Tharaka Constituency, and the *de facto* Vice-Chair of the Committee on Delegated Legislation, to second this Report.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Before the inimitable, Hon. George Murugara seconds. This is new that he is also a Sir and is now the *de facto* Vice-Chair. Those are tough terms and I am sure that is why Hon. Millie Odhiambo looks perturbed. But I have no doubt that Hon. George Murugara is equal to those very superlative accolades. I hope they rest well on his shoulders. Hon. George Murugara, proceed.

**Hon. George Murugara** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker those are quite some nice accolades to me. I appreciate them and I hope am able to live to the tasks put in my hands.

Hon. Temporary Deputy Speaker, first and foremost, I associate myself with the able presentation that has been made by the Chairperson of the Committee on Delegated Legislation. The reasons why the Committee has annulled the two sections has been clearly set out and it is vitally important that we reiterate to this House that the only authority that is given power by the Constitution to make laws is Parliament. Therefore, any other person who abrogates or purports to himself or herself the power to make laws acts *ultra vires* the Constitution and the parent Act as far as this matter is concerned.

This is the reason we have moved the House to annul the two sections of these Regulations. The rest were okay and were approved by the Committee and the regulatory making authority has been informed accordingly. The problem with the two Regulations are that the CBK, which is the regulatory making authority in this case, purports to abrogate itself powers to make rules and regulations which have the force of law when they are not allowed to do so or are expressly prohibited by Section 13(m) of the Statutory Instruments Act.

These two Regulations, if left to pass as they are, will see to it that the CBK continues to issue guidelines, regulations and notes which have the force of law both on other banks and customers of the banks. The net effect is that the CBK will be making laws or Regulations without bringing them to this House. This has the force of affecting those who consume banking services in the country. As a result, this will negatively affect the people of Kenya. This is why the Committee carefully considered these two Regulations and came to the conclusion that the Central Bank of Kenya was acting *ultra vires* in abrogating to itself the power to make rules and regulations with force of law without coming to this House. We need to remind every regulation-making authority that regulations are made and brought to this House. This House has the power to approve or disapprove those regulations. Sometimes we can annul the entire set of regulations. Other times, we pick only the offensive regulations for annulment as we have done in this case.

I associate myself with the presentation of the Chairperson. As this House is now going on recess and we are into the festive season of Christmas, I wish all the Members of the House season's greetings, happy holidays and a very wonderful recess with our constituents. I personally look forward to going to Tharaka for almost two months to interact with my constituents, listen to their needs and aspirations and explain to them what I have got from the Executive for the betterment of their lives in the constituency.

With those remarks, I beg to second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Murugara, I always enjoy your contributions.

*(Question proposed)*

I see interest from Hon. Nangabo. Let us have Hon. Thuku Kwenya.

**Hon. Zachary Thuku** (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker for the opportunity to speak on this matter that has been brought to us by the Committee on Delegated Legislation. From the outset, I congratulate the Committee because of late, they seem to be on overdrive in terms of making sure that regulations that have been passed are in tandem with the changing world and are constitutional. This is one of the committees that need a pat on the back through the able chairmanship of the “iron lady”, Hon. Boss Shollei, and the newest in the House, Hon. “Sir” George.

Looking at the Regulations that were drafted by the CBK, passed by this House and the subsequent annulment of Regulations 26 and 42, they beg a lot of questions. The CBK seems to be acting arbitrarily. We have been subjected to a lot of suffering especially when we go to banks to withdraw money. We cannot withdraw money as and when we want it because there are some regulations that they are trying to draft, albeit, that have not been passed by this House through the Committee on Delegated Legislation. They have not been passed yet once I walk into a bank, I cannot withdraw any amount above Kshs1 million.

It now begs the question: Whose business is it to do due diligence? I cannot engage in business, bank my money in my favourite bank and withdraw it at will. The buck stops with the bank to do due diligence to find out if that money is proceeds of crime. If it is, they are supposed to call the relevant agencies and have me taken to court to answer charges on the same. They should not subject us to the kind of shenanigans they have put us in. We cannot withdraw money at will. They seem to be very comfortable with that mere circular that has been sent to all the banks. The banks are so afraid to contravene the so-called circulars. I do not see any problem with anybody walking into a bank to withdraw his money because the banks are custodians.

On coming to this annulment that has been proposed by the Committee, the issue of the CBK trying to regulate as to where microfinance lending institutions or mortgage refinance companies should open their businesses is illegal from the outset. That is a contravention of the right of where and when to do business. The CBK is overstepping its mandate in trying to regulate as to where you can open a business. I thank the Committee for having an eye on the people of Kenya. We have been subjected to a lot of suffering that is not anchored in any law. It contravenes our rights as Kenyans. This Committee has reigned over all the organisations that have been mandated or have this delegated opportunity to legislate.

With those few remarks, I congratulate the Committee. I pray that other committees take their cues from the Committee on Delegated Legislation. This House seems to be taking instructions from some quarter without caring whether whatever instructions they are coming up with are within the law, which is not acceptable.

I support the work of the Committee.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Thuku, are you done? Very well. Let us have contributions from Hon. Odhiambo Akoth, Member for Suba North.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity.

From the outset, I support the Committee Report. I congratulate this Committee for the excellent job it has been doing. If you notice, this Committee has not only brought several

regulations before the House, but they are very diligent. They have ensured that most of the regulations that are brought before the House must conform not only with the Constitution, but to the parent legislation. They have also stayed true to the legislative mandate of Parliament. Many bodies, parastatals and other Executive agencies sometimes seek to overstretch their mandate and legislate where or when they should not. We are not saying that they cannot issue regulations, but when they want to issue substantive regulations or provisions, they must come back to Parliament. Parliament must agree with them because the child cannot be greater than the parent. When you are making regulations, they must adhere to the parent Act. Many bodies do not conform to this.

I notice there is a trend. Originally, this Committee would throw out all regulations. Because of their diligence, most agencies are beginning to comply. Now we see only sections being rejected. I thank the Committee. I agree with them that we cannot stop Kenyans from doing business in any part of the country. If there is a reason that the CBK feels we need to know of, they must come back to Parliament. As the people who were elected by the public, we must agree or disagree with them. They cannot do that on their own.

I also congratulate the Committee for safeguarding the public good in that regard. I congratulate the Chair, Hon. Gladys Shollei. She is very diligent, not just as a Chair, but also as a lawyer. Let me also take this opportunity to congratulate her *de facto* Vice-Chair. I do not know what happened to her *de jure* Chair, but that means that you are showing a vote of no confidence. I do not know why. Let me also congratulate Hon. Jennifer Shamalla. She is always doing an excellent job even when the Chair is away. I get extremely happy when I see women MPs doing excellent jobs. I wish we had a system of rewarding women MPs especially, when they do an excellent job.

Hon. Temporary Deputy Speaker, that is why I also want to encourage my sisters in the same spirit and because it was very difficult for us women MPs in the 10<sup>th</sup> Parliament, where we were very few. With the few numbers, we were able to do so much. In fact, I am thrilled because this Bill was actually brought by none other than Hon. Amina Abdalla. Because of her work, we now have a Chair, Hon. Gladys Boss Shollei, a woman, doing a further excellent job with Hon. Jennifer Shamalla, always there supporting her and Hon. Millie here supporting them. We are doing better than our male Members of Parliament. I can see there is a Member who is complaining. There is a Member who is trying to harass me that we are not doing better. Even if we look at the HANSARD alone, there is proof that we are doing better than the male Members.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Millie Odhiambo, I have not known you to be one to be harassed or to be intimidated. I have no doubt that you are not at all threatened by Hon. Nguchine who is sitting across the aisle from you.

Proceed.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Speaker, I am not saying that he has harassed me; he is trying, but failing miserably. When you have Hon. Millie, Hon. Gladys and Hon. Jennifer in the House, you cannot touch the women. We are doing an excellent job, but the measurement is in terms of qualitative and quantitative work. Show me any Committee that is doing the excellent work Hon. Gladys Boss Shollei is doing here. She is doing an excellent job. I plead with our women Members.

In the 10<sup>th</sup> Parliament, we were very few. We tried and managed to get 47 women into this Parliament. It pains my heart when we tear into each other as women MPs. If we put our energies together, we can achieve much. The positions we have, especially the affirmative action, we are not sure if we put this into a referendum, we will get the seats back. Let us not

draw attention to ourselves for the wrong reason. We have our own Members and we may disagree. I encourage women MPs that we retreat and talk to each other in the background instead of calling Press conferences to attack one of our own. Let us continue with the excellent job we are doing in this House as women MPs. Let us not be distracted by men to take away the good work we are doing. I am sure behind that Press conference; there is a male MP who told the women MPs to hold it. Do your work here without being thrown by men MPs to go and do their dirty work. If a male MP wants to attack a woman Member of Parliament, let him come on direct and let the woman MP deal with them directly. I know Hon. (Ms.) Gedi can deal with that male Member of Parliament directly. Do not send a woman to go and fight another woman.

With those few remarks, let me yet again congratulate the Committee and Hon. Gladys Boss Shollei. She has done an excellent job. Hon. Jennifer Shamalla and the *de facto*, but not the *de jure* Vice-Chairman.

Thank you and congratulations.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Odhiambo, you went slightly off the trail but, the Hon. Temporary Deputy Speaker is in a magnanimous mood this evening seeing that Christmas is beckoning.

Hon. Shamalla.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Hon. Temporary Deputy Speaker, I rise to support the recommendations of this Report. But before that, I thank Hon. Millie Odhiambo for her very gracious comments. She herself is an incredible inspiration, not only to women out there, but also girls and citizenry at large, including me. So, whenever I have queries I talk to Hon. Millie Odhiambo who adds a lot of value to my personal life.

I am the intellectual properties rights holder of the name Sir George. I am the one who baptised him Sir George. At another time and any time, it will be used economically; I will demand and reserve my right to royalties for the phrase Sir George. At another time, I will give the names of the others in my Committee.

In this Session, we have dealt with over 100 regulations. I reiterate that it is not all regulations that come to Parliament. What are brought to this Chamber are regulations we annul. Indeed, all committees are the engine of Parliament. It is important for Kenyans to know that the work is not really done here but at the committees. We sit literally every day save for Wednesday in committee meetings. We spend weekends outside our homes and constituencies in committee meetings. Indeed, committees are the engine of Parliament.

The committee is always strictly guided by the Statutory Instruments Act and we make our decisions by it.

Further, I take this opportunity to thank my colleague Members of Parliament for the wonderful year we have had. As we go on our long recess, I wish my colleague Members of Parliament and the people of Kenya a blessed holiday, a safe holiday. I hope as we go on this long recess, we will take a long time to reflect about our country.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Well spoken. It is noteworthy that the proposed Regulations that your Committee has nipped in the bud are timely and they would have usurped the very role of this Parliament. They are unconstitutional, and therefore, to that extent from what I hear from the contributions of Sir George and the great gracious lady Chair, and of course the teacher and legislator, the Hon. Millie Odhiambo, who has been very kind to Hon. Shamalla in this House. That is quite commendable.

We shall have contribution from Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker. May I also take this opportunity to appreciate the work this Committee is doing. I stand to support the adoption of the Report. I appreciate the Committee because in the last Parliament, I remember we never had many reports, but since the Committee has been on with the Chair, we have had very many reports from the Committee.

I also want to appreciate and support them because at the beginning, when the reports started appearing, they were annulling virtually all the regulations that were brought. I see it is not so in this case of the Central Bank. They have only had two sections of the Regulations annulled, meaning that others have applied the legal and constitutional requirement.

It is also important to remember that the banks had been issuing many instructions. We now wonder whether all those instructions we had in the banks, when depositing or withdrawing money, and whether one should be charged or not are in line with the law. It is important to find out – and the Committee can help in this – whether there are circulars and instructions out there in the banks that people are still adhering to that are *ultra vires* to these regulations that have been annulled.

One also wonders how bodies like the CBK and Government ministries bring such regulations when they have legal officers who can get support, if they require it, from the Attorney-General's office. How come they bring regulations that are not in order? There should be a process of sanctioning any institution that brings regulations that are not in line with the Constitution and the law. What else is happening in those ministries or institutions that are not in line with the law if already what they bring to us is not in line with the law? That is an important point to think about.

Lastly, when the Chair comes and introduces a *de facto* Vice-Chair, as much as it maybe in jest, it is a serious statement on the workings of the *de jure* Vice-Chair. It should not remain *de facto*. Serious action should be taken to make sure that either the *de jure* Vice-Chair works or is replaced. That is a serious statement coming before the House. Overall, I support and appreciate this Committee.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): If the great doctor himself appreciates the work of this Committee, then it must be good. It is true if the real Vice-Chair of this Committee is enjoying the fruits of that tree of Vice-Chair, he should put in the labour to ensure that fruit is fed. If he is not up to it, and the Hon. Sir George is up to the task, why should he not enjoy the fruit of his labour?

Hon. Nguchine, Member for Central Imenti.

**Hon. Moses Kirima** (Central Imenti, JP): Most obliged, Hon. Temporary Deputy Speaker. I take this opportunity to support the Motion by the Committee on Delegated Legislation, as relates to Regulations 26 (2) and 42 of the CBK and also the Mortgage Refinance Companies of 2019 (Legal Notice No. 134 of 2019).

As it has been said by the speakers before me, let me take this opportunity to congratulate this Committee on Delegated Legislation. As it is shown in the Motion before us, they have done much. It is not them alone who have done so even though my friend Hon. Millie has insisted that they are the best in the House.

In my Committee of Defence and Foreign Relations, we have never at any given time been barred by the law, or at any material time failed to deliver at the time expected. Many committees in this House, not necessarily those which are led by ladies alone, have done much. From the time I joined this Parliament, I can say it is a hardworking Parliament. There are hiccups here and there, especially where reasons are given by Cabinet Secretaries and Principal

Secretaries (PSs) of various ministries, whenever they fail to deliver upon the questions they are asked. Under those circumstances, we are caught up with time. However, that does not happen in my Committee of Defence and Foreign Relations.

On the regulations which the Committee prays that they be annulled, this House will also take notice that CBK has taken upon itself to forget that in Kenya, since we obtained the Constitution 2010, a number of things which are done to affect the public or the common *mwananchi* are supposed to pass through public participation. The CBK nowadays issues regulations even without considering how they will affect the common man on the ground or even the businessman who intends to open his business somewhere to assist the community and himself.

I am saying so because if you look at the law as it is now, for a pastoralist, or a livestock farmer who also plants coffee or tea to get, say, Kshs1 million, he or she requires to sell one bull, one he-goat and obtain some little earnings from coffee. There is no agreement made when you are selling your bull. It is all about a willing buyer and a willing seller. After selling, you can go to a SACCO somewhere and you get your Kshs200, 000. Together with the proceeds from the sale of the bull, it becomes Kshs1 million. When you take it to the bank, it will require you to produce an agreement showing what you sold or what you did to acquire the Kshs1million. They have forgotten that the Kenyan currency has been devalued to the extent that the Kshs1 million of today is not the same as the Kshs1million of the 1970s.

The CBK has taken Kenyans for granted by issuing regulations and orders which are impeding business development in Kenya. The Committee on Delegated Legislation has even more work to do, other than the one which they have done now, on how to prevail upon CBK because of these rules and regulations they use. For one to withdraw Kshs1 million, he or she must explain where it came from. They are forgetting that if you are doing any little business, for example, construction or you want to buy some spare parts of a vehicle, sometimes they cost more than that. I wonder whether we are in the same Kenya where we talk of freedom of business, free enterprise and developing a 24-hour economy. Is it possible with these kinds of regulations?

This House should come up with legislation to give the CBK direction on what it is supposed to do. We have given it so much freedom. Some of the regulations are an impediment to business in Kenya. Something must be done about CBK because it has become an impediment to business entrepreneurs in Kenya. One can operate a business anywhere in Kenya provided he is a Kenyan. When I want to open a business in Lodwar, why should I consult CBK? Why should I consult CBK that I want to open a business in Mombasa, Meru or Kisumu? If the Constitution allows me to settle anywhere, why can I not start business there? These regulations are an impediment to the development of Kenya. We cannot develop with these kinds of regulations. Such were meant to impede progress by Africans during the colonial rule. Africans could not open business in Nairobi, Mombasa, Kisumu, Eldoret or other big towns then. The regulations were maintained and decorated in one way or the other. They have now been imposed to us by the black colonialist who sits in big offices and continues to step on the heads of those people who matter much.

To conclude, since we are going on recess, I wish the Members of this House a good recess. Let us go back to the people who elected us. They want to see us to be with them, especially over Christmas so that, at least, they can hear what we have been doing throughout the year. It is raining everywhere in Kenya and if you drive carelessly like you do in Nairobi, you will be swept away by flash floods. We will be very sorry to be contributing here because an MP



was swept away by water. So, I pray that you be careful, especially when it comes to Maasai land, like when I see my friend there. I understand his place is impassable, but I wish him the best.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well spoken, Hon. Nguchine. You have reaffirmed the position of the male Members and their contributions, their worthy contributions in this House that they will not go the alleged way of the boy child who seems to have been overtaken by the girl child. We should try as much as possible, like Hon. Millie who is sitting next to you. We should develop these two in *pari passu* as it were.

The Hon. Kitonga has been waiting. Let him as he is say on this.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I am part of the team of the great Committee on Delegated Legislation. I am happy to support this Motion.

The CBK has made very many regulations which have not been brought to Parliament. You will find them when you go into banks. You will wonder where the regulations came from and why they are doing it. The other day I was told that I have to give my biometrics in a bank before I am served. I wondered what regulation it was. I cooperated because I needed the money, I realised later on that I had to sign a contract. So, they have a way of going round the law so that it looks like it is my agreement with the bank. This has also happened in these regulations. The main point of amending the regulations is because the CBK has re-delegated certain powers delegated to them to another body. Of course, there is a principle in law that you cannot delegate what has been delegated to you. That is the principle they have breached.

Generally, there must be public participation. It was poorly done in this case. I am a supporter of SACCOs. They deal with finances. The CBK is to a great extent managing them. They were not consulted, among other micro-financing institutions. The public participation was poor. Again, they went against Section 13(m) of the Statutory Instruments Act. Therefore, having breached the law, this Committee found it good that we annul these regulations so that they can go and reorganise themselves and come back to this House.

While making any law, we must follow the Constitution – existing laws then the regulations follow. You cannot make regulations which are unconstitutional or do not originate from an Act.

I beg to support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well, Hon. Kitonga.

Hon. Eve Obara, Member for Kabondo.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): Thank you very much Hon. Temporary Deputy Speaker for giving me the opportunity to speak on this Motion.

I too stand to support.

*(Loud consultations)*

Some people here are distracting me. Can I be protected?

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): What is distracting you? Hon. Odhiambo, you are the teacher legislator of your colleagues. Allow Hon. Eve to also develop.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): Thank you, Hon. Temporary Deputy Speaker. As I said before, I too support the Motion. I congratulate the Committee for a job well done and for annulling the regulations. They have actually reclaimed the role of Parliament and stood with the people of Kenya. I want to say here that this is a clear message to other agencies not to attempt to bring regulations and rules that are not in line with the law. Not to repeat what has already been said, I support.

Given that we are soon going on recess, I want to wish all my colleagues a Merry Christmas and a prosperous New Year. As we go out, lest any of us forget that we hold positions of privilege as we sit in this House. My appeal to my colleagues is that we do not use the platforms that we have to sow seeds of discord amongst our people, but do things that bring us together as opposed to those that divide us, particularly to the women as has been mentioned. There were very few women in this Parliament. Now, because of those women who came before us, we have at least a good number – 47 lady Members in addition to the 23. It will be most unfortunate that we do not leave those doors open for those who will come after us by the actions that, out there, definitely appear as those that are dividing the Kenyan people as opposed to putting us together.

Once again, merry Christmas to everybody and may you have a prosperous New Year. Thank you very much.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): You have spoken straight to the Speaker's heart. What is out of order, Hon. Millie Odhiambo?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Speaker, I need to get guidance from you. I thought we are going on recess on Thursday, but Members are busy wishing us merry Christmas today. Are they intending not to come to the House tomorrow or the day after? That is so that I know and give my merry Christmas wishes today.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Millie Odhiambo, you will have noticed that you have a way that you always get an opportunity to speak when you are in this House. A lot of the other Members do not get that opportunity. So, they are just being keen that in the event they do not get an opportunity tomorrow or the day after, they would have wished their constituents and colleagues merry Christmas. I think they are in order.

Hon. Kabinga?

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker.

Given that we are just about to go on recess and knowing that we have a lot of business ahead of us, I stand on Standing Order No. 95 and call on the Mover to reply.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kabinga, you are actually the very last person who was going to speak before I call on the Mover to reply. Therefore, I call upon the Hon. George Murugara to reply.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. Let me thank everybody because we have had very lively debate and contributions. Parliament is reaffirming its stand in the legislative process of this country. This is exactly what we should be doing from time to time. We should also ensure that nobody out there tries to usurp the role of Parliament.

I beg to reply.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I direct that the next necessary steps on this Order of business be undertaken when it will be set down on the Order Paper again.

*(Putting of the Question deferred)*

Therefore, I direct that we move to the next Order of business on the Order Paper.

## **BILL**

THE TEA BILL

*Second Reading*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I do not see the Chair. I direct that business be deferred and we move on to the next Order of business.

*(Bill deferred)*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM) *(Off-record)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Obviously, the men must pull up their socks. The Hon. Millie is right in this instance.

The next Order of business, please.

## **MOTION**

ADOPTION OF REPORT ON CONDITIONAL APPROVAL OF A NOMINEE  
AS APPOINTMENT TO AN AMBASSADOR

THAT, taking into consideration the findings of the Select Committee on Implementation on its Report on Examination of the Implementation Status of the Resolution of the House of 6th June, 2019 regarding the conditional Approval of Ms. Mwendu Mwinzi for Appointment as Ambassador of Kenya to Seoul, South Korea, laid on the Table of the House on November 27, 2019, which takes cognisance of the determination of the High Court of Kenya of 14th November, 2019, (Nairobi Constitutional Petition No. 367 of 2019) particularly paragraphs 104 and 105 that, while Ms. Mwendu Mwinzi cannot be coerced to renounce her citizenship of the United States of America (USA), a person holding dual citizenship ought not be an ambassador unless the person renounces the citizenship of the foreign state as dual citizenship may jeopardise the national interest of the Republic of Kenya against the interest of the foreign state; this House REJECTS the appointment of Ms. Mwendu Mwinzi as an Ambassador.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I am confident about this one that the Chair is there. It is my senior, the honourable Member for Narok North.

Proceed.

**Hon. Richard ole Kenta** (Narok North, ODM): Hon. Temporary Deputy Speaker, I would like to first of all let the House know that this is a very deep Motion. On the face of it, somebody may think it is a light Motion. Because of that, it is very important that we realise that this debate is beyond Kenya. It is actually dealing with people of different nationalities. This debate has been around and has polarised the country.

At the end of this Motion, this House will decide on the rule of law and its place in the Constitution of Kenya. I am not moving it as yet. It is very important that when this Motion is moved, we have enough people to contribute so that the analysis of what this House says will determine whether this House retains some authority and its position in the constitutional dispensation of this country. I have consulted the leadership of the House and we are in agreement that this Motion be stood down to tomorrow. That is what we have agreed on. For the purposes of Members, there are some messages going round advising Members to shoot down this Motion. It is a Motion that will be debated critically for us to, at least, reach a very reasoned and acceptable position.

Thank you, Hon. Temporary Deputy Speaker. I request that the Motion be stood down.

*(Hon. (Ms.) Odhiambo Mabona consulted loudly)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Millie Odhiambo, there is nothing out of order. The Chair has requested that this particular Motion be deferred. There will be no debate on it. I direct that this particular business is deferred until such time as the HBC will put it in the Order Paper again. I therefore direct that we move to the next business.

*(Motion deferred)*

ADOPTION OF PAC REPORT ON FINANCIAL STATEMENTS  
OF THE NATIONAL GOVERNMENT FOR FY 2016/2017

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Public Accounts Committee on its examination of the Report of the Auditor General on the Financial Statements for the National Government for the Financial Year 2016/2017, laid on the Table of the House on Wednesday, 27<sup>th</sup> November, 2019.

As I move this Motion this evening on the Floor of this House, I am indeed extremely proud of the work that PAC has been able to do in the last two years or so, bearing in mind that the Committee was inaugurated on the 18<sup>th</sup> December 2017 or thereabout. From that time, the Committee has been able to process reports covering three financial years, that is, 2014/2015, 2015/2016 and now 2016/2017. That is a record, bearing in mind the amount of work that the committee has to go through in terms of examining reports of the Auditor-General.

It is worth pointing out that given the milestones we have achieved so far as a Committee and also given the fact that as we speak we have embarked on examination of the report of the Auditor-General for the FY 2017/2018 which we are scheduled to complete, God willing, within the first half of the year 2020, it means therefore that we have as a Committee achieved the target that we had set for ourselves of delivering an up to date scrutiny and reporting on the audited accounts. I say this for the reason that the 2017/2018 report is actually the latest report that has been submitted to this House by the Office of the Auditor-General. And this is important, when you look at it from the point that Article 203(3) of the Constitution provides that equitable share of the revenue raised nationally be allocated to the national government and county governments on the basis of the most recent audited accounts of revenue as received. That means that my

Committee has been able to ensure that, through its diligent work, monies being taken to the counties shall no longer be based on historical figures but shall be based on extremely realistic statistics. This will definitely mean that the counties shall get enhanced revenue allocation, a factor that can only contribute to the strengthening of devolution, as it were. On this account, I must say thank you to my Committee Members for the diligence they have exhibited throughout their work in the Committee.

There will be no more excuse of people out there, sometimes out of ignorance, lamenting that Parliament is behind schedule in terms of examining the reports of the Auditor-General. That is now a thing of the past. At least, the PAC of the 12<sup>th</sup> Parliament has proved naysayers wrong; that this Parliament can actually deliver where it matters; and that going forward, the officers in charge of the county governments, particularly the governors and their county executives, once they get these monies as a result of the work this Parliament has been able to do, through the PAC, they shall put those monies to proper use; that they shall have no more excuse to say that development work is not going on in the counties as a result of inadequate allocation of funds; that this Parliament shall have ensured that they get the most appropriate amounts of money in terms of revenue share.

As I say this, let me also highlight a few issues that my committee has pointed out very clearly in this report. Unfortunately, these are recurring issues, in the sense that year in year out, they emerge as we examine these reports and we raise them in our reports and yet they continue to recur. One of the issues that we will have to confront as a country is to be able to realign our Budget to match our capacity at revenue collection. You will agree with me that there is a serious mismatch between our supplementary estimates and what we can realistically collect as revenue as a country. So, what we end up with is essentially a wish list in the name of a budget. We have become too optimistic that somehow through some miracle money shall be available and yet we know from history that we have not been able to do much in terms of revenue collection due to multiple factors.

The moment we shall align our budget to reflect the realistic revenues collected, then we shall be able to implement this Budget properly. The moment we continue to be optimistic and yet fail to collect the targeted revenues, we go back to the Budget. First of all, we do what has now become a ritual, the supplementary budgets. However, beyond that, we continue to incur what has become a common parlance, the so-called pending bills. I am talking of pending bills in the sense that the Ex-Chequer cannot be released because there is no money at the national Treasury. The reason there is no money is that Kenya Revenue Authority (KRA) has been unable to collect money because the economy is shrinking. We must be realistic going forward as a country. If we want to continue being overly optimistic or realistic then we need to cut our cloth according to our size.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Wandayi, without interrupting you, supplementary presupposes that you are adding. Proceed.

**Hon. Opiyo Wandayi** (Ugunja, ODM): I wanted to listen to you carefully first. During supplementary estimates, we have both movements. There is a situation where we are increasing expenditures in other votes while decreasing others. The bottom line is that eventually we are unable to absorb all the money budgeted for in a financial year. The reason is that the money is not there in the first place. If we got time we could discuss that more and more. However, the fact of the matter is that we need to rein in this tendency of trying to mislead the country that we have money yet we do not have. The issue I was talking about that keeps on recurring is that of

pending bills. It happens, as I have said, as a result of inadequate or delayed Ex-Chequer releases.

Secondly, we have the phenomenon of white elephants. If you go to the countryside, you will be confronted with very many projects that have either stalled or are progressing at a snail's pace. This is not a demonstration of prudent use of public funds. Projects, once they are conceived and there is adequate budgetary provision, they need to be implemented within the specified timelines. That is when the country or the public can derive value for money. It is a no-brainer.

The third issue we continue to face as we work as a Committee is the perennial lack of documentation. This is a matter that needs to be addressed more seriously. We have flagged this issue before and, in fact, recommended it for further action by other agencies. We do not see action being taken. It has become a common phenomenon that accounting officers fail to avail the necessary requisite documents for the expenditures they have incurred on behalf of the public. Whenever those documents are required by the officers of the Auditor-General, one year or so down the road, those documents resurface. They resurface at our Committee when they are no longer of use. This is because whoever has got use for those documents is the Auditor-General. When he demands for them, they are not availed. They resurface when we summon the respective accounting officers before us. This is a matter that needs to be addressed very seriously.

I want to challenge the appointing authority, in this case Mr. President. That in cases where we have raised this matter in reports, and we have singled out specific officers who have continued to fail or have refused to produce these documents for audit purposes. The President should take the necessary action and, if possible send them home.

The other issue that is recurrent is the matter of accounting officers continuing to violate the laws governing procurement. The laws are very clear as to when you can use direct procurement method and when you can go for open tendering process. What we have seen is a situation where accounting officers conveniently choose when to go for direct procurement, restrictive tendering process and when to opt for open tendering process. This is done so conveniently so that in the final analysis the public fails to derive the value for money that they are entitled to.

If you look at our report, which is more than 100 pages, you will see a pattern. Those agencies or state departments or ministries that are involved in more development projects that entail a lot of procurement have got more serious audit queries, whereas those ones that do not engage so much in capital projects the audit queries diminish. That goes to tell you that this is something that happens as a result of people's conscious decision to break the laws so that they can benefit themselves or others unfairly.

We have raised some specific issues in this report. One of them is the issue of a special scholarship programme in the Ministry of Education. There is a strange scholarship programme which is neither backed by any law, regulation nor any form of policy. It benefits children of the so-called prominent persons who have died. This is a country governed on the basis of rule of law. So, even if the idea is noble or there is a justification to pay school fees for children of prominent Kenyans, whatever prominent means, it should have been on the basis of a policy which is developed, or on the basis of some law or some regulation. As we speak, this so-called scholarship is being abused. In fact, when the accounting officer for the Ministry of Education came before us, we got the impression that this scholarship is not even being driven from the ministry itself; that indeed there are external forces driving it.

We have; therefore, gone ahead to direct as a Committee, if this House agrees with us, that that scholarship programme be suspended with immediate effect until such a time that the Executive shall develop a policy paper and the requisite laws or guidelines to govern it. That is the only way to safeguard public funds.

Hon. Temporary Deputy Speaker, there is even no parameter to determine whether so and so is permanent and the other one is not. It is basically left to the whims of a few people who wake up every day and decide to pay school fees for so and so's child. This school fees is being paid in the most outrageous way. You find these children in the high level schools and when they go abroad they go to the most expensive schools. When they are in Kenya they go to those schools offering international programmes and yet Kenyan children of tax payers are struggling to go to public schools to get an education. We cannot downplay the contributions some of these Kenyans have made to this country but there must be a guideline.

We must say who it is that qualifies. Are they freedom fighters? Are they Cabinet Secretaries or MPs? Who are these prominent persons and who defines them? So, my Committee has recommended an immediate suspension of that scholarship program. If this House adopts this Report, whoever shall attempt to implement that scholarship program shall be doing so against the directive of this House and with obvious consequences.

There was the issue of maize importation done by the Ministry of Agriculture in the year 2016/2017. The country spent a whopping Kshs 11 billion for a purported maize importation program. When we summoned the accounting officer in the Ministry of Agriculture, my Committee was shocked that up to date, two and a half years down the line, the Ministry is unable to produce documents to show that the maize was imported and paid for. We have been struggling to find out who are these fellows who brought the maize.

*(Loud consultations)*

Hon. Temporary Deputy Speaker, there are loud consultations here.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Vice Chair of the Departmental Committee on Education and Research...

**Hon. Opiyo Wandayi** (Ugunja, ODM): I am raising serious issues on maize and Hon. Members here from Western Kenya should be more attentive because it affects them seriously.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Yes. Hon. Members from the maize growing areas of Lugari, Vihiga, Sabatia, Bungoma and Kakamega where sugar is grown, this is critical to you.

Hon. Wandayi, before you go on, you seem to have talked about some special scholarships scheme which is not grounded in law and which does not seem to have a budget line that was passed by this House. I hope in your recommendations you have identified the officers who are signing on the dotted line of those cheques so that they can be held accountable for what has been disbursed outside the budget lines of this House. Proceed.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Deputy Speaker, It goes without say that my Committee has been very meticulous in identifying these officers who have used public funds in a most imprudent manner. The country spent a whopping Kshs11 billion in the Financial Year 2016/2017 on purported maize imports. When we tried to dig deeper into this matter, we were shocked.

First, we were told that this maize was imported by people who turned out to be the millers who were doing milling business in this country. They imported maize and the

Government bought it from them. After buying the maize from them, the Government sold the maize back to them. It was a circus and they made a kill. We were told that this maize was lying somewhere on the high seas and when the decision was made by some *ad hoc* committee, the maize came in all over a sudden.

We have been seeking to talk to the people who handled the maize, but we have not been successful to date. My Committee has recommended, because the matter is recurring in the 2017/2018 Financial Year audit Report, we reopen the matter and dig deeper into it and unravel the faces of the real persons behind this fraud. It sounds like a thriller such that as we speak, the accounting officer together with his officers in the Ministry of Agriculture cannot produce the documents to show the payment vouchers used to pay persons for the amount of maize they imported. They want us to believe that those documents disappeared just somehow from the Ministry. It is a matter we are not recommending for any investigations by the Director of Criminal Investigations (DCI) or whoever. It is a matter we are still seized of. This is because we know what happens when we recommend to the DCI and the EACC to take over; they shall be doing it in the back rooms. We want to deal with these fellows in the full glare of the media and the public. We want to insist that each and every miller who purportedly brought maize and sold it to the Government; bought it back from the same Government appears before us. That person should tell us how the maize got to the high seas when the country was in need of maize and having a maize shortage and suddenly it got into the country.

Hon. Temporary Deputy Speaker, unless we use this as an example, this dragon called impunity shall never be managed. That is just a tip of the iceberg, I can tell you from where we sit as a Committee. So, this wanton theft of public funds has continued to happen because the persons who are perpetuating it know that ultimately nothing will ever happen to them, going by past records. We keep on dealing with the small fish and yet the barons remain untouchable. If there is something called a cartel, then it is alive and kicking in the Ministry of Agriculture. It is incumbent upon this House to take a decisive action and dismantle these cartels. If we do not do so, history will judge us very harshly as a House.

Hon. Temporary Deputy Speaker, as I conclude there is the issue of the properties owned by Kenya in foreign missions. My Committee has had occasion to visit few of these missions abroad. You find that in cases where the country owns certain properties which it bought many years ago, those properties have been left to degenerate and most of them are in deplorable states as we speak and yet we continue to spend money renting houses for ambassadors and embassy staff.

A case in point is the Kenya House in New York which is supposed to be the Kenyan Ambassador's residence. It is such a magnificent house standing on about three quarters of an acre in an upmarket suburb of New York City in the US. It has been unoccupied for the last eight years and yet the country continues to pay rates. In America rates are very expensive. The country continues to pay rates for the degenerating building and also pays rent for the ambassador and other officers at the same time. This basically demonstrates a lack of focus and insensitivity on the part of those tasked with such a responsibility. This basically demonstrates lack of focus and sensitivity on the part of those who are tasked with the responsibility of managing public funds and we can go on and on. The kinds of things we have witnessed are like a Hollywood movie. On the issue of public debt, I was amused this afternoon to hear a colleague attempting to advocate for the formation of an *Ad hoc* Committee to address this matter. This is not necessary because the facts are there and they speak for themselves.



Within the last five years or so, the public debt has risen in a manner you cannot imagine. The problem is that the justification we are given for this rise does not hold any water. You will read the Report and get shocked at the statistics. Without going into details, the fact of the matter is that this country has in the last few years engaged in a borrowing spree.

This is a matter that needs to be addressed by this House in one way or another. I understand the Departmental Committee on Finance and National Planning is dealing with it. This matter should not be taken lightly. We need to understand the rationale and what motivated the country to get into that kind of borrowing and the results because ultimately, it is the Kenyan taxpayer who will continue to shoulder this burden. This has been occasioned by decisions made by some mandarins seated in darkrooms somewhere.

As I conclude, PAC continues to discharge its mandate in a most object manner. As I said earlier on when we got into office, we shall continue to discharge our mandate and responsibility without fear or favour. We shall continue to point out these irregularities and illegalities openly and transparently. We need to rein on accounting officers and the appointing authority being the President to help Parliament.

We have even recommended that we make amendments to the law and empower the Auditor-General to approve the officers given the mandate of being accounting officers. If an accounting officer has recurrent audit queries which are not resolved then they cease being accounting officers. For them to come back they need approval by the Auditor-General or this House depending on what kind of recommendations we make. They need some sanctions because if this is left to the President or appointing authorities these officers continue holding their positions.

Yet, they have these serious audit queries hanging over their heads. It cannot be that one officer can continue to have unsolved issues in their dockets year in and out, yet they continue to sit in their pretty offices. If we recommend they go home and the appointing authority does not send them home they will remain there. Not unless, we move an impeachment Motion in this House. We must demonstrate that we are committed to fighting corruption. Not just by words, but through actions and deeds. We want the President wherever he is to listen to us as a Committee and take action. We are about 47 million Kenyans and half are adults. Why should we stick with 20 or so people who continue to give the Government a bad name as if they are some sacred cows. My Committee will continue to discharge its mandate ruthlessly and objectively, even in the New Year. Already, we have asked the Speaker to give us permission to come back fairly early. We want to start the New Year with the Ministry of Agriculture and deal expeditiously with the matter of phantom maize imports and recommend specific actions for this House to adopt.

Hon. Temporary Deputy Speaker, with those very many remarks, I beg to move and ask my Vice-Chair, Hon. Jessica Mbalu to second.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well spoken, Hon. Wandayi. Let us have Hon. Jessica Mbalu.

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Chair of PAC in presenting the Report on Examination of the Financial Statements for the National Government for the Financial Year 2016/17. This includes Ministries, State Departments, Commissions and Independent Offices for the year under review.

Allow me to thank the Chairman, Hon. Opiyo Wandayi. He spent sleepless nights working together with the secretariat led by the Committee Clerk, Oscar Namulanda. We have presented the Financial Statements for the National Government for the Financial Year 2016/17 to this House and the beneficiaries are the county governments. We are dealing with the most recent audited accounts and the beneficiary is the public. This is because we are looking into the prudent expenditure of the public funds. We have made recommendations and if the authorities and agencies follow them, public funds will be safe and there will be more development and the public will benefit.

Allow me to talk about a few issues because of limitation of time. The Committee was able to separate critical and elephant issues. We made recommendations on the elephant issues which we hope and pray that they will be adopted. Amongst the critical issues is Integrated Financial Management Information System (IFMIS). Year after year, as we present our audited accounts report to the National Assembly IFMIS has been an elephant issue. There is also the issue of Consolidated Funds that could not be explained or matched with the expenses. The Cabinet Secretary (CS) has been briefed on this matter and the Committee made recommendations. One, being that on a daily basis the relevant state departments should reconcile their accounts. They should not wait till closure of the financial year to reconcile because the Auditor-General raises queries especially on the issue of payments.

We found most ministries do not keep fixed assets registers in the right form, yet this is an accounting document. Sometimes, this could be an overlook. So, this Committee has made recommendations and the Government units should ensure accounting is done as per the standards in the relevant Acts. There is also the issue of unsupported documentation as the Chair put it very well. It is usually a shame when an accounting officer appears before us as a Committee and they are not able to produce documents. They are not even able to explain the supporting documents as they were supposed to have been presented to the Auditor General (AG) at the time of audit. We have had a lot of queries and questions including procurement documentation. Some accounting officers have not been able to even give us procurement minutes. That is why we say the Devil is in the details. The Committee has gone ahead to make recommendations to ensure such accounting officers are reprimanded or the right action is taken to ensure that the accounting procedures or public funds are safe and prudently used.

Some accounting officers were not able to explain to us how they arrived at some procurement process methods. One would not be able to explain direct procurement, open tenders and issues of specialised procurement. Such have been picked by the Members of the Committee and the relevant recommendations have been made which I plead that the Government agencies pick up to ensure that such are put together.

There is also the issue of outstanding imprest. I must state and present to the House that at the closure of the 2016/2017 financial year, the amounts that were not surrendered or were unaccounted for in terms of imprest were to the tune of Kshs518, 096,643. We have made recommendations on this. We have also stated the ministries or the Government agencies that have been affected so that they can be picked one by one and the amounts of money that have not been collected in terms of imprest noted. Parliament gives a lot of money to ministries and Government agencies. We recommend that such state departments should account for public funds in the right way, manner and be able to report on the same.

There is the issue of pending bills. We have had issues of contractors working and not being paid. I must report to the House that at the closure of the 2016/2017 financial year on 30<sup>th</sup> June 2017, amounts of Kshs16, 712,379,101 had not been paid. We established Exchequer issues

and variations of estimate cost on projects. We have given the way forward in terms of recommendations.

Because of limitation of time since I am just seconding, the Committee came up with several recommendations. If the recommendations are followed, even as we look at the expenditure, we will save this country a lot of money. Secondly, we will implement projects to the benefit of the common *mwananchi*.

Some of the recommendations we have made can work for this country. First, the Cabinet Secretary (CS) for the National Treasury and Planning should within three months of adoption of this Report issue a written reprimand to all accounting officers who failed to manage imprest by ensuring that the outstanding imprest due are surrendered in time and in line with the provisions of the Public Finance Management (PFM) Act, 2012 and Regulation 93 of the PFM (National Government Regulations) 2015.

We have also recommended that the CS should within three months of adoption of this Report and its recommendations, draft and submit to the National Assembly amendments to Section 67 of the PFM Act by introducing a new subsection after subsection 2 to provide for annual tabling for approval of all the names of persons designated as accounting officers for the respective entities together with the annual Appropriation Bill. Any accounting officer whose entity received a qualified audit opinion from the Auditor General should not be eligible for designation as accounting officer unless cleared through writing by the Auditor General. As a Committee, we thought that these measures and recommendations...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Jessica Mbalu, you will have two minutes. You are performing a very important role. Proceed.

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for your two minutes. As I said, I have limitations of time because I am just seconding.

We also recommend that the Auditor General should within three months of the adoption of this Report undertake a special audit on the Treasury bonds and bills records for the period 2012/2013 to 2018/2019 financial years. The report should be tabled in the National Assembly within six months of adoption. I am sure the Members will be able to look into it.

In general, we have made several recommendations as the Chair said; the Members will contribute and as it is indicated in the Report to ensure that public funds are spent prudently. The Constitution in Article 226 has given us powers to summon any officer who sits in any Government office who is either in or out of office to answer questions in terms of imprudent expenditure of funds. For that matter, no one will be able to run away with public funds.

Allow me to also thank the offices of the Clerk and the Speaker for giving us extra time as a Committee to ensure that we were able to present the Audited Accounts Report to the National Assembly to benefit the national Government in terms of allocation of funds and the public in terms of ensuring their money is spent prudently and they receive what is theirs.

I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, this is one of the most important roles that this House undertakes. This goes to the core of oversight. Listening to the Report by Hon. Wandayi, I hope that this will generate very robust debate on the

Floor. I only see one Member who is interested in speaking. This is surprising. Nevertheless, I will give the first opportunity to Hon. Angatia Savula, Member for Lugari.

**Hon. Ayub Angatia** (Lugari, ANC): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to also contribute to this important Report from the Public Accounts Committee.

First of all, I thank the Chairman, Vice-Chair and Members of the Committee for having done a wonderful job. You have pushed the image of this House to another level in terms of handling reports. They have done a good job having handled the accounts for the Financial Year 2016/2017 and focused on the Financial Year 2017/2018. I congratulate them because the Report is very comprehensive as it touches one very sector.

The only issue I want to raise concerns is the public debt. We are informed that the Kenya Government was supposed to pay for the SGR by January this year, Kshs25 billion. The money is supposed to be transferred to an escrow account within 29 days. Before the debt, they are supposed to submit the money to the Chinese investor.

It is not the responsibility of the President of the Republic of Kenya to manage the public debt. It is the responsibility of the experts that the President has employed, starting from the Cabinet Secretary in charge of the national Treasury, the Principal Secretary in charge of the National Treasury and the line officers to manage the debt. If we stand here and complain that President Uhuru's Government has done this-or-that, it is them to advise the President. As a Member of Parliament for Lugari Constituency, I do not advise the National Government Constituencies Development Fund Lugari. They draft project proposals and bring them to me complete for approval. They are the ones on the ground to tell me what is happening.

We mislead the public when we say that President Uhuru has allowed the public debt to balloon. That is not his responsibility. He provides political leadership. The experts must do their work. If they cannot, let them go home. We have the likes of Hon. Wandayi here who are experienced. Look at what they have done in the Report: a wonderful document. Why can he not be the Cabinet Secretary National Treasury? We have a madam there who has done a wonderful job. Why can these people not be absorbed into the system to deliver instead of having some moribund elders at the national Treasury being paid, but doing zero work and sabotaging the work of Government?

On the same note, my party leader advised the experts at the national Treasury, that if they really want to effectively manage public debt, they should create a Public Debt Management Authority. Why should we have the Kenya Sisal Board, National Employment Authority and the Kenya Urban Roads Authority, when an important parastatal, the Public Debt Management authority, is not in existence in this country? How are we going to manage our public resources? If we put it under a department under the Cabinet Secretary in charge of national Treasury, we will be doing zero work. There is no efficiency. We know how civil servants work.

In a parastatal, we will have functions, a board that will control and regulate a CEO who will report and one who will be accountable. The Authority will be accountable to Parliament so that we know how to manage the debt. If we do not have a Public Debt Management Authority and leave it to the civil servants at the national Treasury and just create a debt management desk, we will be doing zero work. We will be killing this country. If we kill the country, we will burn together. Right now there is little money in circulation because we did not manage our debt properly. The national Treasury has no money to pay suppliers. The President directed that the suppliers be paid. Are they being paid? There is no money to pay them. The Auditor-General has

cleared several pending bills, as the Committee has explained, but there is no money to pay the pending bills.

A stable economy depends on the Government. You cannot tell me as a businessman that you can depend on the private sector to grow an economy. A stable economy is grown by the Government because the Government is the biggest spender. So, if the Government as a big spender is not paying suppliers, which economy will thrive? We should not blame the leadership. President Uhuru is a politician. The experts are at the national Treasury. Let us have responsible people at the national Treasury.

The Cabinet Secretary in charge of national Treasury is a very important person. The Principal Secretary at the national Treasury is in charge of appointing accounting officers of all other ministries. Let us have a substantive Cabinet Secretary at the National Treasury; let us not have an acting Cabinet Secretary. If you have a problem, how will he sort it out? He is merely acting. He has no total responsibility. Let us have a substantive Cabinet Secretary at the National Treasury.

The Cabinet Secretary also messed recently. How Parliament appropriate money to Judiciary then a Cabinet Secretary comes overnight to scale down the allocation without Parliamentary approval? That was very wrong and in bad light. We have separation of powers. In this Government, we have the Judiciary, Executive and Legislature. Each arm must control its own resources independently and operate independently, not the childish way of an acting CS waking up at night after differing with his wife to slash the budget of the Judiciary. That was very wrong. If you want this country to go to the dogs, then slash the budget of Judiciary and limit its operations. For any nation to be stable, you must have a body that looks into mechanism of resolving disputes that is stable. We must stabilise the Judiciary by allocating it money. The Cabinet Secretary must write an official apology to the National Assembly because he had no authority. It is only Parliament that has authority to slash or increase the allocation to any Government department. Where did he get the powers and he says he went to school? Are these the people who schooled in Dubai? We have to increase the level of vetting of Principal Secretaries and Cabinet Secretaries so that we know those capable of doing the job.

I am happy because of the views that have been collected under Building Bridges Initiative (BBI). If we adopt the BBI Report, we will make changes that will move Kenya forward. We will have Cabinet Secretaries from here. Hon. Wandayi will be the Minister for Finance and Washiali, the Minister for Agriculture to sort out Mumias Sugar Company. He is on the ground and knows what is happening in Mumias Sugar Company. He knows the dose to give Mumias Sugar Company to resurrect it, to make sure that it does not go to the mortuary. He has the prescription because he has been a Member of Parliament of that area. He interacts with the farmers. He knows the origin of the problem of Mumias Sugar Company. Do not tell me Mwangi Kiunjuri who understands the coffee sector only, is aware of the problems bedeviling Mumias Sugar Company. We have always said here that the economy of Western region is being killed. Pan African Paper Mills Factory was sent under receivership and so is Mumias Sugar Company. The following year, you will hear Nzoia Sugar Company is under receivership based on the content of this Report.

Finally, there is the issue of some individuals in this country roaming around the country and launching projects without a budget line. We need to operate like the National Government Constituencies Development Fund (NG-CDF). You can only launch a classroom as an MP when NG-CDF money is in that account. That is what the Public Procurement and Asset Disposal Act says. But you find some individuals because they want political mileage, are today in Lugari

Constituency launching Lugari Technical Training Institute (TTI) then five years later, Lugari TTI is not there, and Savula has remained with a problem. He utilises NG-CDF money to construct a TTI. We are asking that we deal with all stalled projects and the Government should give priority to that.

Because of time, I beg to support this Report. Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Savula, Hon. T.J. Kajwang' is wondering what role you would have for him in that proposed government where you have Hon. Washiali and Wandayi as Cabinet Secretaries. Hon. ole Kenta.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. I would like to add my voice in support of this Report and urge the House to adopt it.

When we read about how our country is run, we get worried. People in Government are spoiling the future of our children and destroying the livelihoods of our farmers. In essence, they have failed the country.

Hon. Temporary Deputy Speaker, when you have a Government creating a special Fund for prominent people, whether deceased or not, you start wondering whether this is a country only for the rich. The poor have no chance.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Richard ole Kenta, we have been very unfair to you today. However, such are the rules we operate under. Time has caught up with us. I hope you will make yourself available for the chance when this debate continues so that you will have a balance of nine minutes. I am sure you have very interesting things to say.

**Hon. Richard ole Kenta** (Narok North, ODM): I will continue next time, thank you.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Wednesday, 4<sup>th</sup> December 2019, at 9.30 a.m.

The House rose at 7.00 p.m.