

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 15th June, 2016

The House met at 2.30 p.m.

[The Speaker (Hon. Muturi) in the Chair]

PRAYERS

PETITION

POLLUTION OF RIVER ATHI

Hon. Kilonzo: Hon. Speaker, I have a public petition by residents of Yatta Constituency regarding pollution of River Athi.

I, the undersigned, on behalf of the residents of Yatta Constituency draw the attention of the House to the following:-

THAT, Article 42 of the Constitution accords every person the right to a clean and healthy environment;

THAT, River Athi is an important source of water for residents of Kajiado, Nairobi, Machakos, Kitui and Makueni counties;

THAT, the residents of these counties utilise the river water not only for domestic use but also for irrigation;

THAT, industries and the entities surrounding the river have been discharging effluent into the river thus polluting and rendering it a health hazard;

THAT, the continued discharge of effluent to the river poses a threat to the health of the residents in the surrounding areas;

THAT, the issues in respect of which this Petition is made are not pending before any court of law, constitutional or statutory body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources intervenes to prevent further discharge of effluent from industries and have the river cleaned up; and, ensures that those responsible for the pollution are held accountable.

And your petitioners will ever pray.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, may I get an indication as to the members who wish to comment on that Petition by the Member for Yatta because I can see there are those who get in and insert their cards for whatever business? Does this include Hon. John Munuve? Yes, the Member for Mwingi North.

Hon. Mati: Thank you, Hon. Speaker. I wish to support that Petition. My friend, Hon. Mwangangi, stated that the river serves only a few districts. This is a national facility. Being the second biggest river in the Republic of Kenya, it serves a big population of this country. A lot of

food that we eat in this City is produced downstream on this river. If this river has heavy metals, all of us will be victims of that effluent.

I remember very well that the late Hon. Michuki tried as hard as possible to clean Nairobi River and all the tributaries of Athi River but this effort seems to have stalled and nothing much is being done about cleaning the effluent of Nairobi River, other tributaries and rivers from heavy industries in Thika. This should be seen as a ticking time bomb. If the four million people who live in Nairobi consume vegetables and fruits grown downstream on this river, especially in Kibwezi area, all of us are basically ingesting heavy metals from the River. The metals find their way back through the vegetables and the food that we eat. This matter needs to be dealt with expeditiously. I must say that we need the kind of effort that the late Hon. Michuki put into this matter. He had promised Nairobians that in 10 years they would be able to swim in Nairobi River, which is a major source of water that goes into Athi River.

So, I strongly support this Petition and I would like us to see this not as a regional facility but as a national facility that will endanger the lives of Kenyans. It will also endanger the capacity of Kenya as a Republic to export. We know that Kibwezi area produces a lot of fruits which the Government has been trying to get into the European market. These fruits will not be admitted into that market if they contain heavy metals. With the standards they have set in the West, we could be in serious trouble in terms of economic loss.

So, I strongly support the Petition. I request the relevant Departmental Committee to impress upon the relevant Ministry to make sure that this matter is dealt with sooner than later. Otherwise, it will become a national disaster.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I want to constantly remind you to always carry the small version of the Standing Orders so that you look at Standing Order 226. When a Petition is presented, listen carefully to the content because the Speaker may only allow comments, observations and clarifications for a maximum of only 30 minutes. So, when you make your observations, comments and clarifications, know that others will also need to get an opportunity to do the same. It is not to support. There is nothing to support in a Petition. You just make comments, observations and clarifications.

Hon. Ottichilo, you have the Floor.

Hon. (Dr.) Ottichilo: Thank you, Hon. Speaker. I want to say that this is a very important matter that has been raised in this House by Hon. Mwangangi. River pollution in this country has become a total disaster. Most of our rivers are now polluted. Water that our people drink is actually not suitable for drinking. Athi River has suffered greatly because of the industrialisation that is taking place in Athi River and Nairobi. That river is heavily polluted. Most of the fauna and flora along and within the river has died. So, this is a matter of national importance. I would like this matter to be dealt with expeditiously so that a final and long-term solution is found not only for Athi River, but for most rivers in Kenya and especially those at the Coast.

Thank you.

Hon. Speaker: Let us now have the Member for Igembe North.

Hon. M'uthari: Thank you, Hon. Speaker. This Petition is very important given the level of pollution in our rivers. I hope that as the Committee looks at this Petition it will also consider summoning the bodies entrusted to ensure that the effluent discharged into our rivers are in the levels that are acceptable. This is because it has caused a lot of havoc. By the end of the day, these are responsibilities entrusted to certain institutions like the National Environment

Management Authority (NEMA), which is supposed to look after our environment. To a large extent nothing seems to be happening. So, it is also my hope that the Committee dealing with this Petition will look at it in a broad way not only as Athi River but also other elements regarding river pollution.

Thank you, Hon. Speaker.

Hon. Speaker: The Member for Kajiado West, you have the Floor.

Hon. ole Sakuda: Thank you very much, Hon. Speaker. I also want to make comments regarding this Petition. For the record, Athi River has its sources in Ngong Hills which is in Kajiado West Constituency. As the Member has put it, the river impacts the people of Kajiado County all the way to Kibwezi and beyond. It is true that the environmental problem that this river has faced is because of the many industries, as Hon. Ottichilo put it, in Athi River and Nairobi. However, I think what needs to be looked at further is how to protect the river sources so that where our rivers begin, they are protected by planting more trees so that these rivers can survive. I remember very well during the recent rains there was a lot of soil erosion at the Ngong Hills and other places like the Mau. So, it is a huge environmental issue. If we are not careful as a country, we will lose the precious gift of water. Without water, there cannot be life.

Thank you very much, Hon. Speaker.

Hon. Speaker: Let us now have the Member for Kitui South.

Hon. (Ms.) R.K. Nyamai: Thank you, Hon. Speaker, for giving me this opportunity to also make comments on this Petition that has been presented by Hon. Mwangangi. This is one of our very important sources of water, especially for the constituencies that are downstream, including our big flagship project of Thwake Dam. The Kshs62 billion flagship project by the national Government entirely relies on this river.

There are cases which concern the health of our citizens. Now that we are discussing many cases of cancer that we do not know what the cause is, it is very important for this matter to be followed so that there is no factory or industries along the river that may be disposing anything into the river.

I would also like to take this opportunity to say that this is also one of the biggest sources of water for my constituency of Kitui South. We use the water for domestic purposes and for animals in its raw form. This is because it is not being taken through any process of purification or treatment. I am also concerned, as a Member of Parliament for Kitui South. I would like to encourage the Committee to take up the matter to save many Kenyans who live downstream, the animals and vegetables we eat which may be having substances originating from the effluent being disposed into the river. On the lower side you notice that the water has a different colour. It is a matter that I would like to see concluded.

Thank you, Hon. Speaker, for the opportunity.

Hon. Speaker: Hon. Bare Shill, as you laugh, do not interfere with the proceedings.

Let us have the Member for Malindi.

Hon. Mtengo: Thank you, Hon. Speaker. At the outset, I rise to support the Petition by Hon. Mwangangi. As you might be aware, Athi River flows all the way into Magarini and Malindi constituencies and it divides the two constituencies as the border. This is our sole source of water for the county. Given the fact that we are aware that this water is contaminated, we would support any initiative that would enhance the cleaning of this river. You will also agree that when we were growing up, the wild animals found in this river, which we call Galana on our side, were many, but over time we have seen the numbers dwindle. It is evident that the

chemicals that find their way into this river are affecting their numbers. So, we support this Petition.

Hon. Speaker: I think that suffices. It is important that the Chair or other members of the Departmental Committee on Environment and Natural Resources take up this matter. I deliberately took liberty to make sure that I hear from Members from where the river starts, where it flows through and where it ends. That is why I deliberately had to get comments from the Member for Malindi who represents the final destination of the river.

I think it is fair that thorough investigations be done on this matter. The matter raised by the Member for Kitui South, Hon. Nyamai and Hon. Munuve about the quality of water, and what was said by Hon. Ottichilo about the flora and fauna along the area the river flows are matters of concern. Let us get some thorough investigation into the matter and some recommendations that can be acted on by whomever it is that the duty shall fall on.

Hon. Members, before we proceed, I would like to recognise pupils from the following institutions: General Mulinge Secondary School from Kathiani Constituency, Machakos County, Chumvi Primary School from Laikipia North Constituency, Laikipia County, and Kajiale Primary School from Kajiado West Constituency, Kajiado County. They are all welcome to observe proceedings of the National Assembly this afternoon.

Next Order!

PAPERS LAID

Hon. A.B. Duale: Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House, today, Wednesday, 15th June, 2016:-

The Report of the Auditor-General on the financial statements in respect of the following institutions for the year ended 30th June, 2015, and the certificates therein:-

- (i) South Nyanza Sugar Company Limited;
- (ii) Meru University of Science and Technology (MUST);
- (iii) Chuka University;
- (iv) Kenya Medical Training College (KMTC);
- (v) National Gender and Equality Commission;
- (vi) Ewaso Ng'iro North River Basin Development Authority;
- (vii) National Irrigation Board;
- (viii) Technical University of Kenya;
- (ix) Export Processing Zones Authority;
- (x) Export Promotion Council;
- (xi) State Department for Coordination of National Government; and,
- (xii) Bomas of Kenya Limited.

The Annual Report and financial statements for the Engineers Board of Kenya (EBK) for the 2014/2015 Financial Year.

The National Government Budget Implementation Review Third Quarter Report for the 2015/2016 Financial Year from the Office of the Controller of Budget.

The Performance Audit Report of the Auditor-General on enforcement of Environmental Laws in Kenya.

Hon. Speaker: Now that we are in the Budget cycle, I want to urge Members to carefully go through the National Government Budget Implementation Review Third Quarter Report for the 2015/2016 Financial Year from the Office of the Controller of Budget because it helps us

within this period of budget-making to inform ourselves of where we are coming from and where we are going to.

Let us have the Chairman of the Budget and Appropriations Committee.

Hon. Musyimi: Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House, today, Wednesday, 15th June, 2016:-

The Report of the Budget and Appropriations Committee on its consideration of the County Allocation of Revenue Bill (Senate Bill No.3 of 2016).

Hon. Speaker: Next Order!

NOTICE OF MOTION

DEPLOYMENT OF CHAPLAINS TO LEARNING INSTITUTIONS

Hon. Speaker: Hon. Geoffrey Odanga, take the Floor.

Hon. Odanga: Thank you, Hon. Speaker. I was supposed to give the Notice of Motion last week but on Wednesday, I got information that the First Lady, Margaret Kenyatta was in my constituency to give us the mobile clinic for the county and yesterday, I was still celebrating. I, therefore, apologise.

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

THAT, aware that cases of unbecoming conduct among young people have been on the rise exemplified in the runaway drug abuse and addiction, drunkenness, sexual orgies and general irresponsibility currently evident; and deeply concerned that these incidents of loose morals have been worsened in the recent past through emerging radicalisation of the youth leading to an inclination towards terrorism and lawlessness, this House urges the national Government to consider deploying chaplains to all secondary schools and tertiary institutions in order to instill desired morals, social virtues, national values and a sense of responsibility to address and root out moral decadence at an early age, and to supplement the work of guidance and counseling departments operating in these institutions.

COMMUNICATION FROM THE CHAIR

REFERRAL OF THE WATER BILL

Hon. Speaker: Hon. Members, please take your seats. I had indicated that I will make this Communication when we have many Members present in the House. It is about referral of the Water Bill (National Assembly Bill No.07 of 2014) to a mediation committee.

Hon. Members, you will recall that on Tuesday, 7th June, 2016, this House considered Senate amendments to the Water Bill (National Assembly Bill No.07 of 2014) in the Committee of the whole House and agreed with the Senate on its amendments to several clauses of the Bill, save for amendments to Clauses 2, 8, 8B, 30, 64, 75, 102, 114, and 115.

Consequently, the Bill now stands referred to a mediation committee in accordance with Article 112(2)(b) of the Constitution.

In this regard, and in consultation with the leadership of the Majority and Minority parties in the House, I have appointed the following Members to represent the National Assembly in the Mediation Committee. They are:-

- (i) Hon. (Ms.) Amina Abdalla, MP;
- (ii) Hon. Ejidius Njogu Barua, MP;
- (iii) Hon. Abdulaziz Ali Farah, MP;
- (iv) Hon. Andrew Mwadime, MP; and,
- (v) Hon. Ibren Nasra Ibrahim, MP.

Hon. Members, it is advisable that, in attempting to address an agreed version of the said Bill as envisaged under Article 113 of the Constitution, the Mediation Committee confines itself to the clauses contested by the two Houses, and any other parts of this Bill that may require consequential consideration.

Thank you, Hon. Members.

Let us move on to the next Order.

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD

Hon. Speaker: Let us have the Chairperson of the Departmental Committee on Finance, Planning and Trade.

An Hon. Member: He is not in.

Hon. Speaker: The Leader of the Majority Party, you have the Floor.

Hon. A.B. Duale: Hon. Speaker, this is a classical example of people not reading the Order Paper even online. The Order Paper was out last evening after the House Business Committee (HBC) meeting and neither the Chairman nor the Vice-Chairman is here.

Hon. Abongotum: They are at Intercontinental Hotel!

Hon. A.B. Duale: Hon. Kamama, Intercontinental Hotel is not an extension of the Chamber. We are talking about the Chamber as constituted this afternoon under the chairmanship of the substantive Speaker. I do not know what to say because I do not have the notes. The Finance Bill as per the Standing Orders is a Government Bill but it is one of the few Bills that is signed by the Chairman of the Departmental Committee on Finance, Planning and Trade. Hon. Speaker, I would like to ask you to indulge him. We must send a very strong message because if a Chair or a Vice-Chair cannot see a Procedural Motion in the Order Paper, then that is the highest level of irresponsibility. Hon. Benjamin Langat cannot take the House for a ride. This House is not Ainamoi Constituency. He can take the people of Ainamoi Constituency for a ride but not the National Assembly.

Hon. Speaker, give direction. This shows that Members do not go through the Order Paper, which is very important.

(Loud consultations)

Hon. Speaker, protect me from the Chair of the Departmental Committee on Administration and National Security. He has already become the spokesperson of the Chair of the Departmental Committee on Finance, Planning and Trade. Why should we give him 10 or one minute? The House starts 2.30 p.m. and if you have an agenda in the Order Paper, you must

be here. That is why everybody is here. You need to rule whether we will indulge the Chair of the Departmental Committee on Administration and National Security, or bring the same Procedural Motion tomorrow.

The Finance Bill has a constitutional timeline. It must be passed by this House within 90 days after the Cabinet Secretary for the National Treasury reads the Budget. So, we expected the Procedural Motion to reduce the publication period sent to the Committee. The Finance Bill is very crucial. It is about raising revenue and taxation measures. As the leader of the House, you need to give direction.

In 2007, the late Samuel Kivuitu said he cannot trace his returning officers. Likewise, I can neither trace the Chair of the Departmental Committee on Finance, Planning and Trade nor his Vice-Chair. There is no Member from the Departmental Committee on Finance, Planning and Trade and a ranking Member.

Hon. Speaker: Hon. Members, read your Standing Orders. If the Bill is in your name, whether in person or in your office as the Chair of a Committee, unless you have given instructions to another Member, not every member of the Committee can raise their hands because they have been on their mobile phones wanting to claim that they have got instructions. It is never done that way. You cannot inform the Chair.

Hon. Members, this Order Paper was prepared yesterday. As you recall, the House rose yesterday prematurely at 4.45 p.m. So, there has been a lot of time. Hon. Members, you must take your work seriously. The fact that this Procedural Motion cannot be moved means that the business appearing as Order No.9 which was the first reading of that same Bill will also have to be stepped down. The tenant consequence is that it further delays the publication of the Appropriations Bill. We are already in the Budget cycle, and there are very many other Bills that require to be passed by the House.

There is nothing that the Member for Kikuyu can tell the Chair. Do not tell us what the Members of the Departmental Committee on Finance, Planning and Trade are doing. What can they be doing when the Chair of the Committee has not written instructions to move the Procedural Motion? The Chairperson or the Vice Chair could have informed the Leader of the Majority Party, the Whip, the Member for Kikuyu or any other Member of that committee to move this Procedural Motion. We do not do it that way. If that is the way you are operating in committees, it is wrong. I got wind of that. We must follow our own rules. They cannot be bent.

The Chairperson of the Committee was here in the morning. I am surprised he is not here. The order is that business appearing as Orders No.8 and 9 have been stood down. That business will be in the Order Paper tomorrow at 2.30 p.m. The Chairperson of the Departmental Committee on Finance, Planning and Trade should be informed accordingly to avail himself at 2.30 p.m tomorrow. That is when business begins. If he is not in the Chamber, do not indicate where he could be. If he is not available, let him be deputized by somebody, either his Vice-Chair, any other member of the Committee or the House. This is a Procedural Motion. I am sure anybody reading it would understand part of the reason why it was desired that publication period for that Bill be reduced.

Next Order!

(Debate on Procedural Motion deferred)

BILL

Second Reading

THE COUNTY ALLOCATION OF REVENUE BILL

Hon. Musyimi: Thank you, Hon. Speaker. I beg to move that the County Allocation of Revenue Bill (Senate Bill No.3 of 2016) be now read a Second Time.

This is a fairly straightforward matter. Generally, we concur with the Report from the Senate. If we do not agree with the Report from the Senate, we would require a very high ceiling to register our objection.

I beg to move and request the Vice-Chair to second.

Hon. Abongotum: Hon. Speaker, I second.

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

Hon. Wakhungu: Hon. Speaker, you have said that this is a House of records. I want to seek your direction pertaining to the County Allocation of Revenue Bill. Is the Mover in order to stand up and, without giving brief highlights pertaining to this particular Bill, purport to move? I know Members are supposed to read the Bill but at times, they do not have time. They listen to the contribution in the Chamber. Is the Mover in order to stand up and move the Bill without giving brief highlights? The Secunder did the same thing. There are no highlights on the Bill.

(Several Hon. Members stood up in their places)

Hon. Speaker: Hon. Members, resume your seats. Once the Mover of a Bill makes pronouncements that he or she is moving whatever business, even if it is just reading the title, if the House is not satisfied with that, you know the usual things that you do. It is also perfectly within our traditions and practices for a Member in seconding to rise in his or her place and nod.

Hon. Chrisantus Wamalwa, who is assumed to be a fast learner, has not learnt that aspect of our tradition. I am sure that tomorrow, he will not repeat that question. Nevertheless, I believe that Hon. Wamalwa was drawing the attention of the House that there may be need for many of you to delve into the details when debating such Bill.

(Question proposed)

Leader of the Majority Party, do you want to contribute?

Hon. A.B. Duale: Thank you, Hon. Speaker. I beg to support this Bill. Hon. Wamalwa is a fast learner. I am sure he has used the tradition of the House where every Member will at least explain to the House. Nevertheless, the County Allocation of Revenue Bill allocates resources among county governments. It comes after the Division of Revenue Bill which sets the stage for the publication of this Bill. The Division of Revenue Bill sets and divides the national cake between the two levels of Government. Once that is done, County Allocation of Revenue Bill is published by the Senate. It is one of the Bills in the Constitution that must originate from the Senate because it deals with the allocation of resources among the 47 counties.

This year, the amount which has been taken to the 47 counties as was in the Division of Revenue Bill is about Kshs300 billion. If you look at the Schedule at the back of this Bill, you will find that it shows how much each county is receiving based on the 2016/2017 Financial Year. For example, there is the County of Garissa where I come from. This is a very important

Bill because the people of Kenya must know as they watch the National Assembly and the Senate proceedings on the allocations the various counties are receiving.

Before I go to the Schedule, if you look at Clause 4 of this Bill, it says that each county government's equitable share of revenue raised nationally on the basis of the revenue sharing formula approved by Parliament is in accordance with Article 217 of the Constitution. When the Division of Revenue Bill says that more than Kshs300 billion will go to county governments, what the Senate will do in consultation with the National Treasury is to formulate this Bill based on a formula of equitable share that was passed by both Houses, I think in 2013, that specifies the amount that each county will get.

That formula, I am sure, is the one which was developed by the Commission on Revenue Allocation (CRA) in consultation with the Senate Committee on Finance. That formula which was approved by Parliament in accordance with Article 217 of the Constitution, in respect of the Financial Year 2016/2017, is shown under column (d) of the First Schedule of this Bill.

On the same Clause 4 of this Bill, each county government's allocation under the previous subsection shall be transferrable to respective County Revenue Fund in accordance with the payment schedule approved by the Senate. Once the two houses approve, the Senate will send this to the county governments and of course the National Treasury, through the Public Finance Management Act regulations, will send the resources to the County Revenue Fund.

Clause 5 deals with conditional allocations from the national Government. The national Government has certain provisions provided for under the Constitution; that it can send conditional grant to the county governments. For the Financial Year 2016/2017, it is shown in column (h) of the Second Schedule and this comprises the conditional grants for Level 5 hospitals as set out under column (b) of the Second Schedule. I hope Hon. Chris Wamalwa is taking notes because what the Chairman could not do is what I am basically trying to do. The Chairman is very busy. The next Motion is his. So, with your indulgence, I want to help the House.

There are conditional grants going to county governments including Level 5 hospitals. It is shown under column (b) special purpose grants which is supporting emergency medical service as set out under column (c). This must be Lamu, Tana River and other counties which have emergencies. This also applies to Mandera now where there is an outbreak of the cholera and the other disease which I cannot pronounce.

The other conditional grant is the free maternal healthcare which is set out in column (d) of the Second Schedule; a pillar of the Jubilee administration to offer free maternity care for our mothers. Never again will women deliver under a tree or at home. They all deliver in hospitals, clinics and dispensaries. The delivery percentage in hospitals has gone up from 46 per cent when President Uhuru Kenyatta took over to 68 per cent today.

The other conditional grant is to compensate the county health facilities, in what they call the user-fee revenue. There is another conditional grant from the national Government to county governments on the leasing of medical equipment as set out under column (4) of the Second Schedule. This is where there is leasing of medical equipment introduced by the Jubilee Government. The Magnetic Resonance Imaging (MRI) cancer screening machines will be sent to all the 47 counties and the two hospitals. The people who are in Mandera and Turkana will never again come to Kenyatta National Hospital to access those facilities. That is another conditional grant.

The last and the final conditional grant which the national Government is sending to county governments under this Bill is the conditional allocation from the Road Maintenance Fuel

Levy for the repair and maintenance of county roads as set out under column (g) of the Second Schedule.

Basically, those are the highlights. The other Schedule gives the amount given to each county. If I pick Garissa County, it is receiving Kshs5.7 billion. The county with the highest allocation is Nairobi which will receive Kshs12 billion; Nakuru County - Kshs8 billion and Turkana County - Kshs10.5 billion. I am sure that in the last subsequent financial years, Turkana County must have received close to Kshs50 billion. The moral question that this country must ask is: Has the Kshs50 billion changed the lives of the people of Turkana County which is marginalised? This is a county with deficiency in food security and highest health mortality rates.

The new Constitution has given Parliament powers, role and function of Budget making. Parliament shall neither be a conveyor belt nor a rubberstamp. Parliament must ask the people of Kenya if they are getting value for the billions of shillings that we send to the counties.

Hon. Speaker, the Chair of the Departmental Committee on Finance, Planning and Trade has arrived. He must have been busy. At least, he has arrived. Kenyans asked to devolve resources from the centre. We have cried for many years. We said that we wanted to devolve resources and power to the people. As we allocate huge sums of money to counties, it is our moral obligation, as leaders of this country, to account for each and every penny that the Senate and the National Assembly appropriate on behalf of the people of Kenya. We must see how the Kshs10 billion that we sent to Turkana County has transformed that county. Those of us who live in Nairobi must see what Governor Kidero and his government are doing with the Kshs12 billion that has been given to them.

The Kshs5.7 billion that goes to Garissa County and all the 47 counties must be accounted for. I have said a number of times that I do not want to become a governor but I am sure that there are many of my colleagues here who want to vie for gubernatorial positions in the next election. They include my good friend, the Minority Whip, Hon. Mwadeghu. He is preparing himself. Parliament, and by extension the county assemblies cannot be rubberstamps. I would like to talk to the county assemblies. They have an oversight role to ensure that all the money that goes to---

Hon. Ganya: On a point of order, Hon. Speaker.

Hon. A.B. Duale: The Member for North Horr, you need to relax. When the Leader of the Majority Party is speaking, you must listen. This is why Hon. Chachu left Jubilee; it is because of indiscipline. In Jubilee, we have a high level of discipline.

Hon. Speaker, Parliament will not act in vain. I am fasting and the Member for North Horr should respect the holy month of Ramadhan. I know that his twin brother is a serious Muslim. So if you do not respect me, you better respect your twin brother and the holy month of Ramadhan.

Hon. Speaker: Hon. Chachu Ganya, you know why I am looking at you and wondering why you are agitated. It is because it happens with all of you. You want to consult me here and I am supposed to be looking at what is exciting the Member for North Horr. You do not have to rise in your place. Now you know a few more things than the rest. Nevertheless, what is it?

Hon. Ganya: Hon. Speaker, at the outset, let me state that I respect the holy month of Ramadhan. I wish all my brothers and my constituents of North Horr well.

Hon. Speaker, while it is within the rights of the Leader of the Majority Party to demand prudent use of funds disbursed to the county governments, is it in order for him to only pick on ODM-led county governments, starting with Turkana and Nairobi County Governments and

leaving out others?

Hon. Speaker: Leaving who?

Hon. Ganya: Hon. Speaker, he selectively picked on two counties, namely Turkana and Nairobi County Governments, which are ODM-led. Why did he not pick on any of the other counties? Is it fair for him to state that those county governments, which are being led by ODM governors, are being mismanaged? Is it in order?

Hon. Speaker: To the extent that he named a few counties, there is nothing out of order. Any other Member can name a few others and another one can still name a few others, because we are in debate. There is absolutely nothing out of order. You can actually name his county, if you desire to do so, and another Member can name a county from where I hail, if it pleases them. Yet another Member can name the county from where Hon. Dalmas Otieno comes from. Another Member can name a county from where Hon. Mwadeghu comes from. I believe that it will be a mixed grill. That is what the country is made of. There is nothing out of order. Let him name the counties that he thinks he has issues with but ensure that you pick the ones you have issues with.

The Leader of the Majority party, you may finish.

Hon. A.B. Duale: Hon. Speaker, the Jubilee Coalition has over 20 governors. I want to give him a chance to name all the 20 counties of the Jubilee Coalition. I was with Hon. Chachu in ODM before we left. All of a sudden, he decided that he forgot something and went back. I told him that this time round he has to come back. He has no choice because that place is very dry. There is no pasture or water. As a pastoralist, we do not go where there is no pasture and water. I have told him that pasture and water, and disease-free zones are found in Jubilee. That is where the pastoralists are. He has confirmed to me that he is coming back.

In conclusion Hon. Speaker, I was saying that Parliament will not act in vain. It has been given the role of doing the Budget. This is a function of Parliament. Under the new Constitution, we can appropriate billions of shillings to the people of Kenya in the 47 counties, including Turkana, Kwale, Lamu and Busia. Our county assemblies, the Senate, the National Assembly and the Auditor-General must guard every cent that goes to our counties and the national Government.

With those remarks, I beg to support.

Hon. Speaker: Hon. Members, before we proceed, allow me to recognize students from St. Bridget's Girls High School from Kiminini Constituency, Trans-Nzoia County, who are seated in the Speaker's Gallery.

You are welcome to observe the proceedings of the National Assembly this afternoon.

Proceed, Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Speaker, for giving me the chance to comment on this Bill. As the Constitution demands, this Bill focuses more on counties. Our Constitution is clear that it is the Senate which has the overall responsibility of taking care of the county function. As a House, we will be doing justice if we just support this Bill so that the counties can deal with their itemized budgets.

Even as we do that, I am getting a little bit concerned about the timing. It is not clear to me why it has taken this long for the Senate to pass this Bill. As a House, we have already started debating our itemized budget. But this is the time we are allowing the counties to do their itemized budget. So, we need to request the Senate to improve on the timeliness of this Bill. Otherwise we will make counties look like they are not performing while we are hindering their work.

The other issue I want to raise is the formula. The CRA is supposed to initiate the

formula. We are now in the fourth year since we came to this Parliament. The formula we used in 2013 to do this Bill is the same formula we are using. We need to be fair to Kenyans. If the Constitution requires that we only do it for two years then it is important that this formula is renewed and updated after every two years. I plead with the CRA and the Senate because the criterion will also come to this House--- We should fast-track that process so that we get the new formula to help our counties.

Looking at the Bill, this is what we call horizontal allocation of resources. When we debated what the national Government and the county governments will get, that was the vertical allocation of resources. As a House, we have passed that counties will get about Kshs2 or Kshs3 billion. Horizontally, the Senate has gone ahead and allocated these funds to each county. I want to focus more on conditional grants. This is money. When the national Government will give money to counties to do specific functions, most conditional grants will be directed to the health sector. This has been the case for the last three years. I do not know whether it is unique to my county and the neighbouring counties or it is applicable to all counties. Despite getting a lot of conditional grants to counties, more so, targeting the health sector, this is the sector where we have many problems. Our people are suffering. If you go to any county, you will find the health sector is still in a mess.

We need to improve in terms of monitoring so that we monitor these resources which we are pumping into the health sector so that they are used for the intended purpose. Unless we do that, our people will continue suffering and at the end of the day, they will keep coming to MPs. I am sure most of us here have become like banks to those who are sick. Anytime you go home there is somebody who tells you that my parent, son or daughter is sick and has been referred to Kenyatta National Hospital (KNH) for an X-Ray or a CT scan. You have to get into your pocket and give out that money and yet the Government has given money for specialised equipment in most hospitals.

This should be done by the Senate, and more so the county assemblies. It is the responsibility of the county assemblies to take this matter seriously so that the money given to county governments as conditional grants is properly monitored at that level and Kenyans get services. In that case, we will be helping our people and it will reduce the burden on us as MPs. In that case, we will have a healthier Kenya which will contribute, in the long run, to improving human resources.

The other issue I want to talk about is the money which has been given to compensate dispensaries and health centres for providing free health services. This money is sent quarterly to counties, but every time you visit these institutions, they have no drugs. When you ask them they say that they have not been supplied with those drugs. Basically money is there but the reimbursement system is very cumbersome that at the end of the day, the drugs get there late or when most patients have started looking for alternatives.

The other thing which is the most important is value for money. We have sent a lot of money to counties. I do not want to say that money is being misused. Maybe it is being misapplied but as a Kenyan, I would like to know the value of that shilling which taxpayers have allowed counties to use. At the end of the day, it is the taxpayers' money. We need to get value for money in terms of goods and services. We talk about a county having received Kshs20 billion but if you do a quick review, you will realise that what has been done is not worth Kshs5 billion. As Kenyans, we have a right to question some of these expenditures. We have a right to get to the streets and say that we do not think that we are getting value for money.

All that we are saying as the National Assembly is that we can only point out these things to help our colleagues in the Senate and in the county assemblies so that they take the matters we have raised here and run with them to monitor, audit and ensure that Kenyans get value for their money. Time has come that we must focus on prudent use of public resources so that whatever resources we get, we do not allow them to be misapplied.

I have visited many constituencies. I always get surprised when I hear the public or citizens saying that what they get in value for money from the National Government Constituencies Development Fund is higher compared to what they are getting from county governments bearing in mind that these governments get almost four, five or even 20 times what Hon. Members get. We need to say that if the NGCDF is able to achieve that much, being such a small fund of Kshs35 billion, I would imagine Kenyans would get a higher value from the Kshs2 or Kshs3 billion allocated. If we went that way, we will help this country.

With those many remarks, I urge my colleagues, because this is more so a Senate responsibility, to support it so that we pave the way for counties to start preparing itemised budgets.

Thank you very much, Hon. Speaker.

Hon. Speaker: Well spoken, Hon. Makali. I appreciate that Members also note the fact that under Article 95(4) this House does the vertical allocation whereas the Senate in County Allocation of Revenue Bill, Senate Bill No.3, is the one which does the main work that the Senate is supposed to do under Article 96(3). That is to allocate monies to the various county governments. Within the same Clause, it oversees expenditure unlike the National Assembly which deals with the Division of Revenue Bill. The point raised by Hon. Makali Mulu is valid that if there was agreement, we could see a situation where we could fast-track this process to allow county governments to prepare their budgets in good time. Nevertheless, since it is business before the House, that is not to say that Members are in any way precluded from expressing themselves, not least, of course, the fact that Hon. Chachu Ganya raised an issue earlier on.

Hon. Yusuf Chanzu, you have the Floor.

Hon. Chanzu: Hallo. Thank you, Hon. Speaker, for the opportunity.

Hon. Speaker: How does a Member start by saying hallo? Hon. Yusuf Kivuma Chanzu.

(Laughter)

Hon. Chanzu: Thank you, Hon. Speaker. Hon. Pukose was passing a document for us to sign. I did not know that I was next.

Thank you for the opportunity to support this very important Bill. In fact, it is on the basis of the objects and purpose of the Act, Section III which provides that pursuant to Article 218(1)(b) of the Constitution for the allocation of equitable amount of the national revenue between the two levels of government. This is very important because this is what the new Constitution was to address so that we take care of the national Government and the 47 counties.

Hon. Speaker, the sharing of this money or revenue across the country is based on a formula as stated here. It is not something discretionary. It is important that we address the issues this money is supposed to address in the counties. Article 95(4)(c) of the Constitution allows Members of Parliament or the National Assembly to oversight all national revenue. That means at all levels. All money is raised nationally. It is very interesting that the amount of money we are collecting, according to the Budget that the Cabinet Secretary for the National Treasury read,

here is Kshs1.5 trillion. About 45 per cent of this money is from Income Tax or Pay As You Earn (PAYE), 45 per cent is from Value Added Tax (VAT) and the rest is from Customs Duty, Ministries and so on. We are yet to generate revenue from natural resources like oil. We are still prospecting. Apart from the money we are going to borrow from outside, which is in the tune of Kshs 0.6 or Kshs0.7 trillion, the rest is raised by Kenyans through hard work. They include the old *mamas* who sell vegetables and such like stuff. When they go to buy household commodities, they pay VAT. It is important that this House becomes concerned on how the money is utilised when it goes down to the counties.

I agree with the Leader of the Majority Party on the issue of whether the money that has gone to the counties for the last three years has changed the lives of our people. He was talking about Garissa County where he comes from. A small county like Vihiga received Kshs9.6 billion during the current financial year. It will get Kshs4.1 billion in the next financial year. It is very shocking that the money has been wasted through some corrupt deals.

In fact, I am happy that we have started debating the Roads Bill. The County Allocation of Revenue Bill has an element of conditional grants that are going to be used in the counties for maintenance of roads. I hope that the Bill being debated from yesterday is going to help us to sort out some of the problems that we have experienced in the counties, particularly the issue of roads.

I said here that we had some county governments which took the Kenya Rural Roads Authority (KeRRA) to court because they wanted to be allowed to do roads yet they have done nothing about the functions that they have been given, including water, agriculture and health services. Regarding the health function, it looks like Vihiga County does not want to perform it. It is because of regulations which are there set by the Kenya Medical Supplies Agency (KEMSA). When it comes to awarding road contracts, they will just call people and tell them to do the roads and then they pay exorbitantly. I hope the Bill we are debating is going to help us, particularly now that the money is being allocated for the conditional grants for road maintenance.

Performance of county assemblies roles has been a problem. This is because the County Assemblies completely forgot their role. They thought they are supposed to be working in the Office of the Governor. They do not know that they are supposed to do what we are doing here over this money – oversight. There should be a way to contain this. I hope agencies like the Controller of Budget should give accurate reports on what is going on. We should also strengthen the work that is being done by the Auditor-General because he has done many reports. I do not think he understands how much money we are sending to the counties. They need to address this matter very seriously.

The Ethics and Anti-Corruption Commission (EACC) has some glaring issues. They cannot apprehend. I do not know whether it is because of being compromised or lack of enough capacity. They have regional offices and they do not have to apprehend everybody. You need to prosecute some so that they can serve as an example to the others.

If you look at the Kshs1.5 trillion I talked about, excluding the loans we are getting from outside and the Kshs300 billion that is going to the counties, you will find that we are talking about 20 per cent. It is expected that we have a way of checking or getting feedback to see whether we are getting value for our money or not. Otherwise, it will not be serving the purpose which the Constitution contemplated.

With those few remarks, I support.

Hon. Speaker: Yes, the Member for Kiminini.

Hon. Wakhungu: Thank you, Hon. Speaker. I rise to support the County Allocation of Revenue Bill. From the outset, this is a very critical Bill. It is high time we had Chairpersons of Committees who are knowledgeable on matters being addressed by the Bill before the House. They must give enough information to Members so that Members can debate from an informed perspective.

If you are not the Leader of the Majority Party, who has spoken adequately about this Bill, you will not understand it. The way the Chairman moved this Bill was very embarrassing. When such Bills get to the Floor of the House next time, it is important for the Chairpersons to do their homework and give highlights. We should endeavour to do this even if it means changing the Standing Orders. It is very critical. You cannot bring such a Bill and say "I move" even if that is provided for by the Standing Orders.

As I move on, the County Allocation of Revenue Bill is very critical. There are many counties which are misappropriating monies being sent to them. This is the fruit of devolution. Talking about my own county of Trans Nzoia, there is nothing to show for the Kshs6 billion that it gets. It is time we undertook capacity building at the county assemblies. This is because when it comes to oversight, majority of the Members of the County Assemblies (MCAs) cannot even interpret a basic financial statement. It becomes very difficult for them to oversight the county governments.

Recently, I was at the Senate when the governors were summoned. When it came to Trans Nzoia County, I was very embarrassed. Sub-section 8 of this Act says:-

"The National Treasury shall publish monthly reports on actual transfers of all allocations to the county governments".

It goes further to say in Section 9(1):-

"Each county treasury shall reflect all the transfers by the national Government."

In that particular Senate Sitting, when the Governor was asked to show the Report of the revenues in terms of transfer, he did not do it. When the Auditor-General goes to the respective counties for purposes of audit, they do not pay attention to these details. It is the highest time to put a measure in place to deal with the Auditor-General.

There are a lot of corruption cases that are going on in that Office. That is an independent Office which we have allocated enough funds. When it comes to reports, they do not come on timely basis. I want to mention something about conditional funding. When you go to counties, many of the grants are going to the health sector. When you visit the health sector at the county level, there are no drugs. The Jubilee Government has been talking about free maternity. It is embarrassing when mothers go for maternity services and they are told to pay.

This has been demonstrated by the Chairman of the Council of Governors (CoG), His Excellency Peter Munya, the Governor for Meru. We must have a clear framework to show at what level that money is given to the county governments. In as much as good policies have come up at the national level, at the grassroots level, there is no issue of free maternity and that has to do with administration. As we increase counties' revenue, they must be held accountable.

I want to talk about the Commission for Revenue Allocation (CRA). It is their responsibility to come up with a formula for equitable sharing. It is very unfortunate that the currently formula they are using is on its fourth year now, as the earlier speaker has alluded to. This is the time we are calling upon the Cheserem Commission to review it. If a county was receiving more money, as time goes by, issues of poverty are bound to change. So, it is, indeed,

important for that formula to change. For example, the level of poverty in Trans Nzoia County has been going up.

It is important to change the formula. If earlier counties were getting more money, they can be compensated. This is very critical. As we move on, this Bill has delayed. It is just coming now from the Senate. We know when it comes to the national level, we have a budget and are now moving the appropriate Bills. So, next time, the Senate must pay a lot of attention when it comes to the County Revenue Allocation so that it can come to this Floor at the right time. We do not want to delay county governments when it comes to budgets.

In line with public participation, when doing itemized budgets, the public has to be involved. For instance, I happened to attend public participation in my county. People came, listened and stakeholders had been invited. For example, when it came to the items, a health centre from my village in Kiminini has been allocated Kshs.6 million for the last three years and yet, it has never been implemented.

That is why when it comes to the Elections Act, I am calling upon hon. Members to put academic qualifications there. This is because the role of a Member of Parliament (MP) or Member of County Assembly (MCA) is three folds - legislate, represent and provide oversight. You can imagine the governor is a graduate and has an MCA who did not even complete Form IV. I was in some area and they had an MCA who had not even completed Standard VIII. It becomes very difficult when it comes to aspects of oversight. One cannot understand what a cash flow statement is. Basics are very difficult and oversight becomes a challenge.

It is, indeed, important when such an issue is happening. Our MCAs should do something called capacity building. That will enable them to provide oversight that is going to add value as far as this is concerned.

Lastly, I want to talk about roads. We know very well that after the Transition Authority (TA) finished its work, most roads are now at the county level. When you go to the counties, you find that because of vague classification claims, certain governors say some roads belong to the national Government.

It is, indeed, important as we move on in terms of the work plans at the county level. They must be tabled in the respective counties for purposes of accountability and follow up. As I finish, I want to thank St. Bridges Girls which is in the Speaker's Gallery. This is a school from my constituency and it performs very well. It is a national school. I want to welcome them to the National Assembly and thank the Speaker for allowing them to come here within a short period.

Thank you, Hon. Speaker. I support.

Hon. Speaker: Member for Igembe North.

Hon. M'uthari: Thank you, Hon. Speaker. I rise to support the County Allocation of Revenue Bill. It is a very important Bill. It must meet the constitutional requirement for us to pass it.

As we pass it, it is important for Members and Kenyans to realize that this House appropriates money to counties. It is unfortunate that governors are just complaining about more money. For the money that has already been allocated to most of the counties, if you ask for its value and what it has done there, there is very little to show. When it comes to the billions that we are giving, if you compare that money to the little money that is allocated through the National Government Constituencies Development Fund (NGCDF), the difference is huge.

It is high time we became specific on what we allocate. In most cases, when monies are allocated to counties, even those that are meant for health services are diverted. When you go to most health facilities, you may not get the medicine or even health personnel. What majority of

Kenyans expected to get from devolution were resources to the common *mwanachi*. In the process, it does not appear to have happened in many places.

As for the people I represent, they have to travel long distances to the county headquarters. It appears as if the resources were taken far away from them because money goes to Meru Town through a town called Rare, which is far. The money for agriculture, health, veterinary services and livestock development was meant to reach the people at the lower level. As at now, only a few functions reach the people. Some of those services have really gone down.

In many counties, they have just embarked on an employment spree to employ campaigners for governors. Their responsibility is being the mouthpiece at the village, ward, sub-county and county level. But as far as productivity is concerned, it is very little. It would have been good if all the billions that we are channeling to the counties could have been used to provide services. At the same time, counties would become like the cost centres where the monies that are given can be invested on sectors that are of value at that particular level to stimulate economic development, growth, create employment for the people and, in the process, encourage the overall growth at the country level.

At the moment, many counties just wait to get the money and complain about. They are doing very little to create wealth and yet, they are asking for more money. This is the challenge that we are facing. To a large extent, that is the challenge that we have as a country. Everybody wants money, but very little is done at that local level to promote the economic activities that can improve both the welfare and livelihood of the people in terms of supporting the families and communities in those respective areas to improve their livelihood. Last year, almost Kshs7 billion was sent. This year, over Kshs7 billion has been allocated to Meru County. The actual activities that have been carried out at the grassroots level, especially in my constituency, are very little. Very little has been done to address the challenge of water, which is a function of the county, and the improvement of livestock production. So many resources are wasted in campaigning and running around in the name of participation, while critical functions are never considered.

The Constitution is clear in terms of the accountability that we have. We have the Senate and the county assemblies, which have the responsibilities to look at the resources that are given to the counties, and make sure that they are accounted for and used for the purpose they are intended for. That way, we can help our country to move forward. With this, I support.

Hon. Speaker: Hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Speaker, thank you for giving me the opportunity to contribute to this Bill. As I contribute to this Bill, which is really about the vertical sharing of the monies allocated to the counties by this House, I want to say that this County Allocation Bill is very important. It gives the detailed breakdown of the monies that will go to each county. Under the Second Schedule, this Bill gives conditional allocations to county governments for national Government revenues for the Financial Year in question. Under the Third Schedule, it gives the conditional allocations to county governments from loans and grants from the development partners.

The Fourth Schedule which, in my view is very important, gives the county governments budget ceilings on the recurrent expenditure for the Financial Year in question. This is important. I want to believe that the reason why this Fourth Schedule was put in this Bill is to act as a guide to tell the county governments how much they can spend on recurrent expenditure. However, it is disappointing that up to where we are, this does not seem to be happening. The intention of devolution is good. In fact, in my view, devolution was intended to make most parts of the

country which had not benefited from the fruits of independence to do so. This is the fourth time this House is debating the County Allocation of Revenue Bill. Like the Leader of the Majority Party has said, it is a good point to ask: “How much have the monies that we have taken to the counties done to improve the livelihoods of our people?” We cannot be a mere conveyor belt discussing billions of shillings going into the counties and when we question what those monies are doing in the counties, then people say that we are fighting devolution. Nobody is fighting devolution. All we are saying is that the intention of devolution is to improve the standards of living of our people. I am very disappointed at what we see in the countryside. We see people whose fortunes have suddenly changed.

The other day, I was reading in the newspapers a governor daring his opponents to go and he will give them money for campaigns. Yet, I am told that for that governor to campaign in the last election, he had to depend on *Harambees*. Where is all this sudden wealth coming from? It is very disappointing the way people are living large in the counties. As has been said by my colleagues in this House, the Office of the Auditor-General and Ethics and Anti-Corruption Commission (EACC) need to tell us whether Kenyans are getting value for money with the billions that we are transferring to the counties.

The other day, I attended a function in Bungoma at the invitation of my friend, Hon. Athanas Wafula Wamunyinyi. As we were coming, we could not even move because the road was blocked. The governor was travelling in the opposite direction in a convoy of over 30 cars. Sirens were blaring. Was this really the intention of devolution? I beg to differ. I do not think that devolution was meant to make people live large. I do not think that devolution was meant for us to start having medieval kings in the counties. I believe devolution was meant to improve the lives of our people. Devolution was meant to take water where there was none. In my view, devolution was meant to help those bright needy students who cannot afford school fees to be able to do so. Devolution was meant to enable us to have medicine in our hospitals and dispensaries. Devolution was meant to open up roads where there have been none over the years. But I do not think it was meant to create medieval kings back in the counties.

So, I believe that part of the reason why all that is happening – and we must accept that – is because there is a lot of lack of capacity in the counties as we speak. As we are now, I do not know if most county assembly members are aware that their role, other than making laws which most of them hardly do, also includes oversight and representation. But do they really have the capacity to oversight? Do they even understand the difference between oversight, supervision and micro-management? I think this is where the problem is. I support fully that county assembly members must now be given capacity by us insisting through a law here that they must have certain minimum educational levels. That is because you do not throw billions of shillings into the hands of people who cannot even have a basic assessment.

In high school, we were told that to count from one to a million, you will probably take 20 days. That means you will take 60 years to count one to a billion. Do those people even understand that, that is how much money is going to those counties? As we give these monies, I think we need to strengthen our laws and institutions so that devolution can achieve what it was intended to do. I have seen counties that are going to receive over Kshs10 billion. Kshs10 billion is not pocket change. I do not think that devolution was meant to give governors longer and longer convoys of cars. I think devolution was meant to impact on the lives of our people.

This should concern us all. The other day, I was reading the wealth report for East Africa. It was saying that the total number of dollar millionaires in our country is twice more the total number of dollar millionaires in Uganda, Tanzania, Rwanda and Burundi combined. That may be

a good thing but it ceases to be a good thing when we are told that nearly 40 per cent of our people still live below the poverty line. For me, that is what devolution was meant to address. Devolution was meant to address the widening rich-poor divide so that those of us who live in abject poverty can be lifted and start to feel a sense of belonging and nationhood - that they have a right to partake in the affairs of their country.

Yes, we will pass this Bill, but I want to encourage this House and the Senate. Let us build institutions, particularly let the Auditor-General and the Ethics and Anti-Corruption Commission (EACC). Tell us why in Rarieda I can do a classroom for between Kshs500,000 and Kshs600,000 and yet the ECD classes are being constructed by the county governments cost between Kshs1.5 million to Kshs2.5 million. We really need to be told the reason. Why does it, for example, cost me less than Kshs1 million to open up a road using KeRRA funds and yet, the same road opened by the county governments cost almost ten times as much? Someone has to tell us. How can it be that the same thing being done by different people in the same area is so different? Somebody is misusing monies that should improve the lives of the people of Kenya. We cannot sit here and watch. For me, anybody who complains about misuse of funds in the counties is a friend and not an enemy of devolution as we are being classified. We have to be told why, all of a sudden, county executive committee (CEC) members are some of the wealthiest people back in the counties. Is this really what devolution was meant to do? Let us pass this Bill, but let us also demand stringent measures to ensure that every shilling of the money we take to the counties benefit the people who it is intended to benefit, and that is the people of Kenya.

I thank you, Hon. Speaker. I reluctantly support.

Hon. Speaker: The Member for Endebess. But before you speak, I think the point raised by the Member for Rarieda, being the Chair of the Public Accounts Committee (PAC) is very important. Perhaps, also Chair, your Committee can also look at the capacity of the Office of the Auditor-General. Maybe, they do not have sufficient personnel because there is a complaint in every county about the shoddy work that is being done by the officers that have been sent from the Office of the Auditor-General, whenever they pretend to go to audit the county governments. That is food for thought, Chair, because your Committee is well placed to look into that and see whether there is something you can propose for this House to beef up capacity in that office. Remember, he has constantly been appealing for more funding; one of the reasons being to employ more staff. Perhaps, it is high time that your Committee delved deeper into the problem of capacity in that office. Obviously, with all the county governments, parastatals, constitutional commissions, and all of them requiring to be audited by the Office of the Auditor-General, as a country, we must rise to the occasion and see what we need to do to capacitate that office sufficiently.

The Member for Endebess.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker, for giving that advice to the House and to PAC. I stand to support the County Allocation of Revenue Bill, 2016. This is a very important Bill from the Senate. It gives allocations to various county governments.

When you look at this Bill in the last financial year, my County of Trans Nzoia got Kshs5,996,127,701 and in the current financial year, it is getting Kshs5,502,547,171. That is a big increase and it will only translate into something if the county governments are able to put this money into where it belongs.

As we close the financial year, we do not see tangible development in some of our counties and yet, that was the essence of devolution. When money was devolved to the county

governments, it was meant to take services to the people. For us especially in Trans Nzoia County, we are looking at tangible development for the last three years. There is no tangible development project that we can say has been done by the county government in any of the five constituencies. Each of the constituencies is getting around Kshs100 million and you can count the projects that have been done, they are countless. Buses have been bought, schools have been built, roads have been constructed and yet, the county government is getting more than 50 times what the constituencies are getting. This calls for self-reflection as to whether we devolved corruption. What happened? How comes devolution is not working as it should? Our hospitals are without drugs and better services. For instance, for the last two weeks, although this problem has now been resolved, Endebess District Hospital did not even have water. I had to call the county government to follow up and restore water. I am grateful that in the last few days, water has been restored. It is a challenge because if a hospital like that can go for two weeks without water. Patients have to be referred to Kitale District Hospital. We end up with complications, loss of life and other serious ailments that could have been managed within Endebess District Hospital.

Even as we talk about whether auditors are performing their duties well or whether it is a question of funds, I think it is high time PAC looked at the auditing method that has been used in the past. Times have changed. We have institutions that falsify receipts and documents. Is it a question of getting a receipt from anywhere, put into the file and use that for accounting, or are we accounting for a project that we can see? Occasionally, you look at, for example, are we talking of the market rate of a commodity. For example, in the same county, we put up a classroom at Kshs500,000. The county government puts up a classroom at Kshs1.2 million. Is it justified? Is that accounting of any use? If the auditor is coming to audit the documents and say: "Fine. You did the advertisement. You followed the procurement rules and this is well justified because you have all the documents." But are we having value for money? We need to even relook at our auditing methods to ensure that auditing revolutionises itself to conform to the times and situations. It has to be county-specific and regional-specific. In other places, it might be possible to put up a classroom at Kshs500,000 while in other places, it can be Kshs700,000. However, within the same region, is it possible to build two classrooms in the same compound, one at Kshs500,000 and another at Kshs1.2 million? It is not. These are the issues we are looking at.

Look at the issue of conditional grants. In the current budget for the Ministry of Health, Kshs20 billion is set aside to buy vaccines, TB and HIV drugs. Why are we capturing that money as money for the Ministry of Health? That is donor money appearing on the budget line of the Ministry of Health. We then give the Ministry of Health a ceiling of Kshs60 billion. They cannot go beyond their ceiling because Kshs20 billion of this money is donor money and is going to the county governments. That is money for immunization, vaccinations, TB and HIV drugs. Why can it not appear as county revenue and conditional grant so that the Ministry of Health can be properly budgeted for its money?

The Committee needs to look at it because we are only capturing money from the World Bank that is coming in as a conditional grant, while this other money is coming for projects. It is either from the Clinton Foundation and other supporting donors who are giving money to the Ministry. Why are we not capturing that? The immunisation is going on in the counties and our children are going to be immunised. The Tuberculosis and Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome (HIV/AIDS) are being taken to the counties. That should appear as a line item and as a conditional grant for the counties.

Still on health, we have money we are allocating as conditional grants to Level 5 hospitals. This is the fourth financial year we are allocating that money. What have we achieved? If you go to Jaramogi Oginga Odinga Teaching and Referral Hospital, things are not working because that money is taken to the county government, which does not release all the money to the hospital. It cannot budget for it. Kakamega, Embu, Nyeri and Coast provincial general hospitals are not getting their conditional grant as much as it is reflected as a huge amount. Does the National Treasury have a way of ensuring that those conditional grants land in hospitals as per the allocation? Do we have anything to that effect? If you give a conditional grant to a hospital and you want it to improve, then it must get its money and budget for it and deliver services that can be measured against the amount of money that you have allocated. If you go to any provincial hospital and tell them that you have allocated a given sum of money, are you able to see anything tangible that has been utilised for that money? We need to seriously think over these issues and this challenge need to go to the Senate. As much as you are looking into this, you need to have a mechanism for oversight to make sure that money is delivered.

On the managed equipment service, the Senate and the National Assembly Departmental Committees on Health must be on their toes to make sure that we are buying equipment that delivers services and one that people can get the value to which the equipment has been bought. For example, we say that Machakos Hospital has an Intensive Care Unit (ICU) and yet, the patients are still referred to Kenyatta National Hospital. Are patients being admitted in Machakos ICU since the launching of the ICU by the President?

With those few remarks, I support the Bill.

Hon. Speaker: Member for Budalang'i.

Hon. Ababu: Thank you, Hon. Speaker. I support the County Allocation of Revenue Bill (Senate Bill No. 03 of 2016). I want to start by saying that there is nothing more profound in the new architecture of our constitutional order than devolution; both as a concept, a philosophy of managing affairs of our country, as a practice and a model of development. It is fantastic. Because of devolution, we now have a guarantee that every single corner of this country that has been divided into 47 counties is assured of irreducible minimum share of the revenues of this land. It is so gratifying to watch previously neglected corners of this country like Mandera and Wajir unveil historic projects like the first ever tarmac roads or modern equipment for county hospitals. As leaders, history has granted us a very unique opportunity to preside over the rolling out of this very unique historic model of managing the affairs of our land. By all intents and purposes and with all our energy, we must support devolution. We must support more resources to be spent on developing every inch, every grain of sand and every blade of grass across the length and breadth of our land.

Having said that, it would be remiss of us as leaders and as a House if we do not acknowledge the huge challenges that devolution has faced in this first four years of implementing that important facet of our Constitution. I will not shy away to declare on the Floor of this House that whereas people mention various threats to devolution, risks faced by devolution, the greatest threat to devolution in the last four years has been the conduct of some governors and their governments. The manner in which they have managed the allocated resources every year, the style of management, their attitude and their prioritisation - which has been completely upside down and lopsided - add to that the serious weaknesses in the capacity of the various county assemblies to play their oversight role, then you have a cocktail that has seriously compromised the beautiful dream of devolution. If you really support devolution and are committed to the success of devolution, then you must be bold enough to stand at whatever

forum, whether it is on the Floor of this House or on a political platform in any village of this country, and condemn the wanton misuse of public resources going on across virtually all the counties in this country.

The primitive accumulation of wealth that you witness in every corner of this land is terrible. The Member for Rarieda has mentioned the overnight millionaires that are being created all over the place. I dare add that it is good to see people prosper. In fact, we supported devolution because we wanted to see prosperity in our villages. We wanted to see millionaires created in all the villages across this country; millionaires making their millions justly, fairly and above board, and not millionaires that are stealing money that is meant for our hospitals and roads and turning it into personal money. Therefore, some of us have been very consistent - which has sometimes been misinterpreted to mean war being waged against some governors. I want to declare that my singular determination to make sure that we do not condone any type of misuse of public resources is the best support I can give devolution. It is by consistently and persistently pointing out the misuse of resources, misconduct of the governors and their executives that are called ministers in the villages. It is a matter that we must challenge and fight. I want to challenge my colleagues in this House that whereas we may not have a direct role in overseeing county governments - a responsibility that the Constitution has placed upon county assemblies - we have a role to speak out against any ills affecting our people. Among the responsibilities we play in this House is to represent. We are the representatives of our people and the same people we represent are supposed to be served by the county governments. They are supposed to benefit from the resources that we allocate to county governments. Therefore, we must use every opportunity we have to speak out and highlight these ills and challenges so that they can be addressed.

It makes you the greatest coward that ever walked the face of this earth. I do not believe any of us here is a coward. We must speak out. Many sectors that have been devolved, which in the wisdom of the drafters of the Constitution should have been performing a lot better than previously, are actually on their knees. The health sector demonstrates the failures of the managers of devolution in the first five years. Healthcare has literally collapsed in many parts of this country. The entire infrastructure of health care in Busia County has virtually collapsed, including Busia County Referral Hospital. That is a referral hospital that does not even have basics like a blood bank. Woe unto you if you are involved in an accident and you are rushed to the Busia County Referral Hospital, and you need emergency blood transfusion. There are health facilities which have collapsed, including Port Victoria Hospital in Port Victoria Town. I grew up enjoying services at that facility.

We have instances where patients are not only fighting their illness, but they are also sleeping hungry. Those facilities are unable to provide the basic necessities. We have witnessed instances of strikes by health workers because of the mismanagement of that sector by the county governments. If some of us were not so strongly committed to devolution, we would have argued that some of those critical services, like healthcare, should be returned to the national Government. However, we believe in devolution. It can still work with better managers. We will speak against those ills. We will encourage better managers amongst us, for example, my brother from Rarieda, to rise and run for those positions and demonstrate that devolution can work with better managers.

I support the Bill.

Hon. Speaker: Member for Kiharu, do you have an intervention?

Hon. Kang'ata: Thank you, Hon. Speaker. I rise under Standing Order No. 96 to seek that this Motion be adjourned because Article 205 (2) of the Constitution provides that any recommendation made by the Commission on Revenue Allocation shall be tabled in Parliament and each House shall consider the recommendations before voting on the Bill.

Article 205 of the Constitution is on consultations on financial legislation affecting the counties. Article 205(1) of the Constitution provides that when a Bill that includes provisions dealing with the sharing of revenue or any financial matter concerning county governments is published, the Commission on Revenue Allocation shall consider those provisions and may make recommendations to the National Assembly and the Senate.

Hon. Speaker, I draw your attention to the functions of the Commission on Revenue Allocation as per Article 216 (5), which says that the Commission shall submit its recommendations to the Senate, the National Assembly, the national executive, county assemblies and county executives. This means that we cannot discuss this Bill if the formula that is proposing or giving the rationale on how the money will be shared amongst the counties has not been discussed by this House. Therefore, it is very important for us to first discuss that formula in this plenary before we discuss this law. That formula is important, according to Article 216 of the Constitution. It sets out how the money is shared out amongst the counties, taking into account the fiscal, poverty and population aspects. We must look at those issues before we discuss the Bill. To the best of my knowledge – although this is subject to your confirmation – we have not discussed that formula. Therefore, this Bill is not for this House. I urge that this Motion be adjourned, pending our adherence to this constitutional provision.

Thank you.

Hon. Speaker: Hon. Irungu Kang'ata, did you claim to rise under Standing Order No. 96 on adjournment of debate?

Hon. Kang'ata: Yes, Hon. Speaker. I urge you to make a ruling as to the legality of this Bill without evidence of adherence to the specific provisions of the law that I have referred to.

Hon. Speaker: This is a dilatory Motion. I agree with you. The matter you are raising is weighty. It is not an abuse of the proceedings of the House. However, since you are moving for adjournment of debate, I am sure that you are aware that in order for me to make a decision, I have to put the Question. That is the only option available to the Speaker. If the Speaker is of the opinion that a dilatory Motion is an abuse of the proceedings of the House, the Speaker may forthwith put the Question, or decline to propose it. I need to put the Question to the Members. Did the Members understand the issues you have raised? Clarify your points.

Hon. Kang'ata: Thank you, Hon. Speaker. Can I repeat?

Hon. Speaker: Yes.

Hon. Kang'ata: Hon. Speaker, Article 205 of the Constitution provides for consultation on financial legislation affecting the counties. Article 205 (1) provides that when a Bill that includes provisions dealing with the sharing of revenue, or any financial matter concerning county governments is published, the Commission on Revenue Allocation shall consider those provisions and may make recommendations to the National Assembly and the Senate. Any recommendation made by the Commission shall be tabled in Parliament and the House shall consider the recommendation before voting on the Bill. The question is: Have those provisions of law been adhered to? Have we discussed any recommendations of the Commission in regard to this Bill? Those recommendations are the so-called formula. What is the rationale of how this money is being shared? Why is it that county A is getting these billions and county B is getting certain billions? It is in public realm. It is only the Senate which discussed those

recommendations. Therefore, I belong to the school of thought that, that was erroneous in law. We should have also discussed that formula here in the National Assembly. It was not brought for us to discuss in the National Assembly. That is what the Constitution provides.

I refer you again to Article 216(5) of the Constitution. It states:-

“(5) The Commission shall submit its recommendations to the Senate, the National Assembly, the national executive, county assemblies and county executives.”

Therefore, before we discuss this thing, we need to have evidence that the recommendations regarding the formula were submitted to the Senate, the National Assembly, the national executive, county assemblies and the county executives. That is very important. To the best of my knowledge, that has never been adhered to. In fact, we need a document that is annexed to this Bill showing evidence of submissions of these recommendations to all county assemblies, county executives, the national executive, the Senate and the National Assembly.

Hon. A.B. Duale: Hon. Speaker, I was watching Hon. Irungu Kang’ata as I was performing my prayers and I had to rush. I want to confirm to the House that the Commission of Revenue Allocation (CRA) based on law, on the same Article 205(1), did their second revised formula to this House. This was done when the Liaison Committee--- I want the Speaker to hear me.

Hon. Speaker: I am getting different information. It may be true that the Report came but may not have been discussed. That is the area I want to confirm so that if it is true that the Report is there but has not been discussed, then that is a different matter. We can see if it is within the law.

Hon. A.B. Duale: Hon. Speaker, I can confirm as the Leader of the Majority Party that I appeared before the Liaison Committee. I am sure the Chairman for the Public Accounts Committee (PAC) was in session in Room 9 in which the CRA was interrogated after they had convinced the Senate. Even that report came here through a Message from the Senate after the Senate’s sub-committee on finance dealt with the matter.

I can confirm this authoritatively from the HANSARD. I can even remember part of the variation they did to the current formula, where they introduced a new sub-section, something on financial with 1 per cent and dealt with population. I appeared before the Liaison Committee chaired by the Hon. Deputy Speaker. The report was concluded. It is now for the Clerk’s Office to bring it to the attention of the House. I even remember that the Report was tabled because I can also confirm through minutes of the House Business Committee (HBC) that, at one time, it was slotted for debate. It was on the Order Paper, if we trace our memory back.

I cannot confirm whether the debate was concluded. That can be confirmed by the Clerk’s Office. If that was not done, then the Member is right. We must first dispose of that report. But the formula has been agreed upon. The report was adopted by the Liaison Committee. It was on the Order Paper. It was the time when we were going for a short recess. If the records of the Clerk’s Office and the HBC can confirm that it was not debated and finalised, then we are within the timeline.

The bit that I disagree with the Member for Kiharu is that it is a function of the Senate to deal with the formula and the National Assembly. It has no basis on the county assemblies. The Senate dealt with it. It was referred to the National Assembly through a Message. Then you referred it to the Liaison Committee which dealt with it and it was for the House to come and debate it.

I am sure the Clerks-at-the-Table will confirm to you if the Report was debated. The Liaison Committee dealt with it and I am sure Hon. Gumbo will save my skin. This House is not contravening Article 205. This House is in order. The only thing, maybe, is administrative. If it is confirmed that it has not been debated, then we have to debate that Report, adopt it and deal with the County Allocation of Revenue for the Financial Year 2016/2017.

Thank you.

Hon. Speaker: I want to confirm, Hon. Kang'ata, that the recommendation that the CRA submitted to the Senate, the National Assembly, the national executive, county assemblies, and the county executives is the recommendation required under Article 204(2), which is on the Equalisation Fund. That is the one that is required to go to the Senate, the National Assembly, the national executive, county assemblies and the county executives. Article 216 (4) and (5) state:-

“(4) The Commission shall determine, publish and regularly review a policy in which it sets out the criteria by which to identify the marginalised areas for purposes of Article 204 (2).

(5) The Commission shall submit its recommendations to the Senate, the National Assembly, the national executive, county assemblies and county executives.”

Those recommendations are the ones required under Article 204(2) which states:-

“(2) The national government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible.”

That is the one that they would be required to submit. The principal function in 216 is to deal with vertical as well as horizontal recommendations for determination of allocation of resources.

The principal function of the Commission on Revenue Allocation (CRA) is to make recommendations concerning the business for the equitable sharing of revenue raised by the national Government, between the national and county government. The national Government will be involved under 95(4), among the county governments; which then brings in the Senate under Article 96(3), which will be the horizontal sharing.

Their recommendations are based on the discussions between the two levels of government as well as the commission which happens at a forum chaired by the Deputy President. I understand what has been happening in an effort to try and come to some understanding on this.

Hon. Kangata, I do not know whether you just read the law or you knew what happened. The information available is that within the Report, the recommendation of the CRA was presented. That recommendation is essentially the one on the formula, not this one affecting the Equalisation Fund. As a matter of procedure and as you rightly pointed out, the House should have debated that Report before we consider this Bill. Therefore, for purposes of tidiness, I am appreciating that the House experienced some higher tasks at the beginning of this Session, but matters which were supposed to be considered by the Budget and Appropriations Committee were always referred to the Liaison Committee. When the House finally decided to have the Budget and Appropriations Committee, his own Committee just handed over all documents on Budget and Appropriations Committee that was already seized of the matter of the budget

process and has not had an occasion to prioritize the bit of that recommendation from CRA.

In agreeing with you Hon. Irungu Kangata, Member for Kiharu, I will adjourn debate on this Motion to allow the Clerk's Department to consult with the Chair of the Budget and Appropriations Committee with a view to bring that Report to this House tomorrow in the afternoon for debate and possible adoption before we can proceed with other deliberations of this Bill - the County Allocation of Revenue Bill. Therefore, the Motion is, therefore, carried and the debate on Order No. 10 is adjourned until the House has considered the Report of the Commission on Revenue Allocation in the manner stated.

I thank you.

(Debate on County Allocation of Revenue Bill Adjourned)

MOTION

ADOPTION OF REPORT ON THE BUDGET ESTIMATES FOR THE FINANCIAL YEAR 2016/2017

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Estimates for the National Government, the Judiciary and Parliament for the Financial Year 2016/2017, laid on the Table of the House on Tuesday, 7th June, 2016 and pursuant to the provisions of Section 39 of the Public Finance Management Act, 2012 and Standing Orders 235 and 239, approves the issuance of a sum of Ksh. 1,674,321,238,405 from the Consolidated Fund to meet the expenditure during the year ending 30th June 2017 in respect of the Votes, as indicated in the First Schedule, and the issuance of a sum of Ksh. 12,400,000,000 from the Equalization Fund to meet the expenditures as indicated in the Second Schedule subject to:-

(i) inserting the following new sub-paragraphs immediately after the sub-paragraph d) under further recommendations on page 39-

(e) Allocate Ksh 4,896,765,057 for the recurrent expenditures for the 'Senate Affairs' programme under the vote Parliamentary Service Commission.

(f) Allocate Ksh 4,985,234,943 for the recurrent expenditures for the 'General Administration, Planning and Support Services' programme under the Vote Parliamentary Service Commission.

(g) Allocate Ksh 3,200,000,000 for the development expenditures for the 'General Administration, Planning and Support Services' programme under the vote Parliamentary Service Commission.

(h) Allocate Ksh 15,348,000,000 for the recurrent expenditures for the 'National Legislation, Representation and Oversight' programme under the National Assembly.

(ii) Inserting a new sub-paragraph (xxii) under Paragraph 98 (Recommendations) as follows:

(xxii) Increase the capital allocation to the Vote 1065 State Department for University Education under the programme University Education for Turkana University by Kshs 600 Million;

(iii) inserting a new sub-paragraph (xxiii) under Paragraph 99 (Recommendations) as follows-

(xxiii) Reduce the capital allocation to the State Department for Energy under the programme Power Transmission and Distribution programme by Kshs. 600 Million from the following: Ksh 300 million from Turkwel-Lokichar line and Kshs. 300 million from off-grid diesel power stations; and

(iv) inserting the following new sub-paragraph immediately after the sub-paragraph (d) under further recommendations on page 39 –

(e) Allocate additional Ksh 1,000,000,000 to the development expenditure for the ‘Economic Policy and National Planning’ programme under the Vote State Department for Planning and Statistics for the National Government Constituencies Development Fund.

(v) effecting the consequential amendments to the total sum approved and the First Schedule accordingly.”

(Hon. Musyimi on 9.6.2016)

(Resumption of Debate interrupted on 9.6.2016)

Hon. Speaker: Who was on the Floor? The Chair of the Budget and Appropriations Committee, you had some amendments? Yes, Hon. (Eng.) Gumbo

Hon. (Eng.) Gumbo: Hon. Speaker, I just needed your direction on a matter which touches on the Motion before the House, so that the Motion before the House is on the printed estimates.

Hon. Speaker: Sorry, you are talking of the estimates?

Hon. (Eng.) Gumbo: Hon. Speaker, this is the Motion on Adoption of the Report on the Budget Estimates for the Financial Year, 2016/2017.

As I seek your direction on this matter, I want to refer you to the provisions of the Public Finance Management Act (PFM) Act 2012, Section 25, which talks about the reparation of the Budget Policy Statements (BPS). Sub-section (3) which says:-

“In preparing the Budget Policy Statement, the National Treasury shall set out the broad strategic priorities and policy goals that will guide the national government and the county governments in preparing their budgets both for the following financial year and over the medium term”.

Sub-section (4), says as follows:-

“The National Treasury shall include in the Budget Policy Statement:-

(a) an assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts.

(b) the financial outlook with respect to Government Revenues, expenditures and borrowing for the next financial year and over the medium term” and seeing that this is important, “the proposed expenditure limits for the national Government including those of Parliament and the Judiciary and the indicative transfers to county governments”.

Hon. Speaker, this is the bit that I have a problem with. My understanding - and I stand to be corrected - is that, as we go into preparing the Budget, we should be guided by the BPS on the

ex-proposed expenditure limits. I have just looked at the expenditure estimates for the national Government, Parliament, Judiciary and Equalization Fund for 2016/2017, in the First Schedule which is attached to this Order Paper. If you look at the First Schedule, the State Department for Interior has exceeded what was--- I have with me here a copy of the Report of the Budget Policy Statement (BPS) which was approved when I was sitting in the Liaison Committee. If you look at that Report, it is dated March 2016 and it was presented here and discussed. If you look at what the Committee presented--- The Public Finance Management (PFM) Act also says under that same clause that Parliament shall, not later than 14 days after the BPS is submitted, table and discuss a report containing recommendations and pass a resolution to adopt it with or without recommendations.

No.8 says that the Cabinet Secretary (CS) shall take into account the resolutions passed by Parliament in finalising the Budget for the relevant financial year. The Report on the BPS was tabled and passed by the Liaison Committee when I was sitting there. I have just looked at what was approved in the BPS and in going through the First Schedule expenditure Estimates of the national Government and Parliament, many of these expenditures have exceeded what was approved in the BPS. Let me give broad examples. The State Department for Interior has exceeded by about Kshs12.6 billion. For the State Department for Correctional Services, what was approved was Kshs19.907 billion and what has been put in the Estimates is Kshs19.974billion. There are even areas where what was approved in the Report on the BPS is more than twice what was approved.

Hon. Speaker, I wanted your guidance on the role of the BPS. If it cannot guide the budget-making process, then why would we really be going about it? When you look at this, you see so many cases. I have just given a few examples. What was approved for the Ministry of Defence was Kshs96 billion, but what is before the House is Kshs98 billion. The State Department for University Education was Kshs63 billion, but what is before the House is Kshs71 billion. The Ministry of Health was Kshs59 billion, but what is before the House is Kshs60 billion. The Department of Infrastructure - and it is the biggest - was Kshs134 billion, and what is before the House is Kshs176 billion. The State Department for Transport in the Report of the Liaison Committee was Kshs130 billion, but what is before the House is Kshs181 billion. The Department of Housing and Urban and Metropolitan Development was Kshs11 billion, and what is before the House is Kshs12 billion. In fact, there are instances where what is before the House, for example, the Department of Broadcasting and Telecommunications, has a proposal of Kshs2.7 billion. That was not in the BPS. It goes on and on. In some cases, what is before the House is more than ten times what was in the BPS.

Hon. Speaker, I just wanted your guidance so that we get to know what the function of the BPS is. The question we need to address even before we conclude this is whether it is legal to exceed expenditure limits as set out in the BPS and the subsequent Report of the Budget and Appropriations Committee. If not, what are the micro and macro-economic policy implications of exceeding expenditure limits as set out in an adopted Report of Parliament as required in the PFM Act?

Finally, what then is the place of BPS in setting out broad strategic priorities and policy goals that will guide the national and county governments in preparing their budgets in both the following financial year and in the medium term?

I just wanted to be guided. If we go in this direction, clearly, we would be saying that there is not point at all why we should be discussing the BPS because it does not guide us in any

way. It is a document we can discuss in March, disregard it in June and go about the Budget as if there was no BPS. That is the direction I humbly seek to hear from you.

Thank you.

Hon. Speaker: I do not have to give the direction. Why do we not get a response from the people who deal with that? That should not be my function. Hon. Mutava Musyimi, you have heard the issues raised by Hon. Gumbo.

Hon. Musyimi: Thank you, Hon. Speaker. I thank the Member for those very valid points. Let me assure the Member that we are also constrained by the same facts. Yesterday, we met twice with the CS, National Treasury. We went to great pains to express our concern about the variations.

Let me also, having recognised the validity of the point that he is raising, say this:-

That while the CS, National Treasury is preparing the Estimates, he takes into account what is in the BPS. He is not tied to the BPS. In terms of the general direction of the programmes of the Government, what is in the BPS and what is in the Estimates has not really changed very much. The figures may change up and down but the general drift of the goals and priorities and the policy direction of Government are clear in both.

May also I say that any budgets, even a personal one, are aspirational. If we approach the issue of budgeting as matters set in concrete, then we fail to appreciate what it means to have a budget. It is something that is aspirational. It tells you the direction you want to go. It gives you a kind of a general perspective. So, if the figures have changed from those in the BPS to the Estimates, it is because you are dealing with a very dynamic situation. You are dealing with the kind of challenges that all the platforms that are involved in implementing the new Constitution, including this Chamber, are dealing with.

I stand to be corrected if there is any of the newly created initiatives and platforms in the new Constitution that are not finding their way into being faithful to the Constitution. We are still in the very early stages of the implementation of the Constitution. This is, probably, the third or fourth Budget of the new Government that is implementing this Constitution. We had a long session today and asked ourselves many questions. If I can give you an example, we have county assemblies whose role is to oversee county governments. There is a general consensus in the country right now that governors are hardly being overseen by county assemblies. We ask ourselves what the role of county assemblies is in the new dispensation. We then debated the whole question of giving Senators more money. We asked ourselves if we give more money, how will they use it to oversee the governors if they do not have that mandate given to them by the Constitution or statute? What point do I want to make? If we judge ourselves too harshly in these early stages, we shall be unrealistic on how processes move. What is quite clear to me, as the Chairman of this Committee, is that the interaction, the very fertile interaction between the National Treasury and the Committees of the House and between the Budget and Appropriations Committee and Plenary is a relationship that is on-going, has a lot of energy and seeks to be faithful to the programmes of the Government.

The bottom line is whether we have been faithful to the BPS. If you see the BPS as something set in concrete, you can say we have not been, but the BPS or the Estimates are aspirational. When the Cabinet Secretary for the National Treasury comes to us, as he did yesterday, we raise the same questions. My point to him when we talked on phone later on was that he should not be very mean in the BPS next year. Those were my words. If he is very mean in the BPS, we will try to vary the figures upwards in the Estimates, so that it does not raise the kind of problems we are dealing with on the Floor of the House.

What point do I want to make? It is that these are the early stages. We are dealing with a Government that is very ambitious about what it wants to achieve. We are dealing with figures. As the Chairman of the Budget and Appropriations Committee, I am satisfied with the facts as they are. That is notwithstanding the fact that we were not quite involved in the process at its earlier stages. I commend the Liaison Committee for the work they did and the Budget and Appropriations Committee for the work they have done in catching up. They have tried to be relevant with very complex and moving numbers. As you know, we were making decisions about this institution of Parliament this morning. That is how vital and fertile these conversations are.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. (Dr.) Makali Mulu.

Hon. Mulu: Thank you, Hon. Speaker. The issue raised by Hon. Gumbo is very important to this House. I sympathise with my Chairman, Hon. Mutava Musyimi. It is basically because the BPS is called the Budget Act in most countries. It is supposed to be an Act of Parliament once it is passed by Parliament. The question is whether, as a House, we want to go against an Act that we have passed. One of the surprising things you encounter upon reading this Report is the fact that all the three Arms of the Government have already gone beyond their ceilings. The law is flexible. Where we go beyond the figure, we should explain why that happened. The fundamental question is from the fact that the BPS provides what is called the “micro-environment on which the Budget is anchored”. It talks about interest rates, exchange rates, inflation and balance of payments.

Since this is the bigger picture on which the Budget is anchored, how are these figures going to impact on those factors in the country when you change them? How are they going to impact on the Budget deficit? How are they going to impact on interest rates? How are they going to impact inflation?

Hon. Speaker, that is why the law is not very flexible in terms of whether you can change the figures by the much you want. Looking at this Budget, we have changed it by more than Kshs224 billion. From any angle you want to look at it, this is poor budgeting. It is a situation where you lay the framework and then change the figures so much without explaining the impact of the changes on the micro-economic variables. It will be very dangerous for this country in terms of how we progress. As a House, we agree with what the Chairman is saying that we are in a new constitutional dispensation. But as a House, the more we continue to provide free room for changing the Budget after we have approved the BPS, the more we fail to help this country.

My plea is that while Hon. Gumbo may want us to allow the Budget process to go on, from next year, it will be very important for us to take the BPS seriously. We should change the BPS if there is something we want to change, so that we can have a strong foundation on which to build our Budget. That way, we will be helping as we will not be providing a lot of flexibility to the Budget making process. That is one point that I wanted to bring forward. I am happy he raised it before we got into detailed discussions.

This is a matter which is quite serious. It is a policy matter. It is on whether we really want to go this way as a country. We should want to say that the BPS passed by Parliament is there in law. We may not want to call it an Act of Parliament, but we may strictly want to stick to it. We will call it the BPS that we will want to stick to. We know things change. When that happens, then the Chair should explain to us what happens to the micro-economic variables. You do not just leave Kenyans hanging and unsure of what will happen at the end of the day. That

thought is important. I have said before that we can make whatever contribution we want to make.

Hon. Speaker: It is good that Hon. Makali has made that clarification. It also speaks to flexibility or inflexibility of the BPS.

Hon. Members, the language used in law when adopting the BPS is that it is a Resolution of the House. That is an analogy which is very close to what Hon. Makali has explained that the BPS is called an Act of Parliament in other jurisdictions. It would, therefore, be a violation of the law to go outside the provisions as passed by the House.

Hon. Makali, you ended by suggesting that we should be strict in as much as we may still be in a fluid state. It should be that we can afford a situation of being flexible. Leader of the Majority Party, are you seeking a clarification?

Hon. A.B. Duale: Hon. Speaker, I totally agree with the Chairman of the Budget and Appropriations Committee, but both he and his colleague, Dr. Makali, who has worked at the National Treasury for many years, have left out something. Hon. Gumbo said that what this House has passed as the BPS should not be contradicted in terms of the figures. The Public Finance Management (PFM) Act, 2012, in Section 25(8) says that if the CS deviates from what was presented in the BPS, he shall contend with what the House does. Before the House approves the BPS, the CS is supposed to table a Memorandum explaining any deviations. I confirm that the CS did so via a document tabled in this House. Therefore, the issue is resolved.

Of course, the issues raised by Hon. Makali are food for thought. How can we cheat our BPS? The law is very clear. If you read the Report, some of the changes came because of the austerity measures he has put in place while some of them are due to the new rationalisation of Government departments. An Executive order came after the CS and the Liaison Committee had dealt with the BPS. Government departments were rationalised. That might have raised the figures.

Even our Committees have issues to explain. If they have passed the BPS, they should tell us who approved the difference. It is not just the National Treasury that has erred. All of us have erred. The law is very clear. The CS must provide a Memorandum to Parliament if he exceeds the figures contained in the BPS. I confirm that that Memorandum has been provided.

Hon. (Dr.) Nyikal: On a point of order, Hon. Speaker.

Hon. Speaker: I can see the Member for Seme has a burning issue.

Hon. (Dr.) Nyikal: Hon. Speaker, I thank you for giving me the opportunity to contribute to this matter. It is an extremely important point.

What the Leader of the Majority Party has insinuated to is the letter of the law. If we pass the Budget of this country knowing that there is a lacuna somewhere over which we did not proceed according to the law, there is possibility of somebody challenging the validity of the Budget in court and bringing a lot of embarrassment to us. If what he is saying is true, we should get time and confirm it as we have done in the past. Then, we pass it knowing that there will be no mischief from anywhere. People out there are mischievous and we should not allow them. At times, we have passed issues in this Parliament and rushed to implement them and they have come to haunt us.

I just want to give a case of when we passed Justice Rawal to be the Deputy Chief Justice. I went back to the HANSARD to see what happened. On the Floor, I said it was important to put into consideration the age of a Deputy Chief Justice as an issue. First, it was her

legal philosophy and strategic management, but the most important one was that her age which was so close to the age of the Chief Justice and this would bring problems.

I will even read to you to show that we foresaw this and did not take action and now it is bothering us. This is what was recorded in the HANSARD:- “If you have a succession problem, we have to address it at this point.” The issue here is not that somebody is old, but we are likely to have to replace both the Chief Justice and the Deputy Chief Justice at the same time. I have just brought this because it is fresh and going on. My plea would be that if what the Leader of the Majority Party is saying is true, let us take time to confirm it and pass a Budget that nobody can challenge.

Thank you, Hon. Speaker.

Hon. Speaker: Well, I think we went to another part about the age of certain people. I am not too sure that I want to comment about age. Did you say the Chief Justice or Deputy Chief Justice? It is a matter before courts and I would rather not comment on it although I think it has been determined. Is it? When you made the first point about this, I was with you, but when you veered into ages of other people, you lost me. People have different ages. Sometimes you never know who was born when and where.

Hon. (Dr.) Nyikal: Please hear me out.

Hon. Speaker: Please, let us not mix age with the Budget because it is about dealing with figures. Although age has something to do with figures, let us not deal with it. Let us allow them to be in their places in peace wherever they may be. I saw the Member for Nambale, Hon. Sakwa Bunyasi.

Hon. Bunyasi: Thank you, Hon. Speaker, there is one big dimension on issues on law which have been alluded to. It will be very important to factually confirm them as my colleagues have said because they could have implications down the road. I am talking of variances between the BPS and any subsequent Budget Estimates that will be made.

The second one is the policy dimension. When Hon. Gumbo was speaking, he said these kinds of variations will obviously have policy impacts as well. I want to comment on the second part. On the first part, I agree that some factual determination of to what extent we are statutorily bound in this House should be confirmed just like the first issue, which the Member has raised. He said it is going to be confirmed.

On the policy side, it is also equally important. I doubt the BPS would tie Parliament not to make any variations. The Constitution allows Parliament and we could have remade a whole Budget if we wanted to, but we need to be faithful to the underlying assumptions in the BPS on growth, for example. When they make those tentative allocations, they have made certain model based assumptions on how much expenditure in certain areas will lead to growth. If there are poverty eradication programs, for example, we should know how much expenditure and what area would attack poverty issues. So, there are policy assumptions that are impressed in it.

When Parliament makes a change, which it does, the assumption is that we discuss and do not agree either with the level of thrust at the National Treasury, the absence of any thrust at all or that they have put too much. For example, there may be implications for borrowing both domestically and externally. You can see that more clearly when you look at not only the annual Budget, but the Medium Term Budget. Parliament could, in its wisdom, disagree with that level of borrowing irrespective of what the National Treasury says that it is sustainable or not or that we should have it higher.

Inflation is one thing. It affects inflation, but again, the role of Parliament would be to say that we can live with that level of high inflation or we cannot live with it. Changes should be

made with reference to these considerations which are the social and economic policies and other considerations. For example, we have special concerns for certain zones like pastoralists or the Arid and Semi-Arid Lands (ASAL) and people might feel that we need to have a more rapid injection of resources because the transformation is faster than the National Treasury assumes.

That must be made consciously using exactly the same parameters and past additional ones that may be disagreeing with the National Treasury. I doubt that will be embedded in law *per se*. If the procedures have certain statutory requirements, they should be checked out factually. The global practice will be such that, yes, Parliament can make those changes, but should make them consciously.

Hon. Speaker: Very, well. I just want to confirm that, indeed, I am in receipt of the Memorandum by the Cabinet Secretary to the National Treasury on the Resolutions adopted by the National Assembly on the 2016 Budget Policy Statement. The introduction of which reads as follows:-

“Section 25(8) of the Public Finance Management (PFM) Act, 2012, prescribes that the Cabinet Secretary for Finance shall take into account resolutions passed by Parliament in finalising the Budget for a given financial year. Section 38(1)(iii) requires the Cabinet Secretary to prepare a Memorandum explaining how the resolutions adopted on the BPS under Section 25(7) have been taken into account. The National Assembly approved the 2016 Budget Policy Statement and Debt Management Strategy for 2016/2017 on 3rd March 2016. The decision was subsequently communicated to the National Treasury.”

There is a letter they have referred to. The CS has explained as rationalised details of the various Ministries and departments and as, indeed, Hon. Gumbo read out. They are all explained in this Memorandum. It was important to confirm that, indeed, the CS has complied with the PFM Act explaining the variations and differences. I think having confirmed this, Hon. Gumbo, we can proceed.

Hon. Karani: On a point of information.

Hon. Speaker: Informing who? No. Who are you informing? Please, let us get on with the business. Hon. Mutava Musyimi, I may draw your attention to the fact that the Order Paper reads Motion as amended; resumption of debate. I can see you have submitted some further amendments which I approved. Then it means that before we move on with debate on the Motion, you should move these further amendments, so that once incorporated, we can debate this Motion as further amended.

Hon. Mutava Musyimi.

Hon. Musyimi: Thank you, Hon. Speaker. Before, I move the amendments, I think we owe a great debt of gratitude in this country to have a President who is very focused in terms of what he wants to achieve for Kenya.

One of the things that humbled me is his commitment to the implementation of the Constitution and the priority policy positions in the areas that are going to change our economy across the country in education, health, energy, water and things that will change Kenya going forward. Personally, as the Chair of Budget and Appropriations Committee, I feel much honoured, as all of us do, to play a small part in this journey. Also before, I make---

Hon. Speaker: Sorry for interrupting you. I am being told that, for purposes of order, the Order Paper contains what is shown as a further amendment by you. These others which you brought later must be further amendments to the further amendments on the Order Paper on Page 765. The HANSARD record should show correctly what we are doing. The Member for Seme

has brought to us a HANSARD record of what we discussed when we were approving certain people and with the issue of age. So, with regard to this, let us be correct, so that we do not leave what is in the Order Paper at Page 765 which reads, "Further Amendment". If this is so, then the others which I approved must be further amendment to the further amendment by the Chair of the Committee. Capture everything when you begin.

Hon. Musyimi: I stand guided, Hon. Speaker. Before I move further amendments to further amendments, let me also just remind the Hon. Members that in Article 26 of the Report that I tabled, you will notice that we have not completed all the allocations with respect to the Equalisation Fund. I also want to indicate that we will be getting all the information tomorrow. It will be captured in the Appropriation Bill. That is captured in the Report, so that you do not ask yourself how come the details on the Equalisation Fund are not there. They have already been covered.

Coming now to the matter at hand, I wish to move further amendments to further amendments to the Motion on the adoption of the Report of the Budget and Appropriations Committee on the Budget Estimates for Financial Year 2016/2017:-

THAT, the Motion be amended by inserting the following new sub-paragraphs immediately after the words Second Schedule—

(i) Inserting the following new sub-paragraphs immediately after paragraph d) under the further recommendations on page 39 -

(e) Increase the recurrent expenditures---

Hon. Speaker: Hon. Mutava Musyimi, I am told you need to start with what is in the Order Paper. You are not reading the Order Paper.

Hon. Musyimi: Hon. Speaker, I beg to move that the Motion be amended as follows:-

THAT, the Motion be further amended by inserting the following words immediately after the words "as indicated in the Second Schedule"—

"by deleting:-

(i) the words appearing immediately after the words 'Equalization Fund and that' appearing under 'further recommendations (c)' on page 38 and inserting therefor the words -

"Consultations be done with the leadership of the respective marginalized counties on the distribution of these funds before the enactment of the Appropriation Bill for 2016/2017."

(ii) inserting the following new sub-paragraphs immediately after paragraph (d) under the further recommendations on page 39 -

(e) Increase the Recurrent Expenditures for the 'Senate Affairs' programme under the Vote Parliamentary Service Commission by Ksh 500,000,000;

(f) Increase the Development Expenditures for the 'General Administration, Planning and Support Services' programme under the Vote Parliamentary Service Commission by Ksh 950,000,000;

(g) Increase the Recurrent Expenditures for the 'National Legislation, Representation and Oversight' programme under the Vote National Assembly by Ksh 1,600,000,000;

(h) Reduce the Development Expenditure for the 'General Administration, Planning and Support Services' programme under the Vote Judicial Service Commission by Ksh 1,000,000,000; and

- (j) Reduce the Recurrent Expenditure for the ‘General Administration, Planning and Support services’ programme under the Vote Judicial Service Commission by Ksh 261,000,000.
- (iii) Deleting the sub-paragraphs (xvi), (xvii) and (xviii) under increments on page 34 and replacing it with the following -
- (xvi) Increase KSh. 705.2 million to the State Department for Planning and Statistics for Lake Basin Development Authority (LBDA) towards payment for pending bills for construction of a mall in Kisumu.
 - (xvii) Increase KSh. 700 million for Tourism Development and Promotion Programme under the Ministry of Tourism for the following:
 - Tourism Finance Corporation by Kshs. 500 million for onward lending in line with the corporation’s mandate.
 - Ronald Ngala Utalii College by Kshs. 200 million for construction and civil works.
 - (xviii) Increase KSh. 200 million to Trade Development and Promotion under the Ministry of Tourism towards the construction of access road to Meru National Park.
- (ix) Increase recurrent allocation by Ksh 50 million to the General Administration, Planning and Support Services Programme for the National Treasury towards the Kenya Trade Networks.
- (iv) Deleting the sub-paragraphs (xv), (xvi), (xviii), (xix) and (xx) under reductions on page 36 and 37 and replacing it with the following –
- (xv) Reduce KSh. 457 million of the proposed capital expenditure from the State Department for Special Initiatives Programme under Model Street Family Rehabilitation Centre in the Ministry of Devolution and Planning.
 - (xviii) Reduce capital allocation Kshs. 376.2 million under General Administration, Planning and Support Services Programme in the National Treasury from the following:-
 - Rehabilitation and Expansion of Herufi Data Centre by Kshs. 120 million.
 - Upgrading, Integration of Pension Management by Kshs. 31 million
 - Equity and subscriptions in International Financial Institutions by Kshs. 47.7 million.
 - Establishment of secure and coordinated border control by Kshs. 17 million.
 - Treasury-Bima-Herufi Security System –car scanners, fire system, CCTV by Kshs. 10.5 million.
 - State Officers and Public Officers Car Loan Scheme Fund by Kshs. 150 million.
 - Public Sector Accounting Standards Board by Kshs. 10 million.
 - (xix) Reduce capital allocation Kshs. 463.4 million under Public Financial Management Programme in the National Treasury from the following:-

- Renewal of Oracle Licences, Annual support for IFMIS Applications and Hardware by Kshs. 50 million.
- Development, Implementation of IFMIS Academy & Oracle SOA Suite by Kshs. 50 million.
- Installation, Operationalization of Data Recovery by Kshs. 156.4 million.
- Provision of Procure to Pay–System Integration for Parastatals by Kshs. 200 million.
- The National Sub-County Treasury Services by Kshs. 7 million.

(xx) Reduce capital allocation Kshs. 50 million under Economic and Financial Policy Formulation and Management Programme from Professional capacity development for policy analysts in the National Treasury.

(v) effecting the consequential amendments to the total sum approved and the First schedule accordingly.”

Hon. Speaker, I have already spoken to the issue of the Kshs6 billion for the Equalisation Fund. Consultations are still in place and this will be reflected in the Appropriations Bill when it is tabled. So, those concerned can do the necessary as soon as possible, so that we can have that report latest tomorrow o’clock.

Hon. Speaker: There is a small clerical error at XVI in increase Kshs705.2 billion. Is it billion or million?

Hon. Musyimi: Hon. Speaker, it should be million. I beg your pardon. That is a clerical error. I stand corrected and I am grateful. On XVI, increase Kshs705.2 million to the State Department of Planning and Statistics for the Lake Basin Development Authority towards payment of pending bills for the construction of a mall in Kisumu. That is what I meant to say.

Hon. Speaker, I beg to move. In making my remarks, I will dwell mainly on the issues in item 1(e), (f), (g), (h) and (j) of that further amendment and I will recommend the Chair of the Departmental Committee on Finance, Planning and Trade, as he seconds this amendment, to give further information with respect to items 2 and the rest.

With respect to the increase of the recurrent expenditure for Senate Affairs Programme under the Vote Parliamentary Service Commission by Kshs500 million and this is also related to item (g) that is increase the recurrent expenditure for National Legislation, Representation and Oversight Programme under the Vote National Assembly Kshs1.6 billion. This has to do with increment that we are recommending. This recommendation came to us courtesy of the PSC. We had lengthy discussions on this matter to increase 30 per cent to the county offices for the Senators and 30 per cent allocation to the constituency offices for Members of the National Assembly. We have had very lengthy consultations and, indeed, yesterday we brought together the Cabinet Secretary (CS) for the National Treasury together with his staff, Members of the PSC and the Budget and Appropriations Committee. We had lengthy discussions and we are persuaded, as a Committee, that we should bring this amendment to increase the expenditures.

With respect to the Kshs950 million, this is increasing Development Expenditure for General Administration, Planning and Support Services. This has to do with the Centre for Parliamentary Studies and Training (CPST). Many Members will know that under your leadership as the Chair of the PSC, you have this vision and it is owned by the Members of PSC. So, I believe and I think of us believe that this institution should have a CPST for training Members and staff of Parliament. Indeed, I am happy to report that I am told that parliaments

within the region wish to enter into serious understanding where they can bring their Members and staff for training once we establish this facility. It would be a regional centre servicing parliaments within the region. We have had lengthy discussions about this. Initially when the meeting started, we were told that we should look for land somewhere in the area towards Machakos or Kajiado where we were looking at about 40 or 50 acres. That was the recommendation. We have had lengthy discussions. We also had some slight misgivings as to how well thought through this matter was. I am happy to say today that we have had very lengthy consultations, pretty much all day with Members of PSC.

I have also had the privilege and occasion to call you, as the Chair of PSC. We, as the Budget and Appropriations Committee, feel very highly persuaded that we need to invest in a piece of land. Among the three that had been looked at by PSC, so far, the one that seems to be most attractive is a piece of land in the area of Limuru, next to St. Paul's University. Having had the privilege of being a General Secretary of the National Council of Churches of Kenya (NCCCK) for 14 years, I am privy to how beautiful that place is. We had the Limuru Conference and Training Centre, the oldest training centre in the country and St. Paul's University College where I served as Chairman for quite some time. I know we wanted to buy the prime land that we are now talking about. If this deal can be concluded in days to come, Parliament will remember this as one of your legacies and one of the legacies of the 11th Parliament. Among the pieces of land that had been looked at, this has caught our attention. The kind of numbers we are dealing with as we talk with the prospective seller is in the region of Kshs20 million to Kshs25 million per acre, which is very fair for that area. That is the price of land in that part of Kenya. One of the points that were made, which I think is very valid, is that we do not want to put the centre in the middle of nowhere. It needs to be next to other training institutions. It needs to be near a university, if possible. We have that along Limuru Road.

When we worked the figures, we saw that 50 acres is what we should go for instead of buying 40 acres and then ask for 10 acres to be set aside for us to buy later. We know that once we buy these 40 acres, the price of land will go up and we shall be coming back to ask this Parliament to approve another 10 acres. When this kind of investment is happening, and I have done a bit of it myself in my life for institutions that I have had the privilege to work for, it always seems like a very big thing and almost overwhelming, but five to 10 years down the road you look back and wish you had done more.

I want to persuade Members and thank PSC, under your leadership, for this remarkable vision of having a training centre for the Kenyan Parliament. I want to believe we will agree to support this idea. Big as it seems today, I want to assure Members that down the road, the same Members will say that this was a prophetic and bold move. It is a bit like passing an opportunity to buy land in Karen, say, five years ago only to go back and find it is costing almost five times what you would have paid had you had the vision at the time.

We strongly recommend and support the PSC request to add Kshs150 million and add another Kshs950 million to come to Kshs1.1 billion, so that we can acquire 50 acres for the CPST that will be extremely useful to this Parliament and also to parliaments in the region. This is a vision of making Nairobi a hub for parliamentary studies and training. We recommend that very highly. It is a pity that Hon. Chris Wamalwa is not here to hear that the Chair of the Budget and Appropriations Committee has capacity to give some explanatory notes on matters that he wishes to present to the House.

Finally, on my side, just two items not small matters by any means, but they are reductions as you will notice. One is a reduction to the Judicial Service Commission (JSC) by a

figure of Kshs1 billion. The JSC had allocated this money without the National Treasury's approval. The same goes for the Kshs261 million in the Recurrent Expenditure, which had also been allocated without the necessary concurrence with the National Treasury. We met with the National Treasury yesterday and this matter came up. We then directed that the National Treasury meets again with the Departmental Committee on Justice and Legal Affairs. I want to thank Hon. Chepkong'a because they met today with the staff from the National Treasury and interrogated these two entries and they are now convinced that the Budget of this institution should be reduced by Kshs1.261 billion.

Hon. Speaker, I beg to move and request Hon. Langat to second bearing in mind that we have corrected what is wrongly recorded as Kshs705 billion to Kshs705 million.

Hon. Speaker: Hon. Langat.

Hon. Langat: Thank you, Hon. Speaker. I beg to second the Chairman of the Budget and Appropriations Committee on the further amendments to the Budget Report.

When you look at proposals under (ii), we are proposing to delete and replace the figures which are already on Page 34 and onwards. After the Report was discussed and tabled in the House, we had further consultations with the National Treasury on what we had earlier proposed in terms of what we had carried in the Budget and Appropriations Report. After the Report was taken to the Budget and Appropriations Committee, we discovered that there were some items we had proposed reductions that were touching on the donor funding and we were informed that if we were to touch those figures, then the donors will reduce their funding to the same level we were reducing the allocation to those Votes. We agreed to reduce the reductions in some Votes, so that we can cater for the ones which were reduced on the donor funding. The figures are reducing from what we had provided in the Budget report because of the donor funding which we had to return to where it came from.

Under proposals (vi), we had provided for Kshs1.5 billion, so that we defray the loan that has accrued to the Lake Basin Development Authority (LBDA). We were informed and there is a report by the Departmental Committee on Environment and Natural Resources that there is a mall which was constructed by the LBDA using a loan. The loan has fallen due to be paid and after the discussions, we are told that the National Treasury needed to relook at the modalities of repaying the same or restructuring the loan. We agreed to reduce by half pending those negotiations that the National Treasury and the management of the LBDA will have.

On the programme on Tourism Development Promotion, it reflects the reductions which were occasioned by the donor funds which we had deducted. We are just reflecting the reductions under those areas.

On (iii), we had proposed reductions on the National Treasury Vote. After a critical look, we were informed of some items such as rehabilitation and expansion of Herufi Data Centre that we had proposed to reduce by Kshs220 million, but after discussions, we agreed to reduce the reduction to Kshs120 million because some works are ongoing and our reduction would have affected them. This is the same with the other items under the National Treasury. This is further information we received from the National Treasury.

I second and request the House to support.

Hon. Speaker: I am not sure whether all these proposed further amendments have been circulated to all the Members.

An Hon. Member: They have been circulated.

Hon. Okoth: Not yet.

Hon. Speaker: The Member for Kibra has just walked in and when you walk in late, allow others who have been here to comment. I will not read everything because it is too long and it will take forever.

(Question of the further amendment proposed)

Hon. Speaker: Hon. Wamunyinyi.

Hon. Wamunyinyi: Thank you, Hon. Speaker for giving me the opportunity to make a comment on this. I would like to say that the budget-making process is a serious business for Members of Parliament. Because of my discomfort, I would like to suggest that on these proposed amendments, each item should be given a Vote on its own. We should vote for each one of them. They should not be brought as guillotine.

There are two items that I would like to draw your attention to. One, which is important to us, is the Centre for Parliamentary Studies. We commend the efforts to ensure its development. I am happy because I have been involved in linking up the Director with members of the United Nations Institute for Training and Research in Geneva. They are now working together. We need to develop the institute.

I am very uncomfortable with the error of Kshs705.2 billion that you detected. How do you confuse Kshs705.2 million with Kshs705.2 billion? A billion is not something you can print and bring to Parliament without looking at it. I understand these figures have changed and in fact, there was also Kshs1.5 billion for the same. There have been several changes on this item. Looking at it, it is to the State Department for Planning and Statistics for the LBDA towards payment of pending bills for construction of a mall in Kisumu. We are happy with malls in every town because they are development, but we have challenges. We have deficits and problems and then you are again putting money for pending bills for construction of a mall in Kisumu. Why do they not spend the money collected from rent to pay the bills? We are not going to be used for loans. I disagree and call on Members to reject this item. I think that is why he is changing these figures every now and then. The Chairman of the Departmental Committee on Finance, Planning and Trade should not tell us that this money should be allocated to pay for a mall. We should vote on every item.

Hon. Speaker: The Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, I support the amendments by the Chair of the Budget and Appropriations Committee except one. The other amendments which he has presented make sense. It is not a lot of money. Financial institutions will be established. The CS for the National Treasury has in mind the financial reporting centre and securing and coordinating the Kenyan border. The amendments on Parliamentary Service Commission are okay.

The 349 Members plus are in the National Assembly. We have a function to make sure that the taxpayers' money is protected. I said that the Kenya Meat Commission should be privatised. The Government has no business doing the work of the private sector. Building of malls is the work of the private sector. Secondly, the Government official who guaranteed loan for a Government institution to build a mall was wrong. That person must be surcharged. The Kshs705 million is a lot of money. If it is distributed to the 290 constituencies, it will help.

Hon. Speaker: Sorry, Leader of the Majority Party. I will give you a chance to contribute later. This particular aspect needs to be understood because I have been shown the actual Report on Page 34. It reads that we increase Kshs1.5925 billion to the State Department for Planning

and Statistics for the Lake Basin Development Authority towards payment of pending bills for construction of a mall in Kisumu.

This is in the main Report. In this proposed amendment, you are suggesting that we delete Kshs1.5925 billion. It will read Kshs705.2 million. Hon. Members, let us understand this. If you go to the route proposed by Hon. Wamunyinyi, then it means that you vote against this proposed amendment and then what will be left is Kshs1.5925 billion. If you reject what Hon. Wamunyinyi is saying, you will be left with Kshs1.5925 billion. This is the net effect. I have been given the figure.

Proceed, Leader of the Majority Party. It is good for everybody to understand.

Hon. A.B. Duale: Hon. Speaker, what you have said is true. We are serious legislators. We will delete that section that talks about Kshs1.5925 billion of the State Department of Planning and Statistics to be taken to Lake Basin Development Authority from the Report. Ultimately, after we reject Kshs705.2 million, we will go further, with your permission, to draft an amendment to reject Kshs1.5925 billion. That money will be used for the construction of a mall in Kisumu. That is in the Report.

If we reject Kshs705 million, then it goes back to the original figure which even the National Treasury when they appeared before the Budget and Appropriations Committee rejected, and the Chairman will agree with me. This is the Kshs1.5 billion. I want Members to listen to me. We are suffering in our constituencies. Even Kshs2 million, Kshs3 million or Kshs6 million of Uwezo Fund is a lot of money. Here, we are being told that with the powers we are given on the Budget making process, Kshs705 million will go to a contractor somewhere as a pending bill. This Government must make it very clear that it wants to compete with the private sector.

It is Kenyans who are working very hard to build malls. Tomorrow, the Kenya National Highways Authority (KeNHA) will come here and say: "As we build roads, we want to build housing estates," The KMTC will say: "As we train medical personnel, we want to build a hotel." This is very unfair. It is immoral and unacceptable. We cannot appropriate money to the Lake Development Authority for pending bills.

Secondly, this mall is in place. The Lake Basin Development Authority is collecting rent from each and every occupant of a space in that mall. They can use that rent to offset the loan they borrowed. One time Hon. Martha Karua said that there are times when the House will rise to the occasion. Those of us who are in the House should think whether we should take this money to the Constituencies Development Fund (CDF) and see whether we get Kshs101 million. Each constituency gets Kshs2 million extra than using taxpayers money to build a mall.

Hon. Speaker: Hon. Lang'at, perhaps explain as the Chair of the Departmental Committee of Finance, Trade and Planning. You heard the Chairman of the Budget and Appropriations Committee say that he wanted you to explain this bit.

Hon. Langat: Thank you, Hon. Speaker. It is good when I hear the Leader of the Majority Party saying this money is being wasted. Let me bring the House to speed. Those of us who were in the Departmental Committee on Environment and Natural Resources would remember, because this was recently brought to the Devolution Ministry, that an arrangement was made with the Lake Basin Development Authority to build a mall.

Two, the mall is already complete. The only problem is that the loan which was entered into is already due for payment. What needs to be done is to pay the contractor because there is already a loan which is due to be paid. Interest is accruing at a higher rate than the normal rates because it is already overdue. The LBDA is a Government Authority, so let us not talk as if this

is the first money we are sending to a Ministry department and agency. We have sent money to so many other parastatals.

We should not single out one and talk as if there is something wrong. This money is not even enough. We can even remove this, I have no problem, but the consequences are that the interest rate will continue rising and the mall will be auctioned. The good thing about this project is that it is contributing Kshs60 million per month. It is already complete. This is a project that will be repaid within seven years. We can remove the money, but the property will be auctioned. We will still deal with it in future. We can take the money to NGCDF, I have no problem, but as long as I have given the House the information to make the decision, the House can make the decision led by the Leader of the Majority Party. They can make the decision to remove the money and take it to the NGCDF, but the consequences are there. You can bury your heads, but you will continue paying high interest rates and the contract will continue attracting interest rates.

So, it is up to the House to make a decision. I am not going to tell you how to make a decision. I have given the House the information. It is up to you to make the decision but this is a Government parastatal just like other parastatals.

Hon. Speaker: Let us hear from the one who was a Managing Director (MD) around there. Member for Kwanza, tell us about this mall.

Hon. F.K. Wanyonyi: Hon. Speaker, thank you for the opportunity. I was getting worried that I was not to be given a chance. I want to make it clear. There is nothing wrong with bailing out a debt, as the Chairman has said. There are very many pending bills in this country. This is not an exception. This is a mall that has been built, and I want to bring light to the House because it felt dark sometime. It is completed and it is a very strategic business.

(Hon. A.B. Duale consulted loudly)

Hon. Speaker: He disclosed that he is a former MD.

Hon. F.K. Wanyonyi: I have an interest.

Hon. Speaker: Perhaps, you should tell us whether you are the one who selected the contractor.

Hon. F.K. Wanyonyi: No, Hon. Speaker. I do not do that. As you know, I am a very clean man. I want to take this opportunity to explain to this House that this project is very strategic in the region. Secondly, it is complete. We know of other parastatals which had pending bills and the Government assisted.

Secondly, this project is generating income for the Authority. Therefore, I want to thank the Members, particularly the Leader of the Majority Party. We should give the LBDA this money, so that they can complete making payments to the contractors. This is something I know has been done. I was the MD of the LBDA and I initiated the project, but I left much earlier. This project is very strategic in the region. I want to ask Members not to look at it in isolation as explained by the Chairman. It is a project that will earn this country revenue in form of A-I-A of about Kshs60 million per month. It is a good project.

Hon. Speaker: Hon. Wanyonyi, are you suggesting that the bailout is like the one done to Mumias Sugar Factory? Does it have some correlation to the bailout of the Kenya Airways (KQ) and such like ailing institutions?

Hon. F.K. Wanyonyi: Yes, Hon. Speaker. It is good because KQ, Mumias Sugar Company and many other institutions have been bailed out. There is nothing unique in us giving

this money to the LBDA. Their bills have actually been paid. As explained by the Chairman, we should not look at this issue in isolation. What reason do we have for looking at it in isolation?

As I support this amendment. I would want to bring a further amendment with regard to the ADC, for example.

Hon. Speaker: You do not have that opportunity. Hon. Members, let me just let you know this for free. The Motion is a money Bill one. Some of you are saying that you will do this or that, but not under my watch. You cannot be able to do anything. You either reject or pass it. Alternatively, take it for further public participation where you consult alongside the Treasury. I will never allow you people to come and make amendments on money Bills here.

Hon. F.K. Wanyonyi: Hon. Speaker, I, therefore, want to request the House not to look at this thing as a region and pass this request because it is just like any other parastatal that has gone under. They are doing very well. They have revived some of their activities. I can assure you that the income that will come from this Parastatal is about Kshs60 million per month. We cannot just wish it away.

Hon. Speaker: You have been speaking at various stages of sitting and standing. Are through with that now?

Hon. F.K. Wanyonyi: Yes, Hon. Speaker.

Hon. Speaker: Hon. ole Kenta.

Hon. ole Kenta: Hon. Speaker, I rise to let the House know what has transpired as a Member of the Committee on Environment and Natural resources. This issue came up. It is a very murky issue. The present investor, a Chinese, took a loan from the Cooperative Bank. He used the money as collateral to get a Kshs2.5 billion loan from the Cooperative Bank. The mall is almost complete, but it is collateral. There is a threat of selling it. As a Committee, we realised that it is a very important asset to Kenyans and the Government. We thought that other than losing it and maybe some people would like it to be sold and there may be grabbers who are waiting to grab it - we were between a rock and a hard place - the best thing was for us to secure the mall and then whoever who was involved, in that terrible thing should be followed up. The moment you do not allocate this money, the mall will be sold and it is worth billions of shillings. The benefit the people of Kisumu have been waiting to get from the mall will not be realised.

We should look at this rationally. It will be dangerous for us to put this money in the National Government Constituencies Development Fund and then lose the mall and the people of Kisumu lose the opportunity to own it. This is something we must reason out and not take lightly as some Members would like us to.

Hon. Speaker: Hon. Savula, Member for Lugari.

Hon. Angatia: Thank you, Hon. Speaker, for giving me the opportunity to also voice my concern on this issue. First of all, all over the world, the trend is that Governments are moving out of investing in profit making bodies. Governments all over the world are moving towards privatising entities that were created as parastatals to let private investors inject money in them to make profit. The Government does not operate on a profit and loss account. There is nowhere in the world where a Government invests money to make profit from its citizens. The Government spends money on its citizens to carry out projects that will assist the public, but not to make profit from the same projects.

On that note, on the Kisumu project, they either sell the mall or go to the Bank and restructure the loan. The Bank can restructure the loan and maybe give them five or ten years room to repay using the money generated from the rent. This Parliament should not allow taking

of money from public coffers and from the poor *mwananchi* trading every day to pay tax, to pay a contractor for a project.

(Applause)

It is very wrong to change from the trend all over the world where we are privatising institutions to allow private investors to inject capital. Here in Kenya we are going the reverse of the trend to take public money to such institutions. I smell a rat here. This money is meant for corruption purpose. This is not a small figure. This money is going to line people's pockets. We have to stop it as the National Assembly. How did the parastatal acquire a loan? The loan should have been approved by Parliament after the National Treasury consenting to it. How was this deal done? That is the question.

A relative of mine, a Member from Kitale, has alluded that Mumias Sugar Company was given Kshs1 billion as bailout. Let me tell my learned friend that the money sent to Mumias Sugar Company was a loan and it is going to pay the loan once it stabilises. This money, being given to a mall in Kisumu, is not a loan. We know the trend of members of the Asian community. How did he charge a title belonging to a parastatal in the bank without the consent of Parliament?

(Applause)

This matter should be subjected to thorough investigation by the PAC and the PIC. We will not just sit here and allow taxpayers' money to be spent like this.

Hon. Speaker: Hon. George Omondi, the Member for Alego Usonga.

Hon. G.W. Omondi: Thank you, Hon. Speaker. The issue of the mall is not what I wanted to discuss. I wanted to speak on the Budget. However, let me talk about the issue of the mall.

I do not think the former MD gave us a lot of light on this thing. That is why we are quarrelling. We do not understand the genesis of this thing. It would be important for the former MD to give us the financial benefits this mall was going to give to the Government of Kenya. As my colleague has just said, we should not keep on throwing money to each and every project that is started. First of all, why was it started and where was the money coming from? Was it supported by money from the Government or the private sector? As it stands, is there somebody somewhere waiting to buy it when it is completed? Some of these things are clouded in very beautiful language.

Some of us will take sides simply because it comes from Kisumu. We want more light shed on this matter. We should know who is interested, who is going to buy it and whether it really belongs to the Government. We may finish it and find that it does not belong to the Government, but an individual. Let us get more information on this matter, without which I will not support this project.

Hon. Speaker: Let us have Hon. Joseph Limo.

Hon. Limo: Thank you, Hon. Speaker. Before I speak on this issue, allow me to mention something about what you said. There is a very fundamental issue. You talked about whether a money Bill can be amended on the Floor of the House. Something happened on Tuesday. Two amendments were passed on this Report. It went through the Floor of the House without passing through the Budget and Appropriations Committee. I seek your guidance whether we are able to

make a re-committal, so that we make it compliant. One of them is the relocation of Kshs300 million from energy to education. It did not pass through the Budget and Appropriations Committee. I seek your guidance on that.

On the issue of paying pending bills, I wish to urge this House to consider all the issues before this House very objectively. When we talk of paying for a mall, we are misleading the public that we are paying for something which belongs to the private sector. When we talk about the LBDA, it is a parastatal which is more Government than the Kenya Airways Authority (KAA). If this amendment is not approved, it has effects. If there is risk that the mall will be sold even though it belongs to a Government parastatal, it is going to be a loss. It will be a bigger loss to the people of Kenya. The LBDA belongs to the Government of the people of Kenya. I urge this House to get more information and understand that if it is a parastatal and it is on the verge of being auctioned, we must guard the resources of this country in both ways. We must ensure that what is being appropriated is for the right purpose. At the same time, we must guard the assets of Authorities which belong to the people of Kenya. If we allow them to be auctioned, there may be interested parties who are waiting outside to buy then at a throw away price. Therefore, let us not take this matter lightly and start side shows on the Floor of the House forgetting that the other day, we were bailing out Kenya Airways (KQ) at Kshs2 billion. We did not want it to fall because it is the pride of Africa. At the same time, if the mall is ready and is going to be sold at a throw away price, there may be interested parties who want to buy it.

I want to urge my colleagues to debate the issue from an informed point of view and get all the details. Let us not argue about the mall. Let us argue about bailing out an Authority which belongs to the Government of Kenya. I beg to support this amendment because if it is meant to bail out an Authority and prevent it from losing the mall, let it be. If it is going to raise an Appropriations-In-Aid for the Government, the Authority will repay the loan over time instead of leaving it to be sold.

I beg to support.

Hon. Speaker: Hon. Sakwa Bunyasi.

Hon. Bunyasi: Hon. Speaker, I wanted to speak earlier on this issue, but it has been fully canvassed. I have nothing to add from my information. I am sorry.

Hon. Speaker: Member for Funyula, I have not heard your voice for some time. Now I need to hear it.

Hon. (Dr.) Nyongesa: Thank you, Hon. Speaker. It has been quite a while since my voice was heard. I would like to add my voice on this issue of the LBDA. It is very clear to most why the Government creates parastatals away from the mainstream Ministries. In this case, I am also taken aback why they are asking for money to pay pending bills. From my understanding, when parastatals are investing, their investment portfolio must be very clear about the source of money and what they will invest in.

Having listened to some of the contributions from Members here, it is like this property which belongs to the LBDA was mortgaged to a financial institution. I do not know so far what processes took place for that mortgage to be effected. So, in the event this money is unpaid, then the contractor can go ahead and auction the property. If we are saying that we are bailing out a parastatal, then there must be clearly negotiated structure on what exactly we are bailing out.

Saying that a building which was supposed to be an investment has been put up and now unless we pay a pending bill, there is going to be consequences where the public is going to lose is a bit curious. As a Member of the Public Investment Committee (PIC), I am praying that, Hon. Speaker, in your wisdom, you are going to rule that the relevant Departmental Committee of

Parliament picks up this matter to understand how this came about. A parastatal incurred pending bills on money that had not been voted for in its development plan. If what we are looking at here today would be part of the development Budget either through the relevant Ministry on behalf of the LBDA, then, it would be making sense. Saying that this is a stand-alone item to pay off pending bills, I find it a bit curious and quite unusual.

Although the mall has already been built, we have heard about its economic viability here, but how it was structured and why we are calling this a pending bill instead of putting it as a development Budget for the parastatal, I do not understand. Many times, the reason the Government creates parastatals is to allow them to make profits and plough back money into public coffers. In this case, from the debate that is going on here, it is being looked at as a consumer item. It is not an investment. The Chair of PIC should have brought up the issue that this is money that we need to invest in this parastatal as development money so that the parastatal can generate more A-I-A for the Government. We have seen in the Budget that the collection in A-I-A is limited. It is not growing. In this case, it is a one off item for something that has been expended. I will not support this amendment unless it is very clear.

Hon. Speaker, I urge that you direct this matter to the relevant Departmental Committee of the House to look at it further instead of us throwing it out.

I oppose the amendment.

ADJOURNMENT

Hon. Speaker: Hon. Members, the time being 6.30 p.m., the House stands adjourned until Thursday, 16th June 2016 at 2.30 pm.

The House rose at 6.30 pm.