

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 24th February, 2016

The House met at 2.30 p.m.

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

PRAYERS

PETITION

DE-GAZETTMENT OF MOCHONGOI SETTLEMENT SCHEME

Hon. Speaker: Hon. Grace Kipchoim is indicated as having a petition to present. Is she present?

Hon. (Ms.) Kipchoim: Thank you, Hon. Speaker. I rise to read a petition on behalf of the people of Mochongoi in Baringo South Constituency.

I, the undersigned, on behalf of the citizens of Kenya and the residents Mochongoi Settlement Scheme in Baringo South Constituency, draw the attention of the House to the following:

THAT, Mochongoi Settlement Scheme is located in Baringo South Constituency. The said scheme was established in 1989 by the Government consisting of three phases. That is Phase I- Block 107 - Mochongoi; Phase II - Block 110 - Kamailel and Phase III - Block 111 - Kimoriot;

THAT, Phase I - Block 107 - Mochongoi has 2,673 plots and only 1,411 plots have been allocated letters of allotment while the rest have no title deeds and the whole parcel has not been de-gazetted;

THAT, Phase II - Block 110 - Kamailel has a total of 1,779.7 hectare plots and 550 plots were issued with allotment letters and the Settlement Fund Trust (SFT) was paid, but the title deeds were not issued;

THAT, Phase III-Block 111- Kimoriot has acreage of 2,316 hectares. Only 843 plots have allotment letters and SFT has been paid fully. The remaining ones have not been issued with allotment letters. The SFT was not paid and, hence they have not been given title deeds;

THAT, the three blocks host a population of over 40,000 who always access Government services such as health services and water. The scheme is endowed with massive infrastructure development that has been done by the Government. Regrettably, many plots within the scheme have no title deeds and, hence that is hampering the rate of economic development of the area.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Lands:-

(i) Intervenes to ensure that the Petitioners' plight is addressed by de-gazetting the said piece of land and issues title deeds to all the people who are settled in the scheme without further delay; and,

(ii) Makes any other recommendations that may be deemed fit in addressing the plight of the Petitioners.

Your Petitioners will ever pray.

The Petitioners are Anthony Chebii, James Boit, David Makilgut, Elijah Kiptoon, Richard Kipchumba, William Ng'etich, Richard Chesang, Benjamin Kangogo, James Tunai, Salina Kibon and Paul Koech, on behalf of the 40,000 residents of Mochongoi.

Thank you.

Hon. Speaker: Next Order!

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Wednesday 24th February 2016:-

The Report of the Auditor-General on the Financial Statements of Kenya National Congress Party for the year ended 30th June 2010.

The Report of the Auditor-General on the Financial Statements of the United Democratic Movement Party for the year ended 30th June 2011.

The Report of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June 2012, and the certificates therein:-

- (i) The Social Democratic Party.
- (ii) The United Democratic Movement Party.
- (iii) The Party of Independent Candidates of Kenya.
- (iv) The Kenya National Congress Party.
- (v) The National Labour Party.

The Report of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June 2013, and the certificates therein:-

- (i) The Party of National Unity.
- (ii) The Saba Saba Asili Party.
- (iii) The Social Democratic Party.

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) The Kenya School of Law.
- (ii) The Cash Transfer for Orphans and Vulnerable Children Programme - IDA Grant No.TF097272.
- (iii) The Cash Transfer for Orphans and Vulnerable Children Programme - IDA Credit No.4553-KE.
- (iv) Small Towns and Rural Water Supply and Sanitation Project ADP Loan.
- (v) Kenya Universities and Colleges Central Placement Service.
- (vi) National Humanitarian Fund.
- (vii) Anti-Counterfeit Agency.
- (viii) The SACCO Societies Regulatory Authority.
- (ix) Kenya Film Classification Board.

(Hon. A.B. Duale laid the documents on the Table)

Hon. Speaker: The Petition by Hon. Grace Kipchoim is referred to the Departmental Committee on Lands.

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

Hon. Speaker: What is your point of order?

Hon. Abongotum: Hon. Speaker, we have read the list of the parties that were mentioned by Leader of the Majority Party but, to the best of my knowledge and belief, most of those parties have no offices in the counties or constituencies. We do not even know where their offices are in Nairobi. Those parties are misleading Parliament that they exist while they actually do not exist. I only know that most of those parties have certificates for political parties, but they do not even have money.

So, where do they get the money to report to Parliament that they exist, when we know that they do not really exist? Would I be in order to suggest that there should be a probe to see which ones are genuine and which ones are “briefcase or wallet parties”?

Hon. Speaker: Well, your request can only go to the Departmental Committee on Justice and Legal Affairs under whose docket the Registrar of Political Parties and other groups like the Independent Electoral and Boundaries Commission (IEBC) belong. But also remember that some of those Auditor-General’s reports relate to the year ending 30th June 2010, others 2011, 2012 and 2013.

So, even those which may have decided to die, had to be audited. Maybe during those years, they had something. They may have since gone into hibernation. Remember we are getting to periods where anybody can decide to find life by breathing to themselves.

The Auditor-General, nonetheless, has to report to Parliament about how they used to operate when they operated at all.

Next Order!

Hon. Yusuf Hassan, Member for Kamukunji. It reads “Member for Kamukunji Grounds”. I thought you are the Member for Kamukunji Constituency, not Kamukunji Grounds. Proceed.

NOTICES OF MOTIONS

DECLARATION OF KAMUKUNJI GROUNDS AS NATIONAL MONUMENT

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

THAT, aware that the Kamukunji Grounds in Pumwani Division in Kamukunji Constituency are, un-doubtfully, one of the most important public spaces in Kenya’s political history; further aware that it was here that our national leaders held ground-breaking rallies that mobilised the masses in the struggle for freedom and independence from colonial rule; cognisant of the fact that for the last 40 years, the Kamukunji Grounds have continued to play a significant role in the Kenyan peoples’ struggle for human rights and democracy, specifically the 1990 Saba Saba Rally that dealt a fatal blow to the one-party rule thus ushering in a new era of multi-party democracy; concerned that the historic grounds have been forgotten and neglected and yet, the great men and women of this great nation suffered so that we could be free; this House resolves that the Government declares Kamukunji Grounds a protected national monument and a historic place

of great importance and transforms it into a safe liveable public space for present and future generations.

Thank you, Hon. Speaker.

Hon. Speaker: Maybe, the staff of Parliament must have seen the gist of the Motion is about Kamukunji Grounds and assumed that you are a Member for Kamukunji Grounds and not Kamukunji Constituency, where the grounds are found.

Hon. Kanini Kega.

ESTABLISHMENT OF SELECT COMMITTEE TO PROBE YOUTH RADICALISATION

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

THAT, aware that national security, peace and stability is integral for national development; worried that the stability of Kenya continues to be susceptible to sporadic terror attacks by militia groups; further concerned that the escalating sporadic terror attacks by militia groups, incidences of terrorism and violence could be attributed to radicalisation of young people; alarmed that the number of young persons from across the country being lured or coerced into joining radical terrorist organisations continues to increase; concerned that despite the history of extremism and radicalisation in the country, little empirical inquiry has been conducted to determine the forces behind the youth vulnerability to religious and other forms of radicalisation; cognisant of the fact that spontaneous and reactionary Government response in combating extremism and radicalisation has borne little fruits; appreciating the role that comprehensive understanding of factors behind radicalisation and extremism can play in overcoming this vice; this House resolves to establish a select committee to inquire into and report within 90 days on the circumstances and forces behind vulnerability of young persons to radicalisation, and approves the following Members to constitute the Committee:-

1. Hon. Kanini Kega, MP.
2. Hon. Yusuf Haji, MP.
3. Hon. (Ms.) Mishi Juma, MP.
4. Hon. Francis Chachu Ganya, MP.
5. Hon. Kimani Ngujiri, MP.
6. Hon. David Ochieng, MP.
7. Hon. (Ms.) Florence Kajuju, MP.
8. Hon. Elias Bare Shill, MP.
9. Hon. (Eng.) Mahamud Mohamed, MP.
10. Hon. Richard Nyagoka Tong'i, MP.
11. Hon. Christopher Nakuleu, MP.
12. Hon. David Pkosing, MP.
13. Hon. David Kangogo Bowen, MP.
14. Hon. (Ms.) Sarah Korere, MP.
15. Hon. Chris Wamalwa, MP.
16. Hon. (Ms.) Jessica Mbalu, MP.
17. Hon. John Serut, MP.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Gladys Wanga.

SCHOLARSHIPS FOR STUDENTS TO STUDY ONCOLOGY

Hon. (Ms.) Nyasuna: Thank you, Hon. Speaker, I beg to give notice of the following Motion:-

THAT, aware that cancer is a leading cause of death globally, with more than 70 per cent of all cancer deaths occurring in developing countries; further aware that in Kenya, the disease ranks third among the main causes of death after infections and cardio-vascular diseases and accounts for up to 18,000 deaths annually, with over 82,000 new cases reported annually; noting that over one-third of cancer patients experience clinical anxiety and depression and thus, profoundly affecting the families psychologically and economically; cognisant of the fact that some of the patients travel up to 600 kilometres to Kenyatta National Hospital, the only public hospital that hosts most of the oncologists in Kenya; further cognisant of the fact that the remaining small number of oncologists are mainly based in Nairobi; deeply concerned that only few patients get admission or outpatient treatment due to monetary constraints; this House resolves that the Government mitigates the situation by offering scholarships to, at least, one medical master's student per county to study oncology and signs contractual agreements with them to serve in designated cancer treatment and management centres, building partnerships with existing medical institutions in local public universities for provision of training opportunities and emphasising on the use of tele-medicine and e-medicine to eliminate distance barriers and improve access to medical services.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Roselinda Soipan Tuya.

REPORT ON IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

Hon. (Ms.) Tuya: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Select Committee on Implementation on the implementation status of House Resolutions for the period of April to November 2015, laid of the Table of the House on Wednesday, 2nd December, 2015.

Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

STATEMENTS

STATUS OF BUSINESS PENDING BEFORE THE COMMITTEE ON IMPLEMENTATION

Hon. (Ms.) Tuya: Thank you, Hon. Speaker. I have a long list to update the House on the current status of business pending before the Committee and so, I will move very fast.

I will start with the resolution on the establishment of girls' boarding schools in arid and semi-arid lands (ASAL), by Hon. Dukicha. We have engaged the Cabinet Secretary for Education and we are still pursuing the matter. In the 2013/2014 Financial Year, eight boarding schools were established in Wajir, Kajiado, Lamu, Kwale, West Pokot and Homa Bay counties, benefitting 551 girls. In the 2014/2015 Financial Year, we had 26 boarding primary schools, benefitting 1,399 girls, and 17 girls' boarding secondary schools were upgraded to national standards in various ASAL counties, and 10 girls' boarding secondary schools were established for upgrading.

On the resolution on the establishment of the National Youth Council by Hon. Zuleikha Juma, so far, the National Youth Council is operational and a budget of Kshs34.2 million has been allocated annually since 2014. The Committee is still following up and monitoring progress for full operationalisation of the National Youth Council.

On the resolution on review of terms of Kenya Police Reservists (KPRs) in ASALs, we have engaged the Ministry of Interior and Coordination of National Government and visited various counties. So far, we have found out that the Ministry has begun vetting of reserve officers in West Pokot and Lamu counties. The Cabinet Secretary is due to appear before the Committee to give a full roadmap on the implementation of the resolution.

On the establishment of a disaster management authority by Hon. Tiya Galgalo, we have a draft Disaster Management Bill presented to the Cabinet in May 2015, and a Disaster Management Policy is also with the Cabinet. However, as things stand right now, I am aware of a Private Member's Bill by Hon. Tiya Galgalo on the same. We will deal with whichever comes first before the House.

On the resolution on the establishment of a unified identification system, we have engaged the Cabinet Secretary for Interior and Coordination of National Government. So far, an Integrated Population Registration System (IPRS) is in place and the process of linking that system to counties is ongoing. The CS is due to give us a report on the full operationalization of that system.

On the resolution on measures to ensure eligible Kenyans are duly registered and issued with national identity cards, our engagement with the CS says that introduction of mobile registration centres is ongoing. Deployment of additional 205 staff during the 2014/15 Financial Year was provided for. The CS indicated that they will be using Huduma Centres for that exercise. The introduction of the IPRS system will also aid in the registration. We have called on the CS to give us the actual numbers of registered Kenyans per county as we stand right now. The CS will be here to give us that report and we will report back to the House in due course.

On the resolution on the renaming and upgrading of Kitale Technical Institute to a full university by Hon. Chris Wamalwa, we have engaged the CS for Education, Science and Technology. Hon. Wamalwa has been party to this. As we stand right now, the Committee has noticed that the upgrading of the Technical and Vocational Educational and Training Act has begun. We are pursuing the immediate renaming of the institution which does not require a lot of procedure. We shall report back to the House on that in due course.

On the resolution that the Government shifts attention from the development of nuclear energy to green or renewable energy, this is one resolution that has put us in a quagmire as a Committee. Our engagement with the CS for Energy and Petroleum indicates that the Government has made various milestones towards the establishment of nuclear energy in Kenya, whereas the resolution before the House is to the effect that we should move away from nuclear

energy. We have had to engage experts to establish the justification as to why the country is moving the opposite direction from what Parliament is proposing. We are waiting for a report from the CS which we shall bring back to the House for necessary direction. This is because we are pulling in a different direction from the Executive.

On the resolution on the reduction of National Hospital Insurance Fund (NHIF) penalties, surcharges to defaulters from 500 per cent to 25 per cent by Hon. Gitari, we have a report to the effect that, as we stand right now administratively, those surcharges have been reduced to 25 per cent as per the House resolution. There is need to legalize that through an Act of Parliament. There is need to amend the NHIF Act to accommodate that reduction and the Ministry of Health is actually working on it.

On the expansion of cash transfer system to include NHIF cover to all elderly persons by Hon. Mustafa Iddi, this is a situation where the health function is fully devolved. We went ahead to see to what extent this particular resolution has been effected on the ground. That is because Kshs.290.6 million was approved for disbursement to NHIF, to cover those particular payments. When we visited counties, some of them had no idea about that particular provision. The Ministry of Health is actually willing to engage, despite this being a fully devolved function, for us to establish why monies were released and up-to date, no payments have been done to the elderly on NHIF.

On the Government upgrading of, at least, one hospital in every county, this is, again, by Hon. Gitari. On this, we have made milestones together with the Ministry of Health and, as we stand right now, despite the health function being devolved, the national Government, in conjunction with the counties, has identified two hospitals in each county. We have made visits to various counties where this is actually happening and, under the Managed Equipment System Programme, we know of some counties where that has already started. We will elaborate more in our report to the House for debate.

On the resolution on recruitment and deployment of medical staff by Hon. Ochieng, this is, again, a devolved function. We went ahead to engage with the Ministry and Kshs.3.7 billion was allocated for that particular function. The challenge we established in our visits to counties is that there is no follow-up to ensure that money earmarked for specific functions is actually used for those functions in the counties. This is again a challenge with devolution because in some counties, the governors told us that it was none of our business to check on it. It is a function of the Senate. We are following up on that.

On the development of a policy on the *boda boda* operators by Hon. Ochieng, we have engaged the Ministry, but their response is not satisfactory. We are due to meet with the CS, Transport and Infrastructure to establish how that particular policy is being decentralized and operationalised at the county levels.

On the measures by the Government to liberalize air fares, including the awarding of licences to operators by Hon. Mwinyi, we have engaged the CS for Transport and Infrastructure on that. We have established that, actually, 96 airlines have been awarded licences to operate, despite the seeming monopoly by Kenya Airways. We are yet to meet with a number of stakeholders to establish why Kenya Airways maintains the monopoly, despite the fact that we have 96 other players in the market, who are free to operate in the air transport market.

On the liberalization of power distribution in the country by Hon. Bowen, the Energy Act does not have Kenya Power as the only power generator and distributor in the country. It gives room to other players and we have established that. We are yet to meet with the Kenya

Association of Manufacturers (KAM), as well as the independent private providers of energy, to find out why Kenya Power is still operating as a monopoly, which is contributing to inefficiency in the energy sector.

Hon. Speaker: You appear to have too many reports. How much more time do you need?

Hon. (Ms.) Tuya: Hon. Speaker, I am yet to get to the adopted committee reports and petitions, which are quite a number. With your direction, I have just tabled a notice of Motion where we will be debating our report, which actually carries quite a number of these reports. We will be giving our status as well as giving Members an opportunity to interrogate the work of the Committee.

Hon. Speaker: I would suggest that since you have so many of them, the best thing would be then to table them so that individual members also get a chance to look at them.

Hon. (Ms.) Tuya: Thank you, Hon. Speaker, for your direction. I just want to say that this particular list is just an indication of the amount of work that is going on within the Committee. I know that there have been a lot of questions as to what the Committee is doing. But, this is what we are doing as a Committee. We have put a lot of energy and effort into the setting up of an online tracking tool, so that Members do not have to wait for these 10 minutes to know what is happening or stopping me in the corridors of Parliament to ask me how far their resolutions are.

The Office of the Clerk needs to tell us why, up to this point, it has not yet set up that particular online tracking tool. It is a tool for the members of the public as well as Members of this House to have an opportunity, with a click of a button, to know the extent of implementation of their particular resolutions. We have put a lot of effort and engaged experts and all that remains to be done is the Office of the Clerk to operationalise the tracking tool, so that we can be all updated on what is happening.

Thank you, for your direction, Hon. Speaker.

Hon. Speaker: The Clerk's Office should note that we need that tool in place. Next is the Chairperson of the Joint Committee on National Cohesion and Equal Opportunity, Hon. Johnson Sakaja.

STATUS OF BUSINESS PENDING BEFORE THE JOINT COMMITTEE
ON NATIONAL COHESION AND EQUAL OPPORTUNITY

Hon. Sakaja: Thank you, Hon. Speaker. I am pleased to present a status Report of the business that is pending before the Joint Committee on National Cohesion and Equal Opportunity.

With respect to legislative proposals, there is the proposed Penal Code (Amendment) Bill which you approved. It is at the publication stage. The Bill seeks to deal with matters of cattle rustling, completely outlaw it and declare it a capital offence. As it is now, people get off with very petty penalties. It is not taken as seriously as arson, murder or robbery with violence but *wazees* are told to sit down and talk it out.

The second one is the proposed National Cohesion and Integration (Amendment) Bill. The Committee has been in consultations with the National Cohesion and Integration Commission (NCIC) as well as the Ministry of Interior and Coordination of National Government, to ensure that the National Cohesion and Integration Act conforms with the

provisions of the 2010 Constitution as well as ensuring that the Commission has teeth to bite when dealing with matters of hate speech and promoting cohesion in our country.

There is also the Equal Opportunities and Persons with Disabilities Bill that is pending before the Committee. We have agreed with Government agencies and relevant stakeholders on the contents and draft of the Equal Opportunities Bill as well as substantive amendments to the Persons with Disabilities Act. This must be done in conjunction with the relevant Departmental Committees.

With regard to statements, two statements were committed to the Committee by the Senate regarding appointments to State corporations. One statement was delivered on the Floor of the Senate, as deliberated by the Committee, because that is where it originated. With regard to the other statement, we are waiting for the input of the Head of Public Service so that we conclude and deliver it either to the Senate or the National Assembly.

With respect to local workshops, we have a few that are still pending; that we have already started working on. The first one is on the operationalisation of the Equalisation Fund. This is a matter of interest to Members about when the Equalisation Fund will start operating. We met the National Treasury the day before yesterday and discussed the issues. There is money that has already been set aside. Kshs6 billion was set aside in the last financial year, Kshs340 million before that and Kshs6 billion in the coming estimates. We intend to have a workshop with the Commission on Revenue Allocation (CRA) as well as the National Treasury and all the other relevant stakeholders, including county governments, to deliberate on the review of those regulations. You are well aware that there is also an attempt by Hon. Lati Lelelit to amend the Constitution with respect to how the Equalisation Fund is applied. The Bill is currently in the Senate.

We have a pending workshop on hate speech and inter-community cohesion, with the Ministry of Interior and Coordination of National Government, the Ministry of Information, Communication and Technology - because of technology - the National Police Service, the Director of Criminal Investigations, the Director of Public Prosecutions, the Independent Electoral and Boundaries Commission (IEBC), the Media Council of Kenya, as well as the leadership of political parties, to deliberate on hate speech and inter-community cohesion as we move towards the next elections. We intend that, through this, we will set some minimum standards that are politically agreeable with respect to the tone that politicians are setting as we move towards the next elections.

In addition, we have a joint meeting with the Departmental Committee on Transport, Public Works and Housing and the Ministry of Transport and Infrastructure. We have already met with the National Construction Authority (NCA). As they review the Building Code, we want to make sure that provisions are included to ensure that there is reasonable access for persons living with disabilities into public spaces. You are aware that we have had this challenge even in the precincts of Parliament. We want all of that included in the Building Code such that you cannot put up a building without certain basic provisions for persons living with disability.

In addition, we have a pending workshop with the National Treasury, the Public Procurement and Oversight Authority (PPOA), the Council of Governors (CoG) and the Ministry of Public Service, Youth and Gender Affairs, with respect to the monitoring of the 30 per cent procurement opportunities, as stipulated in the new Public Procurement and Asset Disposal Act, which gives the Committee a mandate to regularly review, every three months, which counties or ministries have been giving young people, women and people living with disabilities access to

30 per cent of the procurement opportunities, that this House graciously passed. This is a Bill which I also sponsored.

With respect to reports, we have a number of reports that are ready to be prioritised for consideration and adoption by the House. The first is the Report on the Committee's Participation in the Conference on People with Disabilities in Geneva Switzerland on 18th to 24th August, 2015.

Second, is a Report on the Committee's Study Visit to Australia and New Zealand on the Aborigines and Maori Communities Interaction from 9th to 25th October, 2015.

There is also a Report on the Committee's Study Visit to Northern Ireland on Post-Conflict Experiences And Shared Futures, which also happened last year on 6th to 13th December. Those reports are all ready to be tabled.

There is also a Report on Inter-community Conflicts in Baringo, West Pokot, Turkana and Samburu counties. The Committee had a chance to go to all those areas, interact with the communities and agree on certain issues, including the signing of the first Peace Agreement between the Turkana and Samburu communities, within Samburu County, that was done last year. It is an on-going activity. There are still some few people we would like to interrogate before tabling that Report because we do not want to table a report just for the sake of it. Those people include officers of the Kenya Revenue Authority (KRA). This is because a lot of the proceeds of cattle rustling are finding their way to the Port of Mombasa for export and to the meat market in the Middle East. We also want to meet with the National Intelligence Service (NIS) as well as the Inspector-General of Police.

Finally, there is the Report on Inter-Community Cohesion in Lamu County and its Environs. The Committee felt that, at the time we concluded with this matter, tabling of this Report would have, at that point, not helped the situation. We have done a follow-up on the issues in Lamu County and we have a follow-up report that we can table since there has been a better understanding between the communities in Lamu.

The Committee has no petitions or motions pending before it. The Committee also has no sessional papers pending before it. We have cleared all the sessional papers that were referred to the Committee. There are no protocols before the Committee.

As I conclude, I would like to reiterate that the Joint Committee on National Cohesion and Equal Opportunity remains committed to concluding all the pending work in discharge of its mandate, as conferred on it, pursuant to Standing Order No.214 of the National Assembly.

Thank you, Hon. Speaker.

Hon. Speaker: The Chairperson, Joint Committee on Parliamentary Broadcasting and Library, Hon. Wesley Korir.

STATUS OF BUSINESS PENDING BEFORE THE JOINT COMMITTEE
ON PARLIAMENTARY BROADCASTING AND LIBRARY

Hon. Korir: Thank you, Hon. Speaker. On behalf of the Parliamentary Broadcasting and Library Committee, I have the honour to present the status of the business before the Committee as at Tuesday, February 23rd 2016. It is as follows:-

The Committee has finalised the Report on Proposed Amendments to the Standing Orders of both Houses Regarding Activities of the Media in the Precincts of Parliament. This

Report was adopted on 18th February 2016 and will be tabled in each House for consideration, as provided for in the Standing Orders.

Also, the Committee undertook a study visit to the United States of America from 18th to 28th October, 2015, to appraise itself on the procedures relating to joint broadcasting of parliamentary proceedings and public participation. The draft report is being considered and will be adopted in due course.

The Committee is currently reviewing its work-plan for the period of January to June 2016, in order to align its activities with the strategic objectives of the House, as outlined in the Parliamentary Service Commission Strategic Plan 2008-2018.

Hon. Speaker, on this review, as a Committee, we looked into the idea of making sure that Parliament has its own television (TV) station and the content for it so that we do not only depend on Kenya Broadcasting Corporation (KBC), Citizen or Kenya Television Network (KTN) to highlight what Parliament is doing. The Parliamentary Service Commission (PSC) is working well with the Committee to make sure that we develop content so that we can show people what Parliament does. We were talking about using the TV station or broadcasting network to showcase what each and every Member of Parliament is doing in his or her constituency using the Constituencies Development Fund (CDF) and other things; as a programme for enhancing public image of Parliament which, sometimes, seems to be lacking.

The Committee had a meeting with the PSC with the view of developing a joint strategy on public participation. This will enhance effective implementation of the Committee's mandate of advising the House of Parliament on matters related to public participation in Parliament, as provided for under Standing Order No.215(i)(b) of the National Assembly. The Committee looked into the issue and considered the way Parliament is doing its public participation. There was a lot of concern on how Bills in this House undergo public participation according to the Constitution of Kenya. Public participation was put there to get the views of the public from the villages and constituencies; to make sure they participate in making and implementing Bills of this House. The Committee took into account that it has not been going on well. Public Participation of the Bills in this House has not been going on well and we are working with the PSC to come up with a strategic plan on how we can enhance public participation to make sure that the "*Wanjikus*" in the villages and wards can participate in making sure the Bills passed here get the views of the *wananchi* on the ground.

The Committee had some challenges because being a Joint Committee of the Senate and the National Assembly - and according to the Constitution - the mandates of the two Houses are different. For example, the Joint Committee might want to go to the county to appraise and see how the counties are using public participation or how broadcasting in the counties is done. The Senate passes the budget, but the National assembly refuses to pass it because it does not fall under the mandate of the National Assembly. We need to look at how we can amend the Standing Orders to allow the Joint Committee run well.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, we will be glad to get proposals on how to ensure that every Kenyan who has views on any Bill that is published or proposed for publication or introduction in either of the Houses of Parliament, contributes or participates. We can never expect every of the over 40 million Kenyans to participate in the passage of any Bill. As a Commission, we will be happy to get proposals and suggestions on how that can be enhanced and, more particularly, at this period when social media and other such like avenues have

become a major conduit through which information is disseminated. I can say without any fear of contradiction that not every Member in this House participates, especially in contributing to passage in every Bill. I know for a fact that they participate in acclamation if that is sufficient participation. As a House and, indeed, as Houses of Parliament, we should be concerned that we need to have as many views of Kenyans as possible expressed with regard to proposed legislation in either of the two Houses. Just to remind you and many other Kenyans, Parliament as per Article 93 of the Constitution comprises of the National Assembly and the Senate. So, it is not the Senate and Parliament. The two Houses of Parliament must be concerned. I am happy to hear from you that you found that a concern; how many Kenyans are participating or expressing themselves regarding legislative proposals coming before either of the two Houses.

Thank you, Hon. Korir for that report. We hope your Committee will give us some proposals which can be discussed in either of the two Houses with a view to enforcement or implementation by the Commission.

Hon. (Ms.) Sabina Chege.

Hon. (Ms.) S.W. Chege: Hon. Speaker, I do not have a statement, but I want to bring it to your attention and to that of the Chairman of the Departmental Committee on Administration and National Security that a year ago, I tabled a petition from the family of Mr. Stephen Keru from Kigumo Constituency, Murang'a County.

Hon. Speaker: When did you present it?

Hon. (Ms.) S.W. Chege: A year ago.

Hon. Speaker: But they do not have more than 60 days within which to consider!

Hon. (Ms.) S.W. Chege: Hon. Speaker, that is why I am rising because he was a victim of a terror attack. The family is suffering and they needed attention. But the Committee did not even call or hear them. They needed to be heard. As you know, justice delayed is justice denied. I plead with you to consider whether the Committee can be allowed to re-look at the petition and address the issues raised by the Petitioner and the family.

Hon. Speaker: Hon. Kamama, can you undertake to give us some report next week?

Hon. Abongotum: Hon. Speaker, I want to indulge you to give us three weeks and we will come up with that report.

Hon. Speaker: Three weeks is okay. Hon. (Ms.) S.W. Chege, do not forget to remind the House and the Committee because they say delay defeats equity; so that you are not accused of something called "laches". If you sit on your right for too long, you will be guilty of laches. Within those three weeks, make sure you remind the House and the Committee.

Can I get the Member for Kisumu Village---

(Laughter)

Can I get the Member from Kisumu City, Hon. Ken Obura Mirenga, allowing me to transact some of these particular aspects?

(Several Hon. Members stood up in their places)

Why is it that Members like transacting business while standing?

MOTIONSREPORT ON REALIZATION OF NATIONAL VALUES
AND PRINCIPLES OF GOVERNANCE

THAT, pursuant to Article 132 (1)(c)(i) of the Constitution, this House notes the Report on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance submitted by His Excellency the President on Thursday, March 26, 2015, laid on the Table of the House on Tuesday, March 31, 2015.

(Hon. Katoo on 23.2.2016)

(Resumption of Debate interrupted on 23.2.2016 – Afternoon Session)

Hon. Speaker: Very well. Debate on this Motion was concluded yesterday. What remains is for us to express ourselves one way or the other.

(Question put and agreed to)

ANNUAL REPORT TO PARLIAMENT ON THE
STATE OF NATIONAL SECURITY

THAT, pursuant to Article 240 (7) of the Constitution and Section 16 of the National Security Council Act, this House notes the Annual Report to Parliament on the State of National Security submitted by His Excellency the President on Thursday, March 26, 2015, laid on the Table of the House on Tuesday, March 31, 2015.

(Hon. Katoo on 23.2.2016)

(Resumption of Debate interrupted on 23.2.2016 – Afternoon Session)

Hon. Speaker: Again, Hon. Members, debate was concluded. What remains for me is to put the Question, which I proceed hereby to do.

(Question put and agreed to)

REPORT ON FULFILMENT OF INTERNATIONAL OBLIGATIONS

THAT, pursuant to Article 132 (1)(c)(iii) of the Constitution, this House notes the Report on Progress made in fulfilment of the International Obligations of the Republic submitted by H.E. the President on Thursday, March 26, 2015, laid on the Table of the House on Tuesday, March 31, 2015.

(Hon. Katoo on 23.2.2016)

(Resumption of Debate interrupted on 23.2.2016 – Afternoon Session)

Hon. Speaker: Again Hon. Members, debate on this Motion was concluded yesterday. What remains for me is to put the Question, which I hereby do.

(Question put and agreed to)

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

CONSIDERATION OF THE PRESIDENT'S RESERVATION TO THE NATIONAL EMPLOYMENT AUTHORITY BILL

The Temporary Deputy Chairman (Hon. Cheboi): Order, Members! We are dealing with the Presidential Memorandum on the National Employment Authority Bill, National Assembly Bill No.8 of 2015.

We will be moving pretty quickly, Hon. Members. We only have a few clauses.

New Clause 45

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by adding new Clause 45 immediately after clause 44 as follows:-

Transitional and saving provisions

45. (1) Upon the commencement of this Act, the functions that were immediately before the commencement of this Act being undertaken by the National Employment Bureau within the Ministry responsible for labour shall be transferred to the Authority.

(2) All property, assets, rights, powers, liabilities and duties, whether arising under any written law or otherwise, which immediately before the commencement of this Act were vested in, imposed on or enforced against the Government in respect of the National Employment Bureau shall, on the commencement of this Act, be transferred to, vested in, imposed on or be enforceable against the Authority.

(3) The lawful directions, orders, rules, authorizations and other things published, made, given or done by the National Employment Bureau relating to its functions subsisting at the commencement of this Act shall be deemed to have been published, given, made or done by the Authority.

(4) Any legal act or thing done or purported to be done or any act or thing omitted to be done on behalf of, or in the name of the National Employment Bureau that relates to its functions before the commencement of this Act, by any person acting in good faith and with due or apparent authority in that behalf shall be deemed to be an act or thing made or done or omitted to be done by the Authority.

(5) The Cabinet Secretary for Finance, may, in consultation with the Cabinet Secretary, by Order in the Gazette direct that any assets and liabilities which immediately before the Commencement of this act, were vested in the government for the use of the National Employment Bureau shall on such commencement vest in the Authority.

(6) Every person who immediately before the commencement of this Act, was an employee of the National Employment Bureau shall, upon the commencement of this Act, be employed or appointed as a member of staff of the Authority for the unexpired period, if any, of the term.

(7) The employees of the Government who were, immediately before the commencement of this Act, serving in the National Employment Bureau at the Ministry responsible for Labour shall, upon the commencement of this Act, be given an option to serve in the Authority and if not appointed by the Authority, be redeployed in the Public Service.

Basically, this Bill was to transform the National Employment Bureau to the National Employment Authority. For it to assume the functions, the assets, the liability and all that appertains to it, there was need for a transitional clause. So, what the President is saying is that it is a good Bill, but for us to migrate or to transit from the National Employment Bureau to the

National Employment Authority, there must be a transitional clause that will deal with the assets. That is why if you read 45(1),(2) is about the properties and assets and the powers, liabilities and duties arising from any written. Section (3) is about the lawful direction, the rules and authorisation and (4) is about any legal act. So, it is basically a transitional clause that the President has introduced.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairman (Hon. Cheboi): Well, we have no problem. Let us have a few Members speaking to it. Let us start with Hon. Richard Tong’i. Do you want to speak to this, Hon. Tong’i?

Hon. Tong’i: Thank you for giving me the opportunity, Hon. Temporary Deputy Chairman. It is a straight forward Bill and the recommendation makes a lot of sense. But we are only saying that we give the right people when that implementation comes to pass. Those people are like the youth who are the majority of the unemployed and are suffering from the challenges that we are trying to address through this Bill. They should be given a chance to head that institution so that they can address the concerns of the majority who are about 70 per cent of the people in Kenya and are hurting because of unemployment.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us have Hon. Agostinho Neto.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Chairman. This is a good proposal because it seeks to transfer all the powers of the National Employment Bureau (NEB) to the Authority. Coordinated work in terms of employment issues done under the Authority is going to be useful and give the youth and many people a chance to get employment.

An Authority like this in the Bill is going to have more money as opposed to being a department in the Government. It is a good amendment.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Lastly, probably, let us have Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Chairman. I rise to oppose the amendment. The reason I want to oppose is not because of the substance, but the process. Whereas the proposed amendments are very good especially in ensuring transition and that the youth will get employment, my worry is that we are having a very lazy side of the Executive. This is something that would ordinarily have come by way of amendment, either by the Leader of the Majority Party or a Committee. You cannot have the President saying he is reserving by bringing a further amendment that agrees with the Bill. This is totally un-procedural and you are making the President look bad and lazy; just like the way you are making him look bad in the Tunoi Case.

Hon. Temporary Deputy Chairman, there is somebody who is sleeping on the job. I oppose.

The Temporary Deputy Chairman (Hon. Cheboi): Order! Hon. Millie, I think you are speaking to the gallery and I am not going to entertain that.

(Hon. Odhiambo-Mabona spoke off the record)

Order, Hon. Millie! You do not have to bring issues or matters that are not within the House.

I want to give a chance to Hon. Sakaja, before I come to the Leader of the Majority Party. Okay, let us have the Leader of the Majority Party, and then I can come back to Hon. Sakaja.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I want to confirm to my good friend Hon. Millie Odhiambo that this is not a Government or Committee Bill. It was a Private Member's Bill. I think it was upon all of us, as a House and at the committee stage--- The transitional clause was overlooked. It is like those who claim that they can take roads and yet--- Unless you come back to this House and repeal the Act of Parliament that formed the Kenya Rural Roads Authority (KERRA) and the Kenya Urban Roads Authority (KURA), there is no way the assets and liabilities of those institutions can just die like that. So, I think it is all of us here, including the owner of the Bill. That is why the President is saying that there must be a transitional clause. That was the issue. It is not a Government Bill.

The Temporary Deputy Chairman (Hon. Cheboi): The owner of the Bill is Hon. Sakaja. Let us hear from him.

Hon. Sakaja: Thank you, Hon. Temporary Deputy Chairman. I am the sponsor of the Bill but now, it is the property of Parliament. I fully agree with the reservations of the President. I just want to clarify that it was an oversight on our part. We needed to provide for those who are already working within a similar agency within Government to transition to the new agency, as well as the new authority being able to own the assets and liabilities. Speakers have agreed with the reservations. The Bill is not just about transforming the Employment Bureau to the Employment Authority, but it is actually creating an authority that will streamline the job market for young people, including creating job centres in every county so that if any national or county public entity is hiring people, they can hire through the Authority. We will have an online database which will provide for mandatory internships in public institutions for our young people in universities and colleges, and also facilitate international hiring. I agree with the Committee and thank it. They did an excellent job. It was just an oversight from this side and not from the President. The President was gracious enough to tell us to incorporate the transitional provisions so that no Kenyans are rendered jobless by a Bill that seeks to provide jobs for Kenyans.

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

(The new clause was read a Second Time)

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

The Temporary Deputy Chairman (Hon. Cheboi): That marks the end of that particular Bill. We will go to the next one, which is consideration of the President's Reservations to the Small Claims Court Bill (National Assembly Bill No. 51 of 2015).

CONSIDERATION OF THE PRESIDENT'S RESERVATIONS TO
THE SMALL CLAIMS COURT BILL

New Clause 37

The Temporary Deputy Chairman (Hon. Cheboi): Again, the Leader of the Majority Party, you have the Floor.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 37 of the Bill be amended by inserting the following sub-clause immediately after sub-clause (1)-

“(2) Where an application is made to the court for the issue of any process to enforce an order requiring a party to pay money to another as an alternative to compliance with a work order, that Court shall give notice of application to the party against whom enforcement is sought.”

The reason for this amendment is that Clause 37 of the Bill provides for the enforcement of orders made by the Small Claims Court. Subsequently, deletion of Sub-clause 2 renders the clause unenforceable in law. This clause marks the commencement of enforcement proceedings and triggers the actions anticipated under the rest of the clause, which is Sub-clauses 3 to 6. If I remember, when we were in the Committee of the whole House, deletion of this sub-clause was done without the notice of many of the Members. The Chair of the Departmental Committee on Justice and Legal Affairs will agree with me, it is the Committee and the Office of the Speaker, through the Attorney-General, who asked His Excellency the President to use his powers to return it so that we deal with it at this stage.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairman (Hon. Cheboi): Let me give an opportunity to Hon. Kangogo, Member for Marakwet East.

Hon. Bowen: Thank you, Hon. Temporary Deputy Chairman. I stand to support the reservations by His Excellency the President. This clause will enable the Small Claims Court orders to be implemented and observed by the relevant authorities. I support.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Member for Butula, Hon. Onyura.

Hon. Onyura: The amendment is fairly straightforward. It clarifies and also makes it easier in terms of implementing the main Bill. For that reason, I support the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Lastly, let us have Hon. Aghostinho Neto.

Hon. Oyugi: Hon. Temporary Deputy Chairman, I support this amendment. Like the Leader of the Majority Party has said, it gives effect to the various applications that are going to be made. I would also like to reiterate what Hon. Millie Odhiambo has raised. I support what she was raising that; whereas the President's Memorandum is acknowledged in the Constitution, we think that the manner in which the President is constantly using the Memorandum is not what the law anticipates. Whereas we support this, we really think that this ought to be done in accordance with the law.

I thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Let me give a chance to Hon. Wanyonyi, Member for Westlands.

Hon. Wetangula: Hon. Temporary Deputy Chairman, I totally agree with the first speakers. I support this President's reservation. I believe it will help this Bill to be implemented within the framework that has been provided.

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

(The new clause was read a Second Time)

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

The Temporary Deputy Chairman (Hon. Cheboi): That brings us to the end of that Bill. Let us start with the first one we handled. Let me call the Mover to move reporting. Leader of the Majority Party.

CONSIDERATION OF THE PRESIDENT'S RESERVATION TO THE
NATIONAL EMPLOYMENT AUTHORITY BILL

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the President's Reservations to the National Employment Authority Bill (National Assembly Bill No. 8 of 2015) and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Let us go to the next one, which is the Small Claims Court Bill. I call the Leader of the Majority Party to move reporting.

CONSIDERATION OF THE PRESIDENT'S RESERVATIONS TO
THE SMALL CLAIMS COURT BILL

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the President's Reservations to the Small Claims Court Bill (National Assembly Bill No. 51 of 2015) and its approval thereof without amendments.

(Question proposed)
(Question put and agreed to)

(The House resumed)

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

REPORT

CONSIDERATION OF THE PRESIDENT'S RESERVATION TO THE NATIONAL EMPLOYMENT AUTHORITY BILL

Hon. Cheboi: Hon. Temporary Deputy Speaker, I now report to the House that the Committee of the whole House has considered the President's Memorandum from His Excellency the President on Reservations to the National Employment Authority Bill (National Assembly Bill No.8 of 2015) and approved the same without amendments.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Nyenze to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Nyenze: Hon. Temporary Deputy Speaker, I second the Motion.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Ochieng!

Hon. Ochieng: Hon. Temporary Deputy Speaker, the amendments that we have passed today are very good. One needs to listen because the amendments are very good. If Hon. Duale was not consulting the president regularly, we would not be bringing good amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Leader of the Majority Party, you are being addressed by the speaker.

Hon. Ochieng: It is very important that you listen, Hon. A.B. Duale. The amendments that you brought on the National Employment Authority Bill are very good. You would have done well to consult the presidency during the time we were debating the Bill. We should sort out these issues beforehand so that it does not have to always come back with good things, but being done in the wrong way.

Thank you so much Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Do you want to respond to that, Hon. Duale?

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, first, I want to thank Hon. Sakaja. He is not here, but he is the owner of the Bill. If it was a Government Bill, I could have done it. All of us in the Committee of the whole House forgot to provide the transitional clause. This Bill is very important because, as we sit here today, there are many Kenyans who want to go and get employment out of the country. All those dubious registration employment bureaus have been closed for the last one year. We expect that when this law is assented to, the Ministry of Labour, Social Security and Services, through our Committee Chair, will fast-track its implementation and allow many Kenyans who work in the Middle East, Europe and the United States of America (USA), as well as in other countries in Africa, to access this law. The Ministry of Foreign Affairs and the Ministry of Labour, Social Security and Services must work together and open up avenues for the private sector to allow our people to go and work abroad. We need to export our human resource.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Were, Chair of the Committee.

Hon. Were: Thank you, Hon. Temporary Deputy Speaker. I stand to support the amendments as proposed by the President. If you remember, when the Presidential Memorandum was read out here, it was committed to my Committee. As a Committee, we sat and went through the amendments as proposed by the President. We found that they were actually improving the Bill that we had passed here. If you recall, the initial Bill was the National Youth Employment Authority Bill but, through consultation with Hon. Sakaja, we agreed that we remove the word “youth” so that we only come up with one national employment authority. As a Committee, we did our Report, which we tabled here yesterday. We were in full agreement with the recommendations made by the President.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Were. Hon. Members, I will not put the Question now. That will be done at an appropriate time. Let us move to the next Bill.

CONSIDERATION OF THE PRESIDENT’S RESERVATIONS TO THE SMALL CLAIMS COURT BILL

Hon. Cheboi: Hon. Temporary Deputy Speaker, I now report to the House that a Committee of the whole House has considered the Memorandum from His Excellency the President on Reservations to the Small Claims Court Bill (National Assembly Bill No. 51 of 2015) and approved the same without amendments.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I also request Hon. Nyenze to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Nyenze: Hon. Temporary Deputy Speaker, I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Nicholas Gumbo!

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I thank you very much for giving me the opportunity to contribute to the Bill in the Third Reading. The effort by Hon. Johnson Sakaja recognises a problem in our country. This is one of those progressive Bills that target real needs in our society. We all stand to benefit if every Kenyan, wherever they are, can go to bed with their families guaranteed that they are able to take care of their daily needs. Every effort that aims to make Kenyans to live meaningfully should be given bipartisan support. I laud this move.

You remember I had raised a question here regarding the matter of presidential referrals. If we are to be totally truly independent from the Government in the spirit of our Constitution, where Parliament, Judiciary and the Executive operate completely independent of one another, then we need to re-look at the law governing referrals. Probably, it is time that this House, as the law-making body, enacted a specific legislation to address the matter of referral. Some of us feel that much as the Constitution guarantees the President the power to do referrals, some of the matters that are being brought here still fall within the purview of Parliament. Otherwise, it is a progressive Bill.

I support it.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Agostinho Neto, do you want to contribute to this Bill?

Hon. Oyugi: No.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Gideon Ochanda!

Hon. Ogolla: Thank you, Hon. Temporary Deputy Speaker. I want to support this Bill. I quickly want to bring up one issue for purposes of observation by the House. It could be as a result of oversight that little things were missed in the House, as a Bill is taken to the President. So, we have referrals on issues like transitional clauses. Something needs to be looked into in the House because some of these small things paint a picture that is not very useful for this House. It is sad when we have little oversights like this one.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, I will also not put the Question on this matter. It will be done at the right time.

Next Order!

BILL

Second Reading

THE CONTROLLER OF BUDGET BILL

(Hon. A.B. Duale on 17.2.2016)

(Resumption of Debate interrupted on 17.2.2016)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Duale, you were still moving. You have 32 minutes.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Speaker. I was finishing this Controller of Budget Bill. In Clause 13, it gives the powers to the Controller of Budget to carry out functions without hindrance.

Clause 13 obligates other State organs and officers to cooperate with the Controller of Budget both at the national and county governments. In responding, the Controller of Budget must be given information. She must be furnished with periodic reports on the status of the management of the Budget and public funds in respect of questions. It should be noted that failure to adhere to the provision, if a State Officer or a State organ refuses to cooperate with the Controller of Budget, the consequences are grave. It amounts to an offence attracting a term of imprisonment not exceeding two years or to a fine not exceeding Ksh1 million or both.

Part III of the Bill recognises the fact that the Office of the Controller of Budget cannot function and discharge its duties satisfactorily without funds. For that matter, Clause 14 provides for source of funds for the office of the Controller of Budget. Parliament will appropriate monies for that purpose. As you are aware, there is no spending of public funds without accountability. The Office of the Controller of Budget is not an exception. Just like the Office of the Auditor General, Director of Public Prosecutions (DPP), Ethics and Anti-Corruption Commission (EACC), there should be accountability. So, the Office of the Controller of Budget is under the virtue of accountability in as far as dealing with public funds. Clause 18 provides for audit of accounts of the Controller of Budget in accordance with provisions of the Public Finance Management (PFM) Act of 2012.

Part IV of the Bill provides for general offences, financial misconduct and other offences under this Act with all the respective penalties. I do not want to go on since I took enough time last time. We were six Members when I first moved this Bill, three from the Coalition for Reforms and Democracy (CORD) and three from the Jubilee side. I looked for somebody to second the Bill and I only found a great man whom I respect a lot, who always remains with me in the late hours in this House, the Member for Ndhiwa.

(Loud consultations)

I did not say Mbita. There is a difference between Mbita and Ndhiwa. That is the constituency of my late friend, Hon. Orwa Ojode. So, can I ask Hon. Neto to second me, because we agreed with him? I looked for a Secunder that day and he agreed. Today, even if the whole leadership were sitting here he would agree. So, I ask him to second the Bill of the Controller of Budget 2014.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Let us have Hon. Neto.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker for this opportunity to second this Bill. Before I do that, I would like to pay tribute to Hon. Duale for keeping his word. At that point, he was under pressure since all the leadership had deserted him and we told him that we would be up to the task. I am happy that he kept his word. I am happy to second, I really thank him.

This Bill is very important. Apart from the Auditor-General's Office, the other office that is key to Kenyans' expenditure is the Office of the Controller of Budget. Clause 5 of this Bill speaks to the fact that fiscal strategy papers ought to be submitted to the Office of the Controller of Budget. These fiscal strategy papers should be from the County Executives in charge of Finance and also from the Cabinet Secretary in charge of Finance. If this was to happen, then the

kind of expenditure and wastage that we are watching at the county governments and the various Government Ministries ought not to happen. The Controller of Budget would be having systematic Budget levels and should follow through what the various Ministries and county governments are doing.

Clause 6, in my opinion, is ultimately the most important part of this Bill. It requires the Controller of Budget to give submission of reports to the National Assembly. Ordinarily, I have not seen, in my life in this Parliament, Controller of Budget reports. The reports that are anticipated here ought to be given in a quarterly manner showing the Government expenditure and how the Budgets are implemented in each quarter. If that was to be the case, then we would have a better way of questioning the various Cabinet Secretaries because half the time, we do not follow through. We do not know what is going on in the various Ministries. So, this Report would be useful for Members of Parliament in terms of their oversight role.

Clause 6(c) requires the Controller of Budget to give reports on receipts of money in the Consolidated Fund and the county reserve funds. For a couple of months, this country has been debating the Eurobond scandal and people were wondering at what point, if at all, money was paid to the Consolidated Fund. If the Controller of Budget stuck to her mandate and gave frequent reports in terms of money received into the Consolidated Fund, then Treasury would not have been under any obligation to explain whether they received money or not because that report would have been carried in the Controller of Budget's report. That is a key inclusion and one that I think is useful.

Clause 11 speaks to the common seal of the Office of the Controller of Budget. However, if you look at how the Office of the Controller of Budget comes into effect under Article 228 of the Constitution, it is one that is nominated by the President and given approval by the National Assembly. However, Clause 11 anticipates that the Controller of Budget can, in his or her absence, authenticate the use of the common seal. Clause 12 moves to make it very dangerous that whatever is done by a person who does not belong to the Office of the Controller of Budget can still be considered as acts done in good faith.

If we let someone else use the common seal which is the authority of the Controller of Budget in a manner that the Controller of Budget does not anticipate, the person who authoritatively should respond to the National Assembly is the office holder. People in this country are very treacherous and to give an omnibus authority for someone else, who is not the Office of the Controller of Budget, would be dangerous. That is a dangerous provision and that Clause should be deleted.

Clause 13 gives the Office of the Controller of Budget authority and power to have every office submit to them budgetary issues and allocations. This is a very good provision. At the point, the Controller of Budget then has authority and cannot give excuses. A couple of months ago, we saw the Controller of Budget giving excuses to the Public Accounts Committee (PAC) on what happened. With the authority given to her under Clause 13, operationalising the powers that she has under Article 228, these ought to be functions that he or she should execute.

Lastly, Clause 20 speaks to the fact that there ought to be regulations made in pursuance of this Act and they give the Office of the Controller of Budget leeway to make regulations. In my opinion and understanding, the functions that we ought to regulate under this Bill ought to be stipulated. We should be having a few highlights in terms of what regulations for operationalisation ought to be. Otherwise, leaving it in this way would be giving the Controller

of Budget's Office a *carte blanche* that would not help in making this Bill properly operationalised.

With those few remarks, I second. Thank you

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Benson Mutura!

Hon. Kangara: Thank you, Hon. Temporary Deputy Speaker. I would like to contribute to the Controller of Budget Bill.

This is a very important Bill in that the Office of the Controller of Budget is the only office that is mandated by the Constitution to safeguard public funds. All public funds are squarely in the hands of this office. I have been following the current issue of corruption and wastage of public resources. There are loopholes on how we use our public funds. I intend to bring some vital amendments to this Bill to give the Controller of Budget some powers to act. There is the issue of National Revenue Fund and the County Revenue Fund, which are provided under Articles 206 and 207 of the Constitution. These are constitutional provisions that ought to be followed to the letter. All counties are, by law, supposed to open Consolidated Revenue Funds. From the periodic reports from the Office of the Controller of Budget that are usually tabled here, it is clear that three years down the line, there are still counties which are violating that clear provision. All the money that the counties collect, be it taxes, rates or cess, is supposed to be put into their respective Consolidated Revenue Fund.

The framers of the Constitution were alive to the issue of county spending. It is a requirement of the law that they have to seek approval in writing. The county governments should not be spending money anyhow, as they do. Right now, county governments operate ordinary bank accounts over which the Controller of Budget has no control. They are at liberty to do whatever they wish. I implore upon the custodians, who are the office holders, to safeguard public money. The public has no other person to look up to. These people have to work. Most likely, office holders in the counties know what is happening and are in agreement with what is happening. I implore upon them to do the right thing.

We shall be moving some amendments because there is a lacuna in this Bill. If you look at the periodic reports of the Controller of Budget, for instance, the ones on the county assemblies, the Senate and the National Assembly, there are some recommendations. If you look at what has been happening, especially in the county governments, there are glaring issues. Some of the issues are criminal in nature. As it is, the best that the Controller of Budget can do is to highlight such issues in the periodic reports to this House. I will bring an amendment to ensure that the periodic reports of the Controller of Budget are taken to the respective organs of the Government, for example, the Inspector-General of Police, the Director of Public Prosecutions (DPP) and the Ethics and Anti-Corruption Commission (EACC) for appropriate action.

People cannot just be writing reports and expect Members of Parliament to read them just for the sake of it. Some of those reports are bulky. We do not even have time to read them. It took me quite a while to go through some of the reports and see what is happening. The reports are good, but what else is the Controller of Budget supposed to do? Are they supposed to lament and do nothing? There is a lot of wastage of public money, but the best that the Controller of Budget can do is to just bring a report to Parliament and then the next cycle starts. We need to be

serious. This is an independent office whose tenure of office is guaranteed. The holder does not need any favour and must act authoritatively.

Hon. Temporary Deputy Speaker, the national Government and county governments should be taking their draft Budgets to the Office of the Controller of Budget. What happens if the Cabinet Secretary for the National Treasury or the County Executive Officer responsible for finance in a county does not take their Budget proposals to the Controller of Budget? This Bill is short of giving the input, mechanism and punishment in tandem with such omissions. We need to follow up the embargo. Who gives approval to the National Treasury to issue funds to the counties? It should be clearly stated in this Bill that the Controller of Budget should be the one to enforce embargo on counties. Currently, the situation is chaotic. All the counties have overspent. They dish tenders left, right and centre. The governors have overcommitted the counties. Who will pay back the money? We should be serious about protecting public finances. Some county governments are in debts of billions of shillings simply because the Office of the Controller of Budget has not been effective in terms of enforcing spending ceilings for county governments.

Some counties are in the process of acquiring big loans running into billions of shillings. Others have violated that provision yet they have money. What sureties are there that such loans will be paid by the current county government regimes or the regimes that will follow? We, therefore, need to be very serious. The Controller of Budget needs to be serious as well. Despite giving guidelines on punishment to officers who neglect their duties, equally, there must be mechanisms of punishing the Controller of Budget for not doing what they are expected to do.

As I stated earlier, I will be moving substantive amendments, so that we can have a comprehensive and effective office.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. George Omondi. Is he in the House?

Hon. G.W. Omondi: Thank you, Hon. Temporary Deputy Speaker. This is a very good Bill because as we all know, the devolved system which was established by the Constitution of Kenya 2010 introduced two levels of government and offices were created. As we go along, we go through certain experiences. This Bill intends to bring sanity as well as checks and balances. Some of the experiences that we have gone through must guide us to modify the way we do things. This Bill intends to operationalise the Office of the Controller of Budget.

Article 228(4) and (5) of the Constitution spells out the functions of the Controller of Budget. Part II of this Bill in Clause 4(1) gives reasons for this, which is to ensure prudent and efficient use of public funds.

The Bill also intends to loop the Controller of Budget into the budget-making process at the national and county levels. This is achieved at Clause 5(a) and (b). In this section, both the Cabinet Secretary for the National Treasury and the County Executive member responsible for finance has to submit copies of their Budget Estimates to the Controller of Budget, the National Assembly and the respective county assembly.

However, it is not just enough for Estimates to be submitted to the Controller of Budget, but I would rather it is included that he or she is expected to comment on the Estimates. At the appropriate time, I am going to bring an amendment to make sure that the Controller of Budget is required to comment on these Estimates when they are submitted.

The preparation of these reports will be in accordance with Section 25(5)(c) of the Public Finance Management Act. Clause 6(1) of the Bill spells out the timelines. The Constitution says that the Controller of Budget will make reports every four months, but it does not give the

timelines within which to give those reports. This Bill stipulates that this report must be there within 30 days after the end of every quarter.

In addition, Clause 6(2)(a), (b) and (c) of the Bill spell out what the Controller of Budget quarterly report should contain and how they should be prepared, which is a step in the right direction. These are not provided for in the Constitution, but this Bill provides for them. This will ensure prudent and efficient utilisation of public funds.

Clause 7(b) of the Bill gives “meat” to provisions of Article 252(1)(a) by stipulating that the Controller of Budget makes reports to Parliament, the national Executive, county assemblies, County Executives or any other Government agency. Clause 7(d) extends the requirement of Article 254(2) of the Constitution to include that a governor can also request for a report from the Controller of Budget. As my colleague has just said, the county governments have been running amok thinking that they are very independent. At least, now it is a requirement that they will have to get reports from the Controller of Budget. It is important that the Controller of Budget should also be making his or her reports to other independent bodies, including, as my colleague said, the police. Clause 13(1) gives the Controller of Budget teeth in the performance of his or her duties. Clause 13(1) and (2) spell out the penalties of failing to cooperate with the Controller of Budget.

Finally, Clauses 15, 16, 17 and 18 spell out the internal workings of the Controller of Budget in terms of preparation of financial statements and periodic reports of its own internal operations. These provisions are not spelt out in the Constitution that creates the Office of the Controller of Budget, but are now established through this Bill.

Hon. Temporary Deputy Speaker, with all those improvements, good clauses and good requirements, I support the Bill. I will bring an amendment to require that the Controller of Budget be expected to comment on the Estimates that are given to him or her.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I give the Floor to Hon. Alice Ng’ang’a.

Hon. (Ms.) A.W. Ng’ang’a: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill because it empowers the Office of the Controller of Budget, so that it can discharge its duties. This is a very good Bill. There is no way the Controller of Budget is supposed to safeguard the budget-making process and yet is not empowered enough financially to execute its duties. So, it is good for this Parliament to make sure that we give the Controller of Budget enough money. There is no way we can give the office the duty to check whether we spend the money that we set aside properly and yet that body is not given sufficient funds to do the job.

This Bill is very timely and good. As we know, the Controller of Budget cannot do all this work alone. She or he has to hire staff to assist in the running of the office and making sure that all the reports are good enough to be presented. The Controller of Budget is a very important office now that we have two levels of government. Right now, nobody safeguards public funds in this country once the money is dispatched to the county governments and the national Government. At the county government level, other levies and taxes are collected, but nobody can tell how much comes from the different counties. Nobody has ever made sure that county governments remit all the money they collect to the Consolidated Fund. There is so much wastage in the county governments. Some money is forwarded while some is left in the counties, but the counties still demand for more money from the national Government. With the Office of the Controller of Budget well equipped with running systems and structures, it will follow up and

make sure that money allocated to the county and national governments is spent the way it is supposed to be spent.

We should not fear to empower the Office of the Controller of Budget. It is going to be like any other institution where transparency is expected and where funds are supposed to be appropriated the right way. We should make sure there is no misuse of funds by the office. When we Budget for the entire year, it is not a one-day event, but a process. Let us empower this office so that they can function in the entire year. As we move from one budget-making process to another, the Controller of Budget should be in the loop to know exactly what is happening. For all the reports which come from either the national Government or county governments, the Controller of Budget should go through them. This is their duty. So, they should not tire. The office has a responsibility of seeing that everything is done well.

This is a very good Bill. However, a little bit of amendments here and there are needed. I support it because we are going to have a firm institution to oversee the budget-making process and the entire funds allocation.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I give the Floor to Hon. David Ochieng.

Hon. Ochieng: Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I rise to support this very important Bill. The people who came up with the idea of governance, government and democracy must be congratulated because they did a very good think. In doing so, they also decided that there must be measures to ensure that there is oversight in terms of means and ways of knowing what is happening here and there and ways of controlling how public funds are spent. That is the right way.

Our new Constitution distinguishes the two roles that were merged into one before the promulgation of the Constitution, namely, the role of the Office of the Auditor-General and that of the Controller of Budget. The Controller of Budget is at the gate where people enter. The Office of the Auditor-General is at the exit. At the entry, the Controller of Budget is in-charge of ensuring that taxpayers' money is withdrawn and spent for the purposes for which it is meant.

I am very happy that for the first time in three years, the Leader of Majority Party has brought a Bill that captures the very essence and function of an independent office. For the last three years, this Parliament has had to fight wars of the current Government trying to weaken and arm-twist independent offices. This Bill speaks to and upholds the independence required by the Office of Controller of Budget. Therefore, I support the same.

Clause 6 of the Bill talks about reports of the Controller of Budget and gives timelines within which they must be given. How I wish there are also timelines on when this Parliament must discuss those reports. Many laws in this country contain provisions requiring public bodies and entities to give Parliament reports. They put timelines of 30, 40 or 60 days, but Parliament is not given timelines as to when it should debate those reports. That is why sometimes we even forget and blame public officers for not bringing the reports. The reports are brought to the House, laid on the Floor of the House and sometimes they even take a year or two before they are debated.

How I wish we could also put timelines on this House and require that if a body like this office brings a report to the House within 30 days as indicated in Clause 6, we must also debate those reports between 30 or 60 days. This will ensure that reports are not brought to the House in vain. We should not put pressure on public officers to give us reports which we never debate or

consider. Last week, we had a report from my friend, Hon. Gumbo, on the Judicial Service Commission. We complain that they do not bring reports to the House, but reports are given, they are never debated and we do not even know where they are a year after.

It is time we started giving ourselves, as Parliament, timelines. If the Office of the Controller of Budget gives us a report within 30 days of the first quarter, we must debate the same report before they give a report in the next quarter, so that we do not have reports piling up without being debated. I hope the Committee on Budget and Appropriations and the Office of the Controller of Budget will ensure that Parliament apportion them enough money. So that these reports are publicised in a manner that reaches all Kenyans and in languages that Kenyans understand. There is a feeling among Kenyans that the only people who should be asked questions about public money and how things work in the country is the President and Members of Parliament. I have to answer questions about water, health and agriculture in my constituency because Kenyans still do not know which roles are devolved and which ones are not. They do not know which roles are played by the governor, Senator or members of county assemblies (MCAs).

If this office is given enough resources, they can publicise their reports. Kenyans need to know how their money is being used. If this is done in English or Kiswahili, most Kenyans might not understand. I hope this office can be given resources to publicise their reports in languages that Kenyans understand. Nowadays, the media broadcasts in many languages. So, they should be given enough resources to enable them to do that.

I was looking at Clause 9 and I am very happy with it. The last time we had a Bill about an independent office in this Assembly, we had to fight about that office's capacity to hire and fire staff. In Clause 9 of this Bill, the Office of the Controller of Budget is given mandate as required by the Constitution to hire its own staff. They should appoint such staff only on such terms as the Public Service Commission (PSC) may approve and on salaries as may be recommended by the Salaries and Remuneration Committee (SRC). This is the way we should work. We establish offices which should consult and work together to ensure that each office's roles and functions are respected. The Office of the Controller of Budget will propose that they want to employ a certain number of people and the PSC will tell them that they should employ them on such terms. The SRC will go ahead to tell them to employ on such terms within certain payment ceilings. The Office of the Controller of Budget should not be undermined and weakened in terms of how it can employ staff.

I have an issue with Clause 8 on how the Controller of Budget may delegate his or her functions. I do not think delegation can be done to any employee. The clause says that the Controller of Budget may delegate, in writing, any of his or her powers to any employee. You cannot ask the Controller of Budget to delegate his or her functions to any employee in the office. You are saying that he or she can delegate to anybody. He or she can meet someone on the stairs and tell them what to do. This delegation must be done to competent employees and not any employee. We cannot do that.

This must be read with what appears in Clause 11, which talks about the seal and how it may be used with a proviso that the Controller of Budget shall nominate a member of staff to authenticate in his or her absence. The seal of the Controller of Budget does not require authentication and there should be no provision anywhere in this Bill about another person being allowed to authenticate. The Controller of Budget will delegate to a competent officer in his or her office and when the seal is used, it should have all the powers as required. We will be

moving amendments to remove the proviso in Clause 11 and to provide that the Controller of Budget should delegate functions to the right persons.

Clause 7 talks about special reports. This is important for the functioning of this Assembly and especially for the watchdog committees, namely, the Public Investments Committee (PIC) and the Public Accounts Committee (PAC). Parliament may request that office to make special reports to whoever asks for the same. In the last three or four months, reality has hit this country and now we have a lull. I am sure in the next one or two months, another thing will come up. Eurobond questions have not been answered. It was very interesting to hear the current Controller of Budget saying that she was not summoned to State House, but was just called for consultations and had not discussed the Eurobond issue with the President. If this country borrows money from whatever source, that money must be brought into a Consolidated Fund and be subject to approvals on its withdrawals by the Controller of Budget.

As we pass this Bill, we ask the Controller of Budget to ensure that the independence required of her office is maintained and she acts based on that independence.

I support this very important Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Peris Tobiko.

Hon. (Ms.) Tobiko: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill.

If there is one very important office that the new Constitution brought forth, it is the Office of the Controller of Budget. This office, being one of the independent offices in the country, is very important in providing checks and balances for every system, both in the county government and the national Government. The Office of the Controller of Budget, so far, has become a good regulatory measure in our expenditure of public finances. Harmonisation has been brought by this office.

This office is important and should continue to exercise its duty as the current holder has done, with great independence, a lot of autonomy and with due respect to the rule of law. Like all other independent offices, this office needs people of high integrity. Even as the Controller of Budget requests for staff to be seconded to that office, they should be people of integrity and with the necessary expertise. This is important.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Nicholas Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to this Bill. This is a very important Bill in that it provides for a constitutional office, which is very useful and necessary in ensuring that the money that this country collects from its citizens is used responsibly.

A lot has been said by my colleagues and I do not want to repeat it. I want to refer to Article 228(4) of the Constitution which says:

“The Controller of Budget shall oversee the implementation of budgets of the national and county governments authorising withdrawals from the public funds under Articles 204, 206 and 207.”

The provision of Article 228(4) has been given an implementation procedure through a provision of this Bill, which we hope to develop into a statute under Clause 4. Clause 4 states that in the performance of his or her functions under Articles 228 (4) to (6) and 252, the

Controller of Budget shall ensure prudent and efficient use of public funds. Even stopping at that point, there is a concern. It appears that most of us, especially in the counties, have still not quite understood the essence of devolution. A lot of Kenyans have yet to come to terms with the idea that the intent of devolution is to ensure responsible use of public resources in so far as providing services to the people of Kenya is concerned. I emphasise this point of ensuring prudent and efficient use of funds because as a Kenyan, I am very concerned. Devolution has changed the landscape of Kenya, but we must also not be blind. This idea of saying that this has been achieved while we turn a blind eye to what has not been achieved is where we get it wrong. Who says that, as a country, we cannot be an ideal model of governance in this region and the whole continent?

We come from the counties. One of the reasons why there was such a clamour for devolution was that without a doubt, there are parts of this country -we have spoken about it on the Floor of the House - which have been marginalised for decades. There cannot be any possible reason why Wajir County had to wait for 50 years to get its first metre of tarmac. Perhaps, one of the reasons we went in the direction we did was because of the highly acclaimed Sessional Paper No.5 of 1965, which was one of the most divisive instruments of governance that this country has ever published. The Sessional Paper No.5 divided Kenya into two sections, namely, the so-called high potential and the low potential areas, where it is said, as a blueprint, that the resources of the country will be directed. It is as if the Sessional Paper was, in effect, saying that some parts of Kenya are occupied by Kenyans who are lesser people than the rest of the country. The fact that we embraced devolution is realisation enough that the Sessional Paper was a misstep and we should not have gone that way. Every human being and every Kenyan living in this country has a right and is entitled to decent living. I do not think there is any Kenyan whom we can say it is alright for them to live in an inferior way or superior way. Every Kenyan has as much right to live in this country as other Kenyans.

The essence of devolution is to ensure that all these things that have been elusive for most Kenyans for a long time are now within the control of the localities in all the parts of the country. This ensures that we are more or less reaching an ideal where we share the “cake” as equitably as possible. As you know, equity is nothing, but an instrument of trying to achieve equality.

[The Temporary Deputy Speaker (Hon. (Ms.) Shebesh) left the Chair]

[The Deputy Speaker (Hon. (Dr.) Laboso) took the Chair]

Looking around, I have a concern, even in Siaya County where I come from. We know some of the people who came to office with nothing. Today, they can afford to put up houses worth hundreds of millions of shillings. I have been in this House for the last nine years. I cannot say that I am one of the most poorly paid Kenyans, but when somebody who probably earns less than me puts up a house worth hundreds of millions of shillings, then this aspect of ensuring prudent and efficient use of public funds that we have given to the Controller of Budget must also include an aspect of policing. In fact, one of the things that we should allow the Controller of Budget to do, working together with the Auditor-General, is to conduct lifestyle audits. I should explain how I can afford to build a house worth hundreds of millions of shillings if I was living in grass-thatched houses three years ago. Three years down the line, on a salary of less than Kshs1 million, even if I am not using a cent of my salary, that would amount to Kshs36

million. How on earth would I be able to put up a house worth hundreds of millions of shillings, dig a personal borehole and put up a stand-by generator while boasting all over the place, behaving as if I am itching to spend cash? This aspect of prudent and efficient spending of public funds must be included in the Bill. I will propose an amendment introducing an element of policing, which I will encourage the House to carry through.

Hon. Deputy Speaker, it is not just the reports of the Controller of Budget, but we have very many useful reports in this Constitution. I have spoken to this matter before. The Constitution obligates constitutional offices to be giving Parliament reports at certain times. Are these mere rituals or is Parliament supposed to be seized of these reports once they are brought here? I was personally very embarrassed when a report that my Committee did tended to say that a constitutional office had not submitted a report yet the reason we did that was because the report had been given a year before, but there was no provision for it to be debated. Therefore, overtime, because issues come, we were not seized of the fact that the report was there. We all cannot be tracking all the reports that come to the House on a daily basis. In agreeing with my colleague, Hon. Ochieng, if the Constitution gives a constitutional office a timeline for submitting reports, Parliament must be obligated to debate that report.

Hon. Deputy Speaker, there are a lot of issues that the Controller of Budget highlights in her quarterly report and some of these issues come up. Maybe a newspaper or two will highlight them, but another issue comes up and they are forgotten. The reason the Constitution demands that these reports be brought to the House at a certain time is so that they can form policy and improve our governance structure.

I have looked at Clause 9 and sometimes I get concerned as a Kenyan. Why we sometimes say that the law is blind is not that we will only accept that aspect of the law which conforms to the way we want things done. Clause 9 provides that in making appointments in terms of Section (1), the Controller of Budget shall be guided by Articles 27 and 232 of the Constitution. Article 232 is about equality of Kenyans, but it leaves out a very important provision of the Constitution, namely, Article 251(2)(c) which says that all constitutional offices shall be responsible for appointing their own staff. Why are we timid in not talking about this? I am glad that there is an improvement over what we did for the Public Audit Bill, so that when we come to amendments, we should bring in this so that we move this important office forward.

I support.

Hon. Onyura: Thank you, Hon. Deputy Speaker. I rise to support this Bill. It is an important law because it gives effect and operationalises one of the constitutional offices. It is expected that Parliament can prepare and legislate to allow it to operate smoothly and effectively as would be expected or as is anticipated by the Constitution. This being one of those regulatory offices that are meant to monitor the efficient, transparent and prudent use of resources, it is something we should all support and give all the instruments and the force it needs to operate.

The law provides responsibilities and duties of the Office of the Controller of Budget, which covers overseeing the implementation of the Budget, authorisation of withdrawals and monitoring receipts that come in through various ways, for example, from the Consolidated Fund. I am aware that our Government and the county governments have other means of raising revenue through market charges, land rates and various fees and charges in all manner of activities. I am wondering whether all this money is accounted for and utilised properly. We hardly know what else has been raised apart from what comes from the National Treasury, which in my view, must be fairly substantial. All county and municipal councils in the past operated

fairly reasonably with those fees and in some cases, they raised the fees. There is a lot of money that is floating in the county governments. We expect the Office of the Controller of Budget to go into that and look at areas of weakness that need better control and areas where there are loopholes that are being misused and abused by those entrusted with the offices, so that as we keep moving, devolution meets the expectations of Kenyans.

All of us support devolution and we would like to see it work. It ought to work because it has worked in other places. We want to make sure that systems are in place and developed. We will, of course, make mistakes as we go on, but we learn from those mistakes and strengthen the systems.

I look at the Office of the Controller of Budget as partly the ears, eyes and the nose of the National Assembly. As we appropriate money to the various organs of the State, we would like to have somebody who can see for us what is happening, so that we can know. It is a good thing that the Bill expects this office to be submitting quality quarterly reports in various forms to this House for us to know what is happening to the funds appropriated to the various institutions.

I have also noted that this is an independent and constitutional office with a clear tenure of office given by the Constitution. The office has tenure of office of eight years. I want to encourage holders of this office to realise they are independent and have tenure of office. They should not allow themselves to be pressurised, intimidated or directed because the Constitution protects them. This House can also protect them. They should not work under pressure from any quarters. I have looked at the section that deals with offences and it says that anybody that intimidates, threatens or makes it difficult for this office to operate commits an offence for which they could be charged or even imprisoned for up to two years. The holders of this office should know that they are an independent office. They should act accordingly using the powers and protection given by this Act.

I am happy the Bill allows this office not only to look at the expenditure, but to also review right from the time of Estimates. It is expected that various levels of Government would discuss their Estimates with the Controller of Budget to ensure that everything is put in place and is effective right from the time of planning and Estimates. That is a good provision. It should not just be looked at, at some advanced stage, but they are engaged at the various levels right from the preparing of Estimates.

I am also happy to see that this Bill provides that the Controller of Budget can hire, train and develop and remunerate its own staff and of course, delegate authority as the head of the office feels appropriate. It also provides for secondment of staff either outwards or inwards. This is one way of improving systems in other places that they oversee as well as getting support where the human resource is not sufficient.

The Bill also gives the holder of the office the power to demand any information, data and any supporting documents to be sure that whoever is acting or whoever is in charge of finances, acts according to the law.

With those comments, I support the Bill.

Hon. Deputy Speaker: Hon. Joseph Manje.

Hon. Manje: Thank you, Hon. Deputy Speaker for giving me this chance to contribute to this important Bill. I support this Bill whose principal object is to give effect to Articles 222, 228 and 252 of our Constitution. This is a creation of the Constitution.

I would also urge the holder of this constitutional office to only submit to the Constitution. It is very easy to write a document, but when it comes to implementation, it becomes a challenge in our country because of interference from various sources.

Our Constitution is very good. It created this constitutional office with the objective of making sure that public funds are properly controlled. It goes to the respective areas, so that our country can grow a bit faster and the quality of the lives of Kenyans can improve. After the Controller of Budget controls, the money goes to the county and some to the national Government, but it ends up in pockets of some individuals. It fails to go directly to where it was intended. The net effect is that our country lags behind and it will take a lot of time to grow and achieve its objective of growth.

Various Articles of the Constitution have been touched in this Bill to improve the process of authorisation of public funds. The Bill gives the Controller of Budget powers to approve withdrawal of public funds from any account like the Consolidated Fund and any other fund that directly benefits Kenyans. The Controller of Budget, Accounting Officers and the Auditor-General should be in line so that public resources are properly channelled and supervised. When the process is over, namely, it is controlled by the Controller of Budget, the Accounting Officer incurs the expenditure. Then the Auditor-General audits the funds and reports are brought to Parliament through the Public Accounts Committee and the Public Investments Committee, for it to check whether the money was spent properly by the Accounting Officer. After this, the budget cycle will be complete. But somehow somewhere, there is a mix up of the whole process and it is not possible to trace where the money goes.

I also envisage a situation where our Accounting Officers are to some extent permanent in their accounting areas. If the Controller of Budget approves withdrawal by a certain Principal Secretary and then within a short period that Principal Secretary is transferred to another department or Ministry, it becomes a bit difficult to try to trace where the expenditure was. This defeats the logic why the money was to be channelled to a particular Ministry.

I would urge politicians and people of influence not to interfere with the performance of these constitutional offices. If we want to have a country that is governed by the rule of law, we should stop interfering. If you are a person of influence somewhere, you should not call an Accounting Officer to try and divert their attention. Do not influence the Controller of Budget or the Auditor-General. Even if you are in position of leadership, you would like to have good institutions which are performing. Unless we have institutions which are performing, our country will mark time without any growth as envisaged.

With those few remarks, I support this Bill.

Hon. Deputy Speaker: Hon. Gideon Ochanda.

Hon. Ogolla: Thank you, Hon. Deputy Speaker. From the outset, I want to state that one of the greatest safeguards that our Constitution gave in terms of public finance is the Office of the Controller of Budget. It arose from a background where the administration of the Budget was not very clear. We had expenditure from Ministries and then direct to issues of audit. What was happening in between the Budget allocations and expenditures and the final audit was missing. In my view, this is a very great provision that we need to look at with a lot of emphasis.

I support the Bill largely because it comes up with certain strengths that have been missing. Some of these strengths include Clause 6 where we have a chain of arrangements in terms of how one can monitor the flow and administer how money is spent in the country. For example, if you look at Clause 6(2)(a), we are talking about the office looking through the

approved expenditure, authorised withdrawals, actual releases and actual expenditure. I will mention one or two things that are missing, but these are very clear things that will strengthen that office. Parliament needs to support this.

The other thing which is of great strength in the Bill is the provision in Clause 7(a). It provides that Cabinet Secretaries should give detailed accounts on why withholding of money should be done. During part of last year, this country was experiencing a cash crunch. We did not have money to do certain things, but we had a lot of money held in accounts by various departments and counties. We looked at this money as money that was held for some expenditure yet the country was in a big problem in terms of raising money to spend. It was mentioned at one moment that if one mopped up all the bank accounts in various commercial banks and put it together, we would have had more money than we required at that particular time when we had a cash crunch.

We have some strengths of this Bill that are really worth supporting. There are a few areas that we would want to look at when we get to the Committee stage to strengthen the Bill. One, the Bill gives that office a lot of work. This is much work that might not have been anticipated. Parliament must be ready to think properly about the Budget that goes to that office if they are to do this amount of work. Then there is the whole issue of the capacity of that office. The Office of the Controller of Budget cannot work on secondment alone. There must be a very serious process of engaging very competent staff beyond what we have in Clause 8, which talks about delegation of powers.

Like Hon. Ochieng has said, you only delegate to a competent officer, but not to any officer. Clause 11 talks about the seal being with any other person. That is a challenge that needs to be corrected. This office will now require serious and competent people to work and not people who are on secondment like we have experienced before. That will go with the whole issue of proper budgeting for the Office of the Controller of Budget.

There is the whole issue of disposal of disapprovals. This is a challenge. In the past, we have seen the Controller of Budget disapproving or limiting a budget allocation to a certain county or saying that some money cannot go there because of the previous disapprovals. This is something that the Bill needs to indicate. When there are disapprovals, the people who need services suffer. It is not necessarily the departments or the county governments that suffer. There must be a limit in terms of time or conditions the county governments must come up with, so that the disapprovals do not hurt service delivery or negatively impact on the population.

The other important concern in this Bill is the whole issue of connection. I mentioned two things in the beginning and I want to highlight them. There is disconnect between collections or deposits and the actual beginning of expenditure. The Controller of Budget has completely no idea. The Bill does not give a connection. We are now talking about the Consolidated Fund, the sources and actual time in terms of how much money there is or is deposited in the Consolidated Fund. This is a disconnect. This is exactly why when we discuss the issue of Eurobond, we discuss issues of off-shore arrangement where certain discussions and negotiations were done and some accounts were created outside the country without being placed in the Consolidated Fund. Then there is this problem of the disconnect when the Controller of Budget starts monitoring expenditure and not seeing exactly how much money we had or how much money we have in hand. When you are monitoring expenditure, you are able to connect that and the actual deposits.

There were hard questions that the Controller of Budget could not answer partly connected to the issue of transition. How did we transit from the old arrangement to where we now have the Controller of Budget? A lot of questions that came up were issues that were done before the office was fully operational. There are questions that she was not able to answer. So, we need a provision in terms of what was happening around the function that the Controller of Budget has now and what was happening earlier. In the real sense, nothing much was happening at the level of the controls of the Budget. A lot was happening at the Auditor-General's level.

These are some of the areas that need to be looked into for purposes of strengthening this Bill. Otherwise, I support it and I believe it is going to strengthen the whole issue of safeguarding public finances.

Hon. Deputy Speaker: Hon. Bady Twalib.

Hon. Bady: Asante sana, Mhe. Naibu Spika kwa kunipatia fursa hii nami nichangie Mswada huu. Kwanza, ninaunga mkono Mswada huu kwa sababu ni mzuri. Mswada huu utampatia nguvu Msimamizi wa Bajeti katika kufanya kazi yake. Kipengele cha 226 cha Katiba yetu ya Kenya kimeonyesha wazi wazi Msimamizi wa Bajeti na jinsi majukumu yake yanavyostahili kufanywa. Katika Mswada huu, tumeona kuwa kazi kubwa ya Msimamizi wa Bajeti ni kuhakikisha kuwa pesa zote ambazo zinakusanywa kutoka kwa umma zimepangwa kwa njia sawa na kutumiwa kwa hali ambayo zimepangiwa.

Katika Bunge hili, ni bora kuhakikisha kuwa afisi ya Msimamizi wa Bajeti imepewa nguvu. Ili afisi hii ipate nguvu, ni lazima Bunge hili lipitishie pesa za kutosha kufanya kazi yao. Tunajua kuwa kazi ile ni ngumu kwa sababu inafaa kuhakikisha kuwa pesa zote ambazo zinakusanywa kutoka mifuko ya wananchi wa Kenya zinatumiwa katika njia ya sawa. Hii sio kazi rahisi kwa sababu wakusanyaji wa pesa hizo huzikusanya lakini mara nyingi hesabu zinazotolewa hazilingani kwa sababu huishia katika mifuko ya watu.

Ni muhimu kwa Bunge hili kuipatia nguvu afisi hii ya Msimamizi wa Bajeti ili iweze kufanya kazi yake sawasawa. Kwa hayo machache, ninataka kuwa miongoni mwa Wabunge ambao wameunga mkono Mswada huu kuona kuwa Mswada huu utatupeleka mbele. Mara nyingi, sisi wanasiasa tunapeana nguvu kwa afisi fulani kufanya kazi kisha baadaye tunarudi na kuzipeleka afisi hizo kwa njia ambayo sio ya sawa. Kwa hivyo, afisi hii ya Msimamizi wa Bajeti inatakikana ifanye kazi yake kwa kujitegemea sawasawa bila kuingiliwa na mtu yeyote.

Asante sana kwa kunipatia fursa hii kuchangia. Shukran.

Hon. Deputy Speaker: Hon. Susan Chebet.

Hon. (Ms.) Chebet: Thank you very much, Hon. Deputy Speaker for giving me this opportunity to contribute to this Bill. From the outset, I support the Bill. It is very important to have the Office of the Controller of Budget. In the past, ministries budgeted for resources and the end result was misuse or shortages of resources. An office like this will control the revenue that is collected. It will also appropriately distribute resources to the various organs of the Government now that we are in devolution and most of the resources are sent to the counties.

Hon. Deputy Speaker, if there is no proper control to monitor the use of those resources in counties, it can easily create a problem. His office is also supposed to work independently without any influence of any sort from any quarters so that public resources can be well taken care of and distributed in an equitable manner through the county governments.

In the past, some counties or communities were short-changed, especially those counties which were not sending enough revenue to the national Government. Such regions would get fewer resources. Today, we have counties which are less developed than others because those

counties were allocated less resources in the past. The Office of the Controller of Budget will take care of that aspect so that resources can be distributed equitably across the counties and ensure that we avoid misusing those resources.

The office is supposed to monitor and ensure that all the resources are budgeted for and controlled. Without control, public resources will fall into the wrong hands and the wealth of the country will remain in the hands of a few people. If the Office of the Controller of Budget was working efficiently, we might not have had the Eurobond issue. Many questions were being asked but nobody was ready to explain anything. We would be asking only a few questions if the Office of the Controller of Budget was working properly. If the Office of the Controller of Budget was in place during the time we had the Anglo Leasing issue and other issues, we would have been out of those problems.

We should support this Bill and pave way for the creation of a strong and independent Office of the Controller of Budget. Our resources will be safe and Kenya will not be the same again. With this office in place, issues of misappropriation, misallocation and misuse of public resources will be addressed promptly.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Let us have Hon. Neto.

Hon. Oyugi: Hon. Deputy Speaker, I have already contributed to this Bill. I am on queue for the next one.

Hon. Deputy Speaker: Yes, Hon. James Nyikal.

Hon. (Prof.) Nyikal: Thank you, Hon. Deputy Speaker, for giving me the opportunity to contribute to this Bill which I support.

The Office of the Controller of Budget is of critical importance in the fiscal management of our finances in our current dispensation. Parliament is a budget-making body which works together with the National Treasury. We make decisions on how money should be used and when. We only have an opportunity at the end to know how that money was used from the Auditor-General's report. There is need that somebody looks at how the money is spent on a daily basis. That is where the Controller of Budget comes in.

It is a requirement under Article 228 that somebody in a certain office has to know on a daily basis whether what Parliament decided should be used, when, how and at what time is adhered to. Therefore, the provisions of Article 228 of the Constitution meets this and further strengthens the office by ensuring that it has security of tenure for, at least, eight years that the Auditor-General and the Controller of Budget are in position.

The importance of having the money allocated used properly cannot be gainsaid. I personally believe that if we used our finances well, and all offices worked properly with their finances and adhered to regulations like in procurement reward, we would be able to have free health care through an insurance basis. I am sure that we have enough money to give free education up to secondary level. The country will go a long way in meeting its expenses if we utilise this office properly.

This Bill gives extremely good provisions and strengthens the Office of the Controller of Budget. The Constitution basically gave the framework of the office but the Bill gives it power. Clause 4(a) authorises withdrawals from wherever the monies are, be it the Equalisation Fund or the Consolidated Fund. Thus, it is extremely important that money is not withdrawn and spent without reference to what Parliament set out that it should do.

Clause 4 also gives the Controller of Budget power to monitor, evaluate, report and make recommendations to the national Government and the county governments on measures to improve Budgets. This is particularly important when we come to the county governments. I know that everybody is concerned about expenditure at the county level. Sometimes people wonder whether it is a problem of devolution but the truth is that we are at a state of setting up structures within the county governments. Therefore, the Controller of Budget will have the authority, through this Bill, to monitor expenditure.

Clause 5 contains provisions for submission of copies of Financial Estimates by the National Treasury and County Fiscal Strategy Papers by the county governments. This is extremely important. There is still a missing link in the Budget process as far as the counties are concerned. When we make the national Budget, we look at the Division of Revenue Bill. At that time, we do not have information on the requirements of the counties. Therefore, we go by the division of revenue arrangements but without really knowing their requirements. If we could have the County Fiscal Strategy Papers and somehow align them to the report that the Controller of Budget has with our budget process, we would have less argument regarding division of revenue.

Clause 6 of the Bill gives the Controller of Budget necessary powers to monitor how our funds are, particularly at the county level.

Clause 6(b) says that the reports submitted under sub-section (1) shall comprise of the comparison between amounts provided for in the County Allocation of Revenue Act for each county in accordance with county government disbursement schedule approved by the Senate. Once again, we can see that the Senate will make approval on how funds should be used at the county level, but it is the Office of the Controller of Budget that will ensure that that is done. It is extremely important that it is in place.

This Bill is important because it gives power to the Controller of Budget to delegate. I know that there have been issues on how it is delegated. The Controller of Budget can employ and have officers sent to her office as she needs them. That is extremely important. If you look at the 47 counties that we have to monitor and the national Government, it is obvious that the Office of the Controller of Budget will need a large number of experienced staff. It is important that this Bill gives authority to public officers so that when the Controller of Budget seeks information--- Clause 13 (b) makes it mandatory that any public officer will furnish the Controller of Budget with periodic reports on the status of management of budget and public funds in respect of questions raised within each period.

So, the same clause provides that a public officer who declines to adhere or respond to what the Controller of Budget needs commits an offence. In this way, we have given adequate powers to him or her. It is important that this Bill recognises that when we do that we need to fund that office. Clause 14 states that Parliament shall provide funds for the Office of the Controller of Budget who is given power to spend the money and makes reports.

With that, I support this Bill. It will make the work of the Controller of Budget important for this country. If we were to use these offices that we have put in place without interference from any quarters as some of my colleagues have stated, we will go a long way in making good use of the resources that we have. Members have expressed concern on how delegation will be done and on the use of the seal of the office. These are things that we can address through amendments when we come to the Third Stage.

With that I support.

Hon. Deputy Speaker: Let us have Hon. Samuel Gichigi.

Hon. Gichigi: Thank you, Hon. Deputy Speaker. I also support this Bill. The role of the Controller of Budget is very well put under Article 228 of the Constitution. For avoidance of doubt, I wish to cite it. Sub-articles (4) and (6) state respectively as follows:-

“The Controller of Budget shall oversee the implementation of the budgets of the national and county governments by authorising withdrawals from public funds under Articles 204, 206 and 207.”

“Every four months, the Controller shall submit to each House of Parliament a report on the implementation of the budgets of the national and county governments.”

Hon. Deputy Speaker, it is important that we quickly pass this Bill, because the Controller of Budget has not been doing a good job on the mandate given to her by the Constitution. While the authorisation of the use of funds requires that she checks the budgets to ensure that the money is provided for before it is released, we are aware of certain things that are done by counties and the national Government that are not within the Budget.

You wonder whether the Controller of Budget and her office is carrying out her duties as required by Parliament. I do not think I can rate the performance of the Controller of Budget this time round highly.

Secondly, I have had a chance to look at the quarterly reports that come from our office for the implementation of the Budget. Apparently, what she does is just report that this is what was supposed to have been done and yet the Constitution envisages a situation where that office confirms that the money that was released did the job that it was supposed to do.

So, the issues of outputs by the various agencies and ministries on the money that they have received--- I do not see proper reports on implementation of projects in the reports that she has been giving us. To me, it is a general report and more academic than a practical document that should help this country ensure that we get value for the money we release to the agencies, ministries as well as the counties.

Once we pass this law, that office will not claim that they did not have the necessary teeth to carry out their mandate. The sooner we do this the better. We have heard complaints in the past by the Controller of Budget about the Government. This law is giving her powers to complain because it is creating offences. It is possible to get people to jail and there are fines because of failing to comply with this law and failing to give information to the Controller of Budget. She is going to get teeth. Let her act on this law so that we can bring accountability on the proper use of public funds in this country.

There is an omission and I am hoping that we will rectify that during the Committee Stage where the only money that is focused on is the funds that are released during the Division of Revenue Bill. There is a lot of money being collected by the counties. Since the law says that, that money should be taken to the county fund account and be released according to the Budget rather than being used at source, it is important that such reports of the monies collected by the counties should also go to the Controller of Budget. This is so that she also monitors how that money is used, including monies collected by various national Government agencies for services rendered. That is an omission that we should take care of in the next stage.

There is a requirement that various agencies, Government ministries as well as county governments submit their budget estimates to Parliament as well as to the county assemblies respectively. This law now requires that such estimates be submitted to the Controller of Budget

simultaneously so that she is able to keep track of what is happening right from the time the Budget is passed, to post-Budget passing so that she does not get these documents late. It is important as this law is proposing--- It is extremely difficult for some of us to get a copy of a budget from a county Government but now we know where to get it because the Controller of Budget is going to have a copy.

As I wind up I am hoping that this law is going to bring efficiency in utilisation of funds in this country and give teeth to the Controller of Budget to monitor. Parliament can oversee but it may not have the necessary tools to ensure that the Budget is properly monitored. With the Controller of Budget's Office, as long as we give them sufficient funding in their budget it is possible for them to assist us so that they can give us reports. Instead of the postmortem sort of reports that we get from the Auditor-General, we should get live implementation reports on various government agencies rather than a year down the line. So, I support this law and hope that the Controller of Budget is going to help save money for this country. Thank you.

Hon. Deputy Speaker: Let us have Hon. Chachu Ganya.

Hon. Ganya: Thank you, Hon. Deputy Speaker for giving me this opportunity to support the Controller of Budget Bill. This is a very important constitutional Bill because it will enable us to realize Article 228 of our Constitution. In the past, the Office of the Controller of Budget and the Office of the Auditor-General were merged into one. The current Constitution enabled us to have these two offices. One is responsible for Budget and the other one is responsible for Audit. With this new Bill, we will have a fully-fledged Office of the Controller of Budget with the mandate to ensure effective and prudent management of public funds.

Being a new office in the country, it is still under establishment to deliver on its mandate of ensuring prudent management of public resources at both the national and the county government levels. It must be resourced financially as well as in terms of human capital. For it to be enabled to deliver on its constitutional functions, it is important that this Parliament, as it has been clearly stated by my friend Hon. Bady of Jomvu, funds it when this House appropriates budgets to other constitutional offices. The House should ensure that this office is fully considered. This is because if we have to deal with issues of corruption – if we have to tighten the fiscal management of our resources in this country – such offices need to be fully resourced both in terms of human capital and in terms of enabling it to have offices and structures both at the national and county levels of government. Until we realize this, there is no way we will deal with issues of corruption at the county level, where people feel that instead of devolving power and resources, we have equally devolved corruption within our devolved units. We can only deal with this issue if such constitutional offices are enabled to function at their best rather than having skeleton offices with no human and technical expertise that is required to deliver on the constitutional mandate.

It will be in vain if we do not enable this office to build capacity at the county government and to enable them do prudent fiscal management of resources at the devolved level. This will help reduce wastage of public resources. That is the only way we can minimize on wastage of public resources at all levels of government, but largely where we have new units.

Hon. Deputy Speaker, while it is important for the audit to show corruption and wastage, it always comes at the end when crime has been committed and resources have been wasted. The Controller of Budget is able to manage and implement the budget. They can also tighten the fiscal management of these resources. It is this office that allows withdrawals of funds by the county government and the national government. If it is tightened at that level, the corruption

that we see – which is being revealed by an equally important constitutional office – might be minimized in future. This is why we have to ensure that this office becomes more proactive and tightens the fiscal management of our resources at all levels of government.

Having said that, I fully support this Bill and hope that our President will assent to it. I also hope that Parliament, especially the National Assembly, will appropriate enough resources to this office so that it is able to deliver on its constitutional mandate.

Hon. Deputy Speaker, I support.

Hon. Deputy Speaker: Let us now have Hon. Phillip Rotino.

Hon. Rotino: Thank you very much for giving me the opportunity to add my voice to this very important Bill. At the outset, let me say that I support this Bill, which is long overdue.

The Office of the Controller of Budget is supposed to have been created a long time ago. We are dealing with limited resources that need to be controlled at all levels. This office will go a long way in trying to minimize corruption and the roadside declaration that politicians and other powerful people in the Executive always do. They go to rallies and say that they are going to do this and that, and yet they do not even know if it is within the budget. The Controller of Budget should control and ensure that whatever is done is within the Budget. We are dealing with resources which are limited and are supposed to be guided and budgeted, especially now that we have county governments.

The Controller of Budget must create offices that will control the spending of budgets within the counties. If you look at the distribution within the Budget, you will find that the resources are limited. We should, therefore, ensure that every county spends the money that they are given promptly and wisely. The Controller of Budget should be strengthened in terms of budget allocation to control the budget and reduce the pending bills that we always receive. We receive pending bills because people spend without knowing that we have to control the budget that we are given. There must be a ceiling.

The Office of the Controller of Budget will also assist the Government reduce corruption. When there is no control over the budget, the Executive tends to spend the way it wants. The tendency for corruption will always be there. In addition, monitoring of the Budget is very important. We need to finance it well so that the office is strengthened.

Hon. Deputy Speaker, this office should have been created long time ago to enable us control the Budget that we make.

With those few remarks, I beg to support

[The Deputy Speaker (Hon. (Dr.) Laboso left the Chair]

[The Temporary Deputy Speaker (Hon. Kajwang') took the Chair]

The Temporary Deputy Speaker (Hon. Kajwang'): The Member for Ndhiwa, the HANSARD says that you have contributed.

Hon. Oyugi: Indeed yes, Hon. Temporary Deputy Speaker. I placed an order for the Community Land Bill, which I have a special interest in.

I thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Let us have the Member for Kasarani.

Hon. J.N. Chege: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

The Temporary Deputy Speaker (Hon. Kajwang'): I hope this is not your maiden speech.

Hon. J.N. Chege: Who said so?

The Temporary Deputy Speaker (Hon. Kajwang'): I am just confirming for purposes of the HANSARD.

Hon. J.N. Chege: Okay, Hon. Temporary Deputy Speaker, you can check the record.

I rise to support this Bill because the Office of the Controller of Budget is an important institution in this country. Given the fact that we are dealing with the new Constitution - it is fairly new since it has not been there before--- Since the counties are new, they have no experience in terms of budget. We are, therefore, looking at an institution that is going to govern the way we spend money that has been allocated in the Budget. This office is going to help this country to rein in on the Executive, be it at the national or county level. Nobody is going to spend money that has not been budgeted for. It is in order for this Parliament to give more clout and more finances so that they can monitor the expenditure that is at both the county and national levels and ensure that we do not have the Executive deciding to spend what was not budgeted for by this Parliament.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Let us have the Member for Mukurweini.

Hon. Kabando wa Kabando: Thank you very much, Hon. Temporary Deputy Speaker, for the opportunity to contribute. At the outset, I would like to say that such legislations help us to anchor into law the aspirations to have good, strong and reliable constitutional organs whose mandate is not subject to periodic challenges. If we fail to have this, we blame offices that are well intended and whose officers are very committed and dedicated professionals. Therefore, this helps us to implement the supreme law in a way that will also improve governance. That would mean that public benefits would be spread in a way that is acceptable.

A quick look at this Bill shows the effort to monitor clearly and evaluate the budgetary processes of both the national and county governments. Some of the challenges we have witnessed that inhibit implementation of key projects, including flagship projects at the county and national government level, include weak adherence to the budgetary processes. The national and county government budgetary processes are not tightened to deal with recurrent issues and challenges. When you are in a political office, community interests may emerge from time to time, but which should not necessarily be met at that particular time because money is available in the account. Therefore, enabling the Controller of Budget to withdraw, monitor and even delegate appropriately responsibilities that would make that office discharge its duties without inhibition is very important.

Submission of quarterly reports and their implementation enables us to achieve checks and balances in every financial year. Clause 10 of this Bill provides for the secondment of staff on request by the Controller of Budget by any entity to the Office of the Controller of Budget as may be necessary. The Mover needs to relook at that because, according to the Constitution, this is a very independent office. Secondment can lead to a legal lacuna. At any time, the Controller of Budget can ask any entity to second staff on request of the Controller of Budget to his or her office as may be necessary. The independence could be challenged because that would mean that

at one time, for instance, a quarter of the staff at the national office of the Controller of Budget could be composed of individuals coming from other Government entities. That needs to be looked at so that there may not be domination by temporary staff seconded to the Office of the Controller of Budget. I may understand it differently, but that is an issue that needs to be looked at.

Finally, I want to emphasise the need for us to invest in the offices that we have created. I have seen common tendencies, for instance, of us dismissing the Office of the Auditor-General when reports that are not favourable to some of us come here or where our interests are subjective and not objective to the national good. Many times we have also seen the Controller of Budget being blamed because of either personality or the transient agenda which may be happening on the political arena.

Therefore, raising the threshold on constitutionalism in this office, through this particular Bill, will help cushion against those tendencies. It will also stop us from being escapist in the sense of seeking to admonish or dismiss offices which the Constitution espouses clearly as intended to improve financial discipline in the public sector.

In conclusion, I ask all to invest in promotion of good governance, accountability and transparency in matters of public affairs, probity on public good and financial issues, questions of integrity and taking responsibility of all offices. Particularly, in the context of the current issues where matters of finance are being raised as we count down to elections, the Office of the Auditor-General and Controller of Budget are very key. There is also the Office of the Director of Public Prosecutions (DPP) and the Office of the Ethics and Anti-Corruption Commission (EACC). We should not start skirmishing matters of national importance with matters that are pedestrian.

I urge my friends across the aisle whether aligned to the ruling coalition or the loyal opposition to support these offices, earnestly, passionately and with dedication and avoid the tendency to grandstand on matters pertaining to them. The people working in those offices; the Auditor-General is a man of integrity, as I know. The Controller of Budget, we really praised her in the last Parliament because she was in-charge of the Constituencies Development Fund (CDF). She is a lady of discipline. To the substantive Speaker and I know the DPP, she was our predecessor at the University of Nairobi. We know she is an achiever. She even topped her A-Level class.

There is nobody who is 100 per cent perfect or somebody without blemish. We need to know that we are Kenyans who invest in these people. That is why we must, in the current continued heat on the debate about the National Youth Service (NYS) saga, ask the individuals who are being mentioned to carry their cross and stop blaming the National Alliance (TNA) or United Republican Party (URP). They should not bring communities into this game. When some of us stood and said we are loyal, soldiers of truth and that we are loyalists of Jubilee Government and the President has our support, some of us were trooping everywhere, from every mole hill and mountain top, screaming and designing as troops hired by the opposition to derail the Government.

I ask individuals in this country to be humble enough, to take responsibility and carry their cross and avoid bringing issues of Jubilee or CORD coalition on matters of constitutionalism, integrity and good governance. It is a whole murk of morality, rationality that I spoke with you, the substantive Speaker, when you were my senior at the University of Nairobi, as my predecessor chairman of Students Organisation of Nairobi University (SONU),

that we need to be as pure as cotton, if we need to be clothed and that the skies will scramble on those who seek to escape from the reality that it is sunny or raining - find your shade.

I do support this Bill with the full urge that we have a country to defend and a President to support where necessary. We shall do that because this country is our motherland. I strongly support.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Nominated Member Isaac Mwaura, do you have equally interesting debate to offer?

Hon. Mwaura: Yes, Hon. Temporary Deputy Speaker. First of all, I want to complement you on being the Chairperson of SONU. That is quite an accolade. I only knew that you used to be the Speaker of the Congress. Your acumen has been exemplified in this House.

Hon. Temporary Deputy Speaker, I rise to contribute to this debate. From the word go, the Office of the Controller of Budget is very critical. One would imagine that the title is misleading. When this Office was formed by the Constitution, many Kenyans thought that this would be the person who would look at the estimates and effectively, as the word may be, control budget. We have seen an office without a statute, which has been relegated to deal with issues of quarterly reviews of budgets and also giving approvals of expenditure.

In my opinion, that is more or less like the work of a mortician looking at what has already been done and making analysis. We have seen an office that has been faced with a lot of challenges. People have been militant towards that office. I also note, for example, that when it came to classification of independent offices, the Office of the Controller of Budget was actually put below the Office of the Auditor-General. That was a misnomer because clearly, these offices should be at par.

There have been talks about the ethnicity of the occupant of that office. That is something that we need to look at because it is important to respect the office holder rather than just look at the semantics or the imagination around ethnicity.

Clause 5 of the proposed Bill needs to be strengthened so that the Controller of Budget receives estimates that are itemised. We have shifted to programme-based budgeting. But even under those programmes, there is need to have delineation of the expenditures that would go to a ministry, department or an agency. More often than not, there are many details that are left to the imagination and so a lot of expenditure that is unnecessary is hidden in very huge budgets. We need to ensure that we empower the Office of the Controller of Budget to look at that so that Kenyans get value for money.

The other thing that we need to tighten up is the kind of lacuna we find in terms of monies that are borrowed from outside the country. It should be very clear because we have seen an aspect of misinterpretation in the Public Finance Act and the regulations thereof. The regulations have provisions that seem to countermand the whole architecture of financial control in this country. We need to empower the Controller of Budget to have a say so that there is no ambiguity between that office, the Office of the Auditor-General, National Treasury, Kenya Revenue Authority and Central Bank of Kenya (CBK). We need to ensure that there is totality of that, especially when it comes to issues of borrowing.

The other issue that this Bill needs to address clearly is the public debt. I am a very worried Kenyan because when I look at the Government expenditure I find it is clearly unsustainable. We are talking about collection that is rather unverified of about Kshs1.3 trillion, but the targets are always below Kshs1 trillion. Our expenditure is close to Kshs2 trillion. In the

last financial year or the current financial year, the Government borrowed over Kshs560 billion. That borrowing, both domestically and internationally, is clearly increasing the public debt.

In terms of sustainability, we have figures from the National Treasury that are doubtful because you cannot compare this country to Japan and the United States of America (USA), where public debt is 200 per cent of their GDP.

Hon. Temporary Deputy Speaker, we need to have a situation where the Controller of Budget, even when we have the Loans and Grants Council as enshrined in the Constitution can advise Parliament accordingly in relation to the money we are borrowing as a sovereign state at the national and county levels.

Currently, collectively counties have borrowed over Kshs40 billion without the approval of the Controller of Budget. The lacuna in law needs to be fixed as a matter of fact so that we avoid a situation where even when the national Government is a guarantor to the county governments, you do not overburden people who are in the counties because they are the same people who are nationals of this country.

I would not do justice to speak on this matter if I do not address the elephant in the room; the National Youth Service issue. Kenyans have been treated to a charade where you may want to imagine that Government agencies, ministries and departments are run by cartels of individuals who circumvent laws so as to ensure that they pocket money. While this issue has very heavy political overtones, I would like to remind this House that when names of some of these office occupants were brought to this House, some of us questioned their capacity to deliver and in this case, Ms. Anne Waiguru. I personally questioned that.

On the management of the Integrated Financial Management Information System (IFMIS), there is obviously need to ensure that the system is looked at. For the last three years, the Budget and Appropriations Committee has been giving this office Kshs1 billion for maintenance and yet this is a system where super users can get into the system, conduct a transaction and delete without trace. We should ensure that we have a credible system. You remember that governors refused to subject themselves to the IFMIS system.

Hon. Temporary Deputy Speaker, we must also address the issue of the Controller of Budget in the sense of having a maximum retail pricing mechanism. Currently in Government, we have individuals who have interesting ways of budgeting for public money. People write wish lists asking for more money and that is why corruption is going unabated within our public institutions. This Bill must address such reality so that there is some form of approval mechanism of procurement plans, but most importantly the issue of pricing. If we continue like this, we must ensure that there is a clear nexus between tenderpreneurship, corruption and unsustainability or non-control of our Budget. We must clearly address this.

We must also ensure that there is a mechanism that guarantees multiplicity of availability of opportunities to do business with the Government. These are very salient issues. When we will be passing this Bill in the Committee of the whole House, we should look at amendments that are going to help this country to live within its means. Currently, with a Gross Domestic Product (GDP) of about Kshs6 trillion, an annual Budget of about Kshs2 trillion and with the Office of the Controller of Budget, whose holder does the work of a mortician, I think we are not doing justice to Kenyans. Future generations will ask us questions as the 11th Parliament as to what we did to ensure we never overburdened them and envisaged the independence of institution as enshrined in the Constitution.

Hon. Temporary Deputy Speaker, the credibility of individuals who occupy this office must be beyond reproach like Caesar's wife.

My time is over, I support.

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, the Member for Migori.

Hon. (Ms.) Ghati: Thank you, Hon. Temporary Deputy Speaker for the opportunity to support the Controller of Budget Bill.

At the outset, I wish to say that I support this Bill. The Controller of Budget has done very well, ethnicity and gender notwithstanding. She has done perfectly well. She has done her work. I applaud this wonderful lady of this country. I want to tell this House that she actually comes from my county, which I am proud of because she has done the country proud so far.

The Temporary Deputy Speaker (Hon. Kajwang'): So, she is your voter?

Hon. (Ms.) Ghati: She is my voter but that notwithstanding, Madam Agnes Odhiambo has done pretty well.

The Temporary Deputy Speaker (Hon. Kajwang'): Just a minute. Does that create a conflict of interest?

Hon. (Ms.) Ghati: No, I have no interest. There is no interest. We are setting a precedent and we are starting mechanisms to ensure that we have proper ways of promoting accountability in this country. The Controller of Budget will ensure we monitor how money is spent by the national Government and by the county governments. It is high time this constitutional office is set up and supported. It is one thing to have an office and another thing to ensure that the office has teeth to bite.

We also need to look at capacity especially, the human capacity, of the office bearers to ensure they are able to undertake the mandate of this office very well. We have seen situations in this country where county governments have had massive spending without proper mechanisms. We have seen several counties spend a lot of money on foreign trips and borrow a lot of money. We need to ensure that the Office of the Controller of Budget has teeth to bite. We have seen situations where the Controller of Budget has raised concerns especially concerning county spending and we completely do nothing. We, therefore, need to ensure that the Office of the Controller of Budget is facilitated to tell us, as Members of this House, how best they can advise this house to ensure that we spend the money that is in this country well. I support.

On a rather serious note, because we are talking about finances and accountability, the scam at the NYS is not a small matter. I have heard Members talking about the NYS as if the money involved is small. The money involved in the NYS scandal is not small change. I support and say that people have to carry their own cross. Any Member who is mentioned has to carry his own cross. We thought it was a small matter when the issue came out with Madam Waiguru, but there is an elephant in the room. We need to ensure that all those who were mentioned in the NYS scam, because we are talking about accountability and responsibility in this country--- We have an obligation and duty to be responsible on how funds are managed in this country.

With that, I urge my colleagues to support the Controller of Budget Bill and give her teeth to bite. With those few remarks, I wish to support.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Navakholo.

Hon. Wangwe: Thank you, Hon. Temporary Deputy Speaker. At the outset, allow me to join my colleagues in supporting this very noble Bill. The Controller of Budget Bill, 2015, is very nice which gives rise to the enactment of Article 228 of the Constitution. The Article says

that there shall be the Office of Controller of Budget. The Office of the Controller of Budget in the Constitution will be implemented as per the Act that we are talking about today.

As I debate this Bill, I wish to recognise that the Office of the Controller of Budget is an independent office. There are privileges which come with an independent office which the user or occupier of that office must enjoy. You cannot be given authority with power that comes without responsibility. What this Bill is establishing is the power and protection that comes with the Office of the Controller of Budget so that the holder can have the power to exercise what is required of him or her.

The Office of the Controller of Budget shall determine the budget as per what the Cabinet Secretary for National Treasury has determined. What he or she is going to do is to approve expenditure or authorise withdrawal in actual releases and expenditures. If the Controller of Budget, as an independent office, is going to do that magnitude of an assignment for the country, he or she must also have a way to manage the risk that comes with the withdrawal, expenditure and administration of that huge amount of money that she is entrusted with.

Clause 6 gives the Controller of Budget power to control how the expenditure is going to be made. It requires him or her to report to the National Assembly. Clause 6 says:-

“The Controller of Budget shall, in accordance with Article 228 of the Constitution, submit to Parliament quarterly budget implementation reports for the national and county governments within thirty days after the end of each quarter.”

Therefore, it will not be just an issue of him or her. We, as Members of Parliament, shall also be involved in monitoring. Every quarter, the occupier of this office, by law, shall submit reports to this House. Therefore, we will have an opportunity to interrogate and understand what has been spent. We will find out if the Executive has burst the ceiling in that quarter. We will interrogate that expenditure and also put some measures. If a particular ministry has burst the ceiling, we will have a say whether to give it more money in the next quarter or not. I look at this Bill with lots of sobriety and anxiousness. Let it sail through immediately.

Most of us Members of Parliament, and especially the Senators, have declared interest in vying for the gubernatorial positions. This is most likely because there has been lose money running up and down. We are tightening the noose and saying that the Controller of Budget will submit reports to Parliament every quarter. The County Executive Committee Member in charge of Finance at the county shall equally do the same. This means that we are not going to see a lot of leakage which we have seen in the mismanagement and misspending of funds by county governments.

Once this Bill sails through, the Controller of Budget will have teeth to also control what is happening at the county assemblies. That is really a position which is going to help most Kenyans and all of us who have been in doubt of what is happening with our county assemblies.

Many a times, it is easily said than done. We have had a Controller of Budget who simply signs documents as they are. Many a times, she has resisted signing. However, now we are giving her instructions as per Clause 4, that she will authorise withdrawal from the Equalisation Fund. She is the one to authorise and not to approve. She is also going to authorise withdrawal from the Consolidated Fund. She will also do the same on county revenue funds or any other public fund which, by an Act of Parliament, requires approval of the Controller of Budget. This is a very powerful clause. Should there be withdrawal in excess, we will have somebody responsible. We will ask this person to explain what happened to our money. Therefore, we are

giving power to this office to make sure that our resources are safe. The Consolidated Fund is huge. It is a fund to which every taxpayer sends money. Therefore, any withdrawal from that fund shall be authorised by the Controller of Budget. We have seen that there is the last clause which talks about “any other fund”. We have seen the issue of Eurobond, in respect of which many said the money was in a certain bank, and that it was spent from outside the Consolidated Fund. That issue falls under the clause that talks about “any other fund” because the money is being spent and will be paid by Kenyan taxpayer. Therefore, anyone who will ever spend money without the approval of the Controller of Budget shall be liable.

The Temporary Deputy Speaker (Hon. Kajwang'): The Member for Navakholo, is it a fact that money was spent outside the Consolidated Fund?

Hon. Wangwe: Hon. Temporary Deputy Speaker, I said that I have heard that money was spent. Therefore, it is not a confirmation. Maybe, we heard it from you. You can hear it from some other corners in the media as well.

The Temporary Deputy Speaker (Hon. Kajwang'): Certainly not from the Speaker.

Hon. Wangwe: Certainly not from you, Hon. Temporary Deputy Speaker.

The Controller of Budget will not only authorise withdrawal of money but will also monitor, evaluate, report and make recommendations to the national Government as well as the county governments on measures to be taken to improve budget implementation. That is a critical role. The Controller of Budget will not only wait to sign the voucher for spending but will also monitor the way the money is being spent. As an institution, they will monitor what is happening with various budgets. That is a very good way of administering finances. We have somebody who is going to see and state that there is a problem on the flow chart of implementation on the cash which has been disbursed and say that it is either deviating to the negative or the graph is going to the post.

This Bill also empowers the Controller of Budget to delegate his or her powers and duties in writing to any of the employees in the Office of the Controller of Budget. Nobody is static. Nobody can be there forever. The Bill is open. Whoever is in that office can be assigned duties and responsibilities. However, as you realise, delegation does not mean that you run away from your responsibilities. The person this office holder will delegate duties and responsibilities to shall only hold delegated responsibility to that extent. Therefore, this Bill is open. It leaves everyone with an opportunity to make sure that the funds that we pay as taxes, which the Kenya Revenue Authority sends to the Consolidated Fund, is not only budgeted for but is also monitored in the manner envisaged in this Bill.

With those very many remarks, I support.

The Temporary Deputy Speaker (Hon. Kajwang'): Let us have the Member for Molo.

Hon. Macharia: Thank you very much, Hon. Temporary Deputy Speaker. I rise to support the Controller of Budget Bill. Since the enactment of the Constitution of Kenya 2010 that created the county governments, we have witnessed situations where public money has been used in circumstances that have been very questionable. We have seen instances of people building toilets costing Ksh5 million. In a certain county, people have bought wheelbarrows at crazy prices. Therefore, I support this Bill, especially on Clause 4, which empowers the Controller of Budget to authorise withdrawals from the Consolidated Fund, the Equalisation Fund and the County Revenue Fund. We hope that this Bill will help bring sanity in the way public money is being dealt with.

Today, we are also faced with the issue of misappropriation of a huge sum of money at the NYS. It is important that at this juncture, I also urge the individual leaders who have been mentioned not to drag communities into the matter because communities are not responsible for individual's actions.

They should explain, and in some instances if they are holding public office, consider stepping aside until they clear their names. This is because when we start dragging communities and accusing other communities of being behind our wars, we are creating a smokescreen and refusing to face reality. It is time that no stone should be left unturned in the NYS saga.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. Let us have the Member for Siaya.

Hon. (Ms.) Ombaka: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. The Controller of Budget is one of those institutions that are highly professional and the person occupying this position is one that has gone through proper schooling. The lady we have right now is good. The lady in this position is highly educated and that gives us the confidence that she can control the funds of this nation. My worry all the time about controlling funds in this country is the fact that funds may be controlled on one hand, then you discover that they never controlled them at the end of the financial year. That is when you realise that corruption had taken place and that there was over-expenditure or under-expenditure.

In my county, there was a time when some millions of money were returned to the Treasury. What could have happened in that situation? What was the role of the Controller of Budget? How does it take one year for all these to be revealed when funds are misused or when corruption takes place? Can the Controller of Budget be on time to see how county governments and national Governments are spending money so that problems can be arrested early enough before the end of the financial year? That worries me a bit. It may not be my area of professionalism but it is common sense. We realise that we have lost a lot of money at the end of the financial year. What happens during the 12 months? Why can we not catch these people who steal money in the first or third month or early enough before they spend too much? That is why I feel that my contribution here is to challenge that position because certain things are still not straight.

It is a position that is new because all along we always talked about the Auditor-General who audited and discovered problems. Now, we have the Controller of Budget on one hand and on the other hand the Auditor-General. The two work hand in hand. The Bill puts that very clearly that the two work closely. That will help us understand or arrest areas where there are problems.

Lastly, there is need to train those that handle national funds at the county or national level. Those who manage public funds need to undergo training so that they can account for the funds that they are allocated. How do they account for them? How do they know that they have overspent or underspent? Are they aware? Why do we constantly have these problems as though there is no training? That is my contribution. Otherwise I support this Bill.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. Let us have the Member for Gilgil.

Hon. Ndiritu: Thank you, Hon. Temporary Deputy Speaker for this opportunity. At the outset, I support this Bill. The integrity of the holder of the Office of the Controller of Budget is of paramount importance. Much as we appreciate our Controller of Budget, she did not do very

well especially on the issue of Eurobond. Initially, she said that she had no idea and then changed her mind and said that she accounted for the money---

The Temporary Deputy Speaker (Hon. Kajwang’): Excuse me the Member for Gilgil. I do not think the object of the Bill is to discuss individuals. I suppose that the object of the Bill is to discuss the office.

This will ensure that anybody, including you, if suitable, should be eligible. The performance of anybody, whether past or present, is beside the point.

Please proceed.

Hon. Ndiritu: Hon. Temporary Deputy Speaker, I stand guided. What I was trying to emphasise is the integrity of the office holder.

The Temporary Deputy Speaker (Hon. Kajwang’): We can discuss the integrity aspect without tying it to any particular individual.

Hon. Ndiritu: I stand guided. Thank you.

Clause 13 provides that no officer shall hinder the Controller of Budget, or officers from that office, from doing their work. I find Clause 19 very lenient on the imprisonment of whoever impedes the Controller of Budget or officers from that office from carrying out their work. They can only be imprisoned for a term not exceeding two years. If one finds a judge who is lenient, they can get away with it. I know that in the legal profession the judge should be left to have his independence. One can easily commit the offence of hindering the Controller of Budget from doing his or her work and get away with it.

We have been reviewing our quarterly reports from the ministries. Sometimes it is very difficult. Most of the remarks from the ministry officials are either non-disclosure of information or funds are not provided. That is not anybody’s mistake. We are probably over-budgeting. We have dockets like the Constituencies Development Fund (CDF) where we have major oversight. We receive funds about six months into the implementation of a budget. We could be over-budgeting or over-committing ourselves and yet we are supposed to oversee the first and the second financial quarters by the time we get to the next budget. Most ministries and Government departments by then may not have received their allocations.

There are many problems with county revenues even in my county. The revenues being collected are lower than what the municipal councils used to collect. This means there is non-disclosure of what the county governments are raising. The Controller of Budget should stamp her foot and ensure that counties bank the revenue that they collect. I remember a case where a raid almost took place in one of the towns in my county. It was discovered that the county government was not banking even 10 per cent of what it was collecting. I know it is a long process before the Auditor-General gets to the matter, but this is a problem we have identified and it should be looked into.

The monies that the county governments collect are not being remitted to the Consolidated Fund and yet we always hear governors requesting for more money. I would like the county governments to disclose the revenue they collect. Counties are now supposed to be managed by professional people. Governors are required to have a set of qualifications. That means they should have management skills. They should explain why they collect less revenue than what municipal councils used to collect. It is unrealistic.

I support the Bill and emphasize that the clause that talks about strengthening the Office of the Controller of Budget, particularly the provision for the fine and imprisonment, should be improved.

The Temporary Deputy Speaker (Hon. Kajwang’): The Member for Nyandarua, you may have to come back another time, perhaps tomorrow when this Bill will still be on the Order Paper. Right now the people of Nyandarua will not catch the freshness of your ideas. Come back tomorrow and you will enjoy yourself in the Chamber.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, the time being 6.30 p.m, the House stands adjourned until tomorrow, Thursday, 25th February, 2016, at 2.30 p.m.

The House rose at 6.30 p.m.