

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 26th June, 2014

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

WITHDRAWAL OF CORD'S SUPPORT FOR OLE LENKU CENSURE MOTION

Hon. Speaker: Hon. Members, this Communication relates to the withdrawal of CORD Coalition sponsorship of the Motion to discuss the conduct of the Cabinet Secretary for Interior and Coordination of National Government.

Hon. Members, Article 95(5)(a) of the Constitution vests the role for reviewing the conduct of the Office of the President, the Deputy President and other State officers in the National Assembly. To give effect to part of that role, our own Standing Order No.87 (1) provides:-

“87(1) Neither the personal conduct of the President, nor the conduct of the Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the Head of State or Government or the representative in Kenya of any friendly country or the conduct of the holder of an office whose removal from such office is dependent upon a decision of the House shall be referred to adversely except upon a specific substantive Motion of which at least three days' notice has been given.”

Hon. Members, it is on this basis that the Member for Kisumu Central gave notice of a Motion on Tuesday, 24th June, 2014 asking the House to express dissatisfaction with the conduct of the Cabinet Secretary for Interior and Coordination of National Government, Mr. Joseph ole Lenku. The Motion which was sponsored by the CORD Coalition had followed the usual channels, including approval by the Speaker and prioritisation by the House Business Committee.

For avoidance of doubt, a censure Motion is not a special Motion and is different from a Motion for removal of a State officer from office. Indeed, such Motion is an ordinary Motion meant to discuss the conduct of a public officer, but its discussion may be accorded priority should it obtain party sponsorship as provided for under Standing Order No.47(5)(a).

Hon. Members, I have since received a letter dated 25th June, 2014 from the Leader of Minority Party, indicating that the party has withdrawn its support for the Motion. The letter of the Leader of Minority Party conveys as follows:-

“The Motion ought not to be accorded the privilege and precedence of a party sponsored Motion.”

The effect of the withdrawal of the CORD Coalition’s sponsorship of the Motion now causes the Motion to be an ordinary one. This means that the Motion, whose notice was given by the Member for Kisumu Central, will hence go through the ordinary process of balloting like any other Motion before being scheduled for debate in the House.

Thank you.

PETITIONS

STATUTORY RECOGNITION OF *MAU MAU* ARMED STRUGGLE

Hon. Speaker: Hon. Members, pursuant to Standing Order No.225 (2) (b), I have a petition to report to the House.

The petition is signed by ten citizens on behalf of 61,330 *Mau Mau* war veterans from all the counties of the Republic of Kenya. Among other prayers, the petitioners are praying that Parliament recognises their armed struggle for national liberation and Independence, and the struggle for more democratic space, popularly known as “the second liberation” through an Act of Parliament.

Hon. Members, this petition stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is requested to consider the petition and report its findings to the petitioners and the House, in accordance with Standing Order No.227 (2). I must hasten to add that the Committee also undertakes to hear the petitioners, with a view to taking into account their views.

Thank you.

RESETTLEMENT OF NAIROBI COUNTY IDPS

Hon. Speaker: Hon. Members, the next petition relates to provision of funds for resettlement of Internally Displaced Persons (IDPs). It is signed by three members of the Nairobi United IDPs.

The petition prays that Parliament makes a provision for a supplementary Budget in the Budget of Financial Year 2014/2015 presented to the National Assembly to allow resettlement of IDPs in Nairobi County.

Hon. Members, this petition stands committed to the Departmental Committee on Administration and National Security for consideration. The Committee is also requested to consider the petition and report its findings in accordance with Standing Order No..227 (2) for consideration. The Committee may liaise with the Budget and Appropriations Committee in the course of considering this petition.

Thank you.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

The Third Quarter County Budget Implementation Review Report for the Financial Year 2013/204 from the Office of the Controller of Budget.

The Official Audit Report on the Fertilizers Subsidy Programme by the Ministry of Agriculture.

The Report of the Auditor-General on the Financial Statements of the Cooperative University College of Kenya for the year ended 30th June, 2013 and the certificate of the Auditor-General therein

The Report of the Auditor-General on the Financial Statements of Kisii University for the year ended 30th June, 2013 and the certificate of the Auditor-General therein

The Report of the Auditor-General on the Financial Statements of Chemelil Sugar Company Limited for the year ended 30th June, 2013 and the Certificate of the Auditor-General thereon

Thank you, hon. Speaker.

Hon. Speaker: Hon. Members, Special Audit Report on the Fertilizers Subsidy Programme by the Ministry of Agriculture stands committed to the Departmental Committee on Agriculture, Livestock and Cooperatives.

Yes, Chairperson of the Departmental Committee on Health!

Hon. (Ms.) Nyamai: Hon. Speaker, I beg to lay the following Paper on the Table of the House:-

Report of the Departmental Committee on Health on the way forward on the National Hospital Insurance Fund proposed Karen Medical Centre of Excellence.

Thank you, hon. Speaker.

NOTICE OF MOTION**ADOPTION OF REPORT ON PROPOSED NHIF
KAREN MEDICAL CENTRE OF EXCELLENCE**

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

THAT, this House adopts the Report of the Departmental Committee on Health on the way forward on the National Hospital Insurance Fund proposed Karen Medical Centre of Excellence.

Thank you, hon. Speaker.

STATEMENTS

Hon. Speaker: Hon. Kinoti Gitobu, in keeping with the new procedure, you just read what is on the Order Paper.

Hon. Kinoti: Hon. Speaker, mine was in search of a response. This Statement was executed two months ago. So, today should be a response to the same.

Hon. Speaker: Yes, Chairman of the Transport, Public Works and Housing Committee. If hon. Maina Kamanda is not here, let us have the Vice-Chairman, hon. (Eng.) Maalim Mohamed.

An hon. Member: Absent!

Hon. Speaker: Hon. Members, let us skip this Statement for the time being. Can we hear the Chairman of the Departmental Committee on Lands?

Hon. Mwiru: Hon. Speaker, the hon. Member for North Imenti, hon. Rahim Dawood, had sought a Statement on the following:-

- (i) the status of land adjudication in the whole country;
- (ii) whether title deeds would be issued for land where letters of allotment had been issued; and,
- (iii) when title deeds would be issued for land where adjudication had been done but neither letters of allotment nor title deeds had been issued.

Hon. Speaker, a land adjudication programme began in 1959, and to date about one-third of the country has been adjudicated. This comprises 1,987 adjudication sections with a total of 2,154,291 persons spread cover an area of 8,763,373.74 hectares. The programme has been completed in the central and western regions. It is yet to commence in the north eastern region.

There are three or four adjudication sections in progress at various stages of implementation. These sections are: 42 in Nyanza region, 100 in Rift Valley region, 136 in eastern region, and 26 in coast region. I have some annexes that I want to table for the hon. Member to interrogate. The Ministry will commence the programme in Garissa County once the county government identifies and approves areas to be covered. Adjudication in these sections is expected to be finalised within the next three years.

Hon. Speaker, on the issue of when title deeds will be issued for land where letters of allotment have been issued, the Ministry does not have a database of the number of letters of allotment issued to members of the public due to the manual nature of records. The Ministry is also aware that there are fake letters of allotment arising from fraudulent activities that characterised the Ministry in the past.

It is, therefore, upon the realisation of these facts, coupled with the ignorance on the part of some allottees, that the Ministry requested that all holders of letters of allotment submit the same for verification – a process which is now underway, and which is expected to be completed within the next three months.

To date, a total of 6,307 allotment letters have been received and are being subjected to verification. Once the verification exercise is completed, the genuine beneficiaries will be expected to clear the requisite fees for the said land to enable survey, processing and issuance of title deeds.

Hon. Speaker, on when title deeds will be issued for land where adjudication has been done, but neither letters of allotment nor title deeds have been issued, I would like to confirm that the exercise of processing title deeds for sections where adjudication has been finalised is ongoing. This is in line with the Ministry's agenda and the Jubilee's Manifesto of issuing three million titles by 2017. Already, a national titling centre has been set up at Ruaraka to fast-track the exercise. The Ministry expects to complete the adjudication work in the rest of the country within the next 10 years.

Thank you, hon. Speaker.

Hon. Speaker: Yes, hon. Dawood.

Hon. Dawood: Hon. Speaker, I would like to thank the Committee Chairman for responding to the request, although it has taken them nine months to do so. A baby would have been walking by now.

Be that as it may, I would like him to clarify a few issues regarding his reference to database. They say that there are some fake allotment letters. After the completion of the verification of allotment letters exercise that started more than six months ago, which will hopefully be completed within the next three months, do we still have to wait for 10 years before we get title deeds? How soon can we get the title deeds once the allotment letter verification exercise is complete?

My other concern is on the annexures that the Chairman has tabled, especially Annexure 2. Mweru III does not fall within North Imenti; it falls within South Imenti. So, can we say that this is a fake annexure, or have I been given some other scheme that does not belong to me? It is in the annexure as well.

The third clarification is that Ruiru Rwarera Scheme, which previously used to be in North Imenti Constituency, is currently in a neighbouring constituency. The scheme was declared in 1983 and published in 2003. The adjudication documents were taken by the previous Member of Parliament and brought to Nairobi. The owners of the land are in my constituency. That land is already being sold to unsuspecting people. What happened to the adjudication that was being done? The records have been removed from Meru County, and things are changing on the ground. How are we going to protect the people who were given those parcels of land?

My fourth clarification is that the Chairman of the Committee visited Majengo, Mjini and Shauri Yako slums in Meru. Planning has been done. For Mjini slum, planning was done way back in 2008, and the beneficiaries got letters of allotment. However, about seven years down the line, no title deeds have been issued to those people. For Majengo and Shauri Yako slums, the planning was done in 2008/2009 but to date; we have not received allotment letters.

I want the Chairman to answer those few questions. Let him say how soon we can get title deeds and letters of allotment.

Hon. Speaker: You are asking him how soon you are going to get title deeds, but I doubt that the Chairman of the Committee issues title deeds. He is a Chairman of a Departmental Committee of Parliament and I am not sure that--- If you read the mandate of the Committee, it does not include issuing title deeds. So, he is unlikely to respond to that with any degree of certainty.

Hon. Murungi: Hon. Speaker, I want to confirm that Mweru III Scheme is in my constituency. Since this annex is from the Ministry, the Chairman could clarify whether or not there is an intention of auctioning a part of my constituency to North Imenti. Mweru III is an area which has no title deeds and there have been no complaints from the people who have been allocated land. What, perhaps, needs to be done is to issue title deeds to the people of Mweru III in South Imenti and not in North Imenti.

Hon. Speaker: Let the Chairman respond now.

Hon. Mwiru: Hon. Speaker, you realize that there are quite a number of issues to do with land that are also before the Kenya Anti-Corruption Commission. That is why there are quite a number of fraudulent letters of allotment that are out there. I think that is

why the Ministry, after discovering that kind of syndicate, is now trying to verify which ones are genuine and which ones are not. I can assure you people have been faced with those kinds of problems in the Ministry.

On the issue of Mweru, I could also apologize because I come from near that area. I know it is not in North Imenti; rather it is in South Imenti, and the hon. Member is my neighbour. I know exactly where it is and I think that should have been a typographical error.

On the matter of some of the records that were taken away by a Member of Parliament, certainly, the Member of Parliament is not an education officer. Let us give him time. He can only represent his people. This is a matter that I think can be looked at privately. I cannot answer it now. If, however, hon. Dawood Rahim could meet me at a different corner, I think we could follow up this matter with the Ministry. This is because we cannot disinherit people of their own land or records.

On the matter of Majengo, Mjini and Shauri Moyo, we had the privilege of visiting---

(Loud consultations)

Hon. Speaker: Order, Members! Consultations must be in lower tones.

Hon. Mwiru: Thank you, hon. Speaker for protecting me. On the issue of Majengo, Mjini and Shauri Yako in Meru Town, I had the privilege, together with my Committee, of visiting these informal settlements. There are quite a number of things that have been done there in terms of planning. Some people already have letters of allotment. I can assure you that the Ministry of Lands is currently doing something to make sure that those people get titles. It is because we have taken the matter to the Cabinet Secretary.

Hon. Dawood: Hon. Speaker, I think the Chairman forgot one thing when he was doing the tours. My constituency borders his. We do not want to have clashes there as is happening in Wajir and Mandera. It is the same case between North Imenti and Tharaka and also South Imenti and Tharaka. I think the Chairman has not done a report on the same because he is party to these disputes. I request, through your guidance, that we be given a way out of this, because we want to avoid bloodshed in the Meru/Tharaka region. I believe the Committee could leave the Chairman out of that because he has not given a report on that issue.

Hon. Speaker: Well, take that with the knowledge that this system is coming to a close. So, you do not have to accuse the Chairman of being party to the issues.

Hon. Mwiru: Hon. Speaker, I believe he was not trying to impute improper motive on an hon. Member of this House. I can assure you that I am very impartial when it comes to carrying out my duties as the Chairman. This is a matter that is supposed to be handled by the Committee and the report is at the draft stage. We will invite him to come, so that we discuss the same issue. Indeed, I have withdrawn myself from handling that matter as the Chairman. We have a sub-committee handling that matter headed by hon. Kanini Kega. That is a matter that should rest once and for all.

Hon. Speaker: Very well. Can we have the response from the Chairman of the Departmental Committee on Administration and National Security? Hon. Kamama.

Hon. Abongotum: Hon. Speaker, my very able deputy will handle this.

Hon. Lentoimaga: Hon. Speaker, on 11th November, 2013 the Member of Parliament for Gilgil Constituency, hon. Samuel Nderitu, requested a Statement regarding the conflicts brought about by the boundaries that were created by the IEBC, where some wards are administered from two different sub-counties. The hon. Member requested the office of the Cabinet Secretary to inquire into and report on the following: -

- (i) why some of the boundary changes undertaken by the IEBC have not been enforced administratively such as Malewa West Ward under Gilgil Constituency; and
- (ii) when the changes will be effected to streamline administration of the said wards.

The Cabinet Secretary wishes to respond as follows:

Gilgil Constituency was carved from Naivasha Constituency pursuant to the enactment of the Constitution of Kenya, 2010 and the Interim Independent Boundaries Commission that was given the mandate to map out the electoral boundaries. According to the National Bureau of Statistics, the then Gilgil District had a population of 130,187 people in the 2009 census. The population did not qualify Gilgil to stand alone as an electoral constituency. On the other hand, leaders and residents of Gilgil wished to have their own constituency. In an effort to attain the required population, leaders and members of the public agreed to hive off parts of the then Naivasha Constituency and transfer them to Gilgil Sub-County. As a result, Malewa West Ward was moved from Naivasha to Gilgil.

Malewa West Ward of Gilgil Constituency covers approximately 274.1 square kilometres and has a population of 21,915 people; it has 13 polling stations and a total of 9,533 registered voters. It comprises of Karati Location, Naivasha Town Location and Malewa Location of Naivasha Municipality Division in Naivasha Sub-county.

Due to its proximity to Naivasha Sub-county headquarters, the residents of Malewa West Ward continue to be administered from Naivasha Sub-county since it is approximately 20 kilometres from the furthest end of the ward. Its residents would cover about 60 kilometres to get to Gilgil Sub-county headquarters. Also someone in Malewa, Kasarani, Tarambete and Karati locations will cover five to 20 kilometers to get to Naivasha; if it is taken to Gilgil, we will have to come to Naivasha Town, which is about 20 kilometers away, and board another vehicle to Gilgil, which is 40 kilometers. The feelings of the community on the ground are that they should continue to receive administrative services from Naivasha and political services from Gilgil.

Thank you, hon. Speaker.

Hon. Speaker: The hon. Samuel Ndiritu, hon. Member for Gilgil.

Hon. Ndiritu: Thank you, hon. Speaker. First of all, I wish to make a correction. There are only two locations in Malewa West Ward; Gatamayu and Tarambete.

Secondly, this Statement was as a result of people requesting that they be moved to Gilgil or they either get their services from Gilgil. They were led by their leaders, the MCAs and others. So, I do not know who the Cabinet Secretary (CS) consulted and at what forum. Maybe that is one thing that needs to be clarified. Again, Gilgil is only 25 kilometres from Naivasha and not 60 kilometres. It is sometimes difficult to harmonize some of these services, for example, in Gilgil Constituency, we cannot complete our strategic plan as a constituency because we have to deal with two DEOs. Some bursaries are constituency-based and they have to be signed by the chief. The Ministry of

Education will not accept them if they have stamps from chiefs in Naivasha. We also have the cash transfers which are location-based. We have had cases of elderly people and those with disabilities being captured twice or being left out because Gilgil caters for its locations while Naivasha caters for its own.

We are now dealing with devolved units; that is the county, Sub-county and wards. The counties have already realigned themselves. When a Statement is made by the Cabinet Secretary, he is interrogated on behalf of the hon. Member. At that stage, the Member of Parliament should be called to ask some of these questions that you are now making a ruling on, that the Chairman cannot answer because he is not the Cabinet Secretary. He is supposed to interrogate the Cabinet Secretary---

Hon. Speaker: Hon. Member, please, do not give your colleagues unnecessary task. This is a matter which, if you see how the response is designed, it first of all seems to address the unique features captured in Article 89(4) of the Constitution with regard to the creation of constituencies. Then there is the issue of deviation which in certain areas, it is permitted to be at 40 per cent over and above the national average, and in some areas 30 per cent over or below the national average. The thing that perhaps your residents could do is to petition. The Committee will not know all the issues you are raising including bursary, chiefs and the rest. If you went through the route of a petition, it would be a better route for your constituents who are in Malewa West Ward. This Statement is just from the Cabinet Secretary and the Committee cannot call him and start asking questions. It is not possible. The Committee will never do anything else if they take that route.

Hon. Ndiritu: Hon. Speaker, the Statement was at some point presented to the Committee and at that point, that is where an hon. Member---

Hon. Speaker: So, you are saying the Committee has failed?

Hon. Ndiritu: Yes, they did not---

Hon. Speaker: Okay, then it has failed. Can you respond?

Hon. Ndiritu: That is why my first question is---

Hon. Speaker: No, just finish. Let hon. Lentoimaga respond. You have failed. That is what the hon. Member says so that we do not flog a dead horse.

Hon. Lentoimaga: Hon. Speaker, it is like you have answered this question. I also have the same problem in my place. If you do not have enough population, then a neighbouring constituency can assist you and this is what happened in my area. I am not complaining. Some constituencies had to donate locations just as four locations were donated to enable Samburu North to exist. So, I really do not know if residents can identify themselves with a specific area. My four locations have unique association with Maralal, so I cannot force them to go to Baragoi. The hon. Member can also use the avenue that you have proposed; we let the residents complain. If they do not want to come to Naivasha, then they can petition.

Hon. Speaker: I know this is going to be new. Those of you who may not have the necessary background on how to arrive at some of the formula you find in the Constitution, you may look at other jurisdictions outside Kenya, for example Australia, Canada and United Kingdom. By 2022 or 2021 when the next review is due, indeed, we will be doing something called re-districting. There will be no additional constituencies. You will just sit in you county of Nakuru and see who is representing more people than

the other and the population will be shifted, so that everybody represents an equal number of voters. That is the route. It is good to appreciate the spirit of this new Constitution because that is what is intended to happen at the next review of boundaries. It will no longer be a political process as it has always been the case in the past. It has shifted from there and it is now a mechanical process. Those of you who are expert in those areas, you know how it will happen. You just get the national quarter population as enumerated, hopefully in 2019 and thereafter get the national average.

In sparsely populated areas, deviation formula will be 40 per cent below the national average. In densely populated areas like Nairobi County, the deviation will be allowed to be 40 per cent above the national average of the population while in all other areas deviation will only be permitted to the extent of 30 per cent over or below the national average. So, it is a big challenge.

I will advise hon. Ndiritu to go the route of a petition because of the residents in the ward that you think are complaining about not getting services, of which I think you have a valid point. The residents of that ward, when they need administrative services, like bursary forms being signed by chiefs, they are signed by chiefs who are in Naivasha Constituency but they will be bringing the forms to Gilgil Constituency, those are some of the things that would be best addressed through a petition as opposed to through this method of approach. I can see that hon. John Kihagi, Member for Naivasha also wants to make some statements. I do not know whether he wants to say he is willing to serve your people. Hon. John Kihagi, what is your intervention?

Hon. Kihagi: On a point of order, hon. Speaker. I totally agree with the Committee and also your ruling. This is because one shock for the people of North Karati and New Karati when the new boundaries were created was the realization that they had been placed in Gilgil Constituency. As the Committee says, these people would have to first get into a *matatu*, go to Naivasha Town, and then board another one to Gilgil, a distance of almost 60 kilometers to access a basic service.

These people have actually been saying that an injustice was done to them and they are very happy to be served in Naivasha Constituency. I was born in North Karati and that is where even my local primary school is. The IEBC just came up with an arbitrary boundary of the road heading to Kinangop and said on the right is Naivasha and on the left is Gilgil. Actually, they have been contemplating bringing a petition but we have been telling them, as is guided that in another eight years, we are going to have a review of these boundaries.

When you think of Naivasha Constituency, which is largely rural but also urban with a population of 240,000 against the population quarter of 160,000, you find it is also an injustice. So, I will be willing to sit with hon. Mathenge, together with the Committee and see if there are certain difficulties there and we can work it out with the county government as brothers. I normally remind him that constituency wise, he is my younger brother. If a petition is going to come here, it will be by the people of North Karati, whose settlement scheme was divided into two and they were placed in different constituencies. They should be brought back to Naivasha.

Hon. Speaker: Well, constituency wise he is your younger brother, but age wise your elder brother, is that so? Hon. Ndiritu, you want to say something?

Hon. Ndiritu: I go with your ruling that we do a petition and if the Committee can come to the ground, then that is the place to establish where these people would really want to be as of today.

Hon. Speaker: Please, hon. Members, do not engage in an exercise in futility. Constituency boundary review is constitutionally a function exclusively reserved for the IEBC. Article 89 of the Constitution is very clear, so even this Committee will not go to do anything and that is not happening. Boundaries will not be reviewed anytime during the life of this Parliament. Certainly, as you know boundary review will follow national population census. The last one that was done was in 2009, so the next one is due on or about the year 2019. It is important for people to appreciate these facts. Hon. Iringo, you also want to deal with the issue of these constituencies.

Hon. Iringo: Yes, hon. Speaker and thank you. There is a burning issue here. The issue of constituency boundaries is across the board. I have a problem with my constituency which was created by IEBC. When the boundaries were being created, for example, Igembe Central Constituency was curved from Igembe South and North. So, the constituency was created from two. Today, when I need any services in terms of administration, we have to go to Igembe South or North. In Igembe Central administrative wise, we do not have any systems for anything, so it becomes very difficult to even register voters and get ID cards. It is becoming a problem. We need the Committee to go back to IEBC and clarify this because I believe every constituency needs to be a district, where we have a DC.

Hon. Speaker: Hon. Iringo, I appreciate but as you can see, we are not achieving anything. I can see several others who want to speak about boundaries. It is not of any use, we are speaking to ourselves

Hon. Iringo: But, hon. Speaker, I think the Chairman of the Committee can get such sentiments and bring answers to the House.

Hon. Speaker: I am advising that if you want a session on constituency boundaries, that is a matter to be addressed by the IEBC. But should you also want a discussion, we can organize that as an entire House and not just this Committee.

Hon. Iringo: But a discussion---

Hon. Speaker: Just resume your seat, because you know nobody is going to give you an answer. Hon. Lentoimaga has said he has donated some parts of his constituency. So what answer is he going to give you, even if you complain to him?

Matters of constituency boundaries are reserved for the IEBC. There may be urgent need for Members of Parliament as such, indeed, National Assembly to sit with both the IEBC and the people from the Ministry of Interior and Coordination of National Government, so as to resolve the teething problems of administrative boundaries, where administrative units are not in the same political units that are represented here, for purposes of service delivery to the residents. If you want, we should task this Committee and that chaired by hon. Chepkong'a, who oversees IEBC, to sit and try to resolve that matter. This is because it is not a matter of hon. Lentoimaga, although I can see, he wants to speak. Hon. Lentoimaga, this is not a debate.

Hon. Lentoimaga: Hon. Speaker, I am not debating. I am just suggesting that, in order to lower attention and a lot of interest what I did is to open a sub-office to take care of those who are away from my headquarters. That has actually lowered a lot of agitation

and interest. I want to keep them because the moment we say we will review our boundaries, they will go to the old constituency and I will lose the constituency myself.

Hon. Speaker: You see, hon. Kihagi said he was born somewhere near the ward that has gone to Gilgil Constituency. So, perhaps, hon. Kihagi should be reporting to hon. Ndiriti as his Member of Parliament. We could consider the issue of the petition. Hon. Amina Abdalla.

Hon. (Ms.) Abdalla: Thank you, hon. Speaker. I beg to respond to a request from hon. Harrison Kombe regarding the Mombasa Salt Works Company Limited at Ganjoni Town in Magarini Constituency on why it uses firewood for salt processing. He had requested that in my Statement I should give:

(a) any measures put in place by the Ministry to safeguard the abundant indigenous trees plus mango and cashewnuts trees in the area;

(b) action being taken against the company for polluting the environment in the area resulting in respiratory problems for area residents due to smoke inhalation and,

(c) whether the company plans to compensate those incurring unnecessary expenses.

Hon. Speaker, we invited the Member to our meeting and he was able to interrogate the Cabinet Secretary on this response. The Cabinet Secretary responded as follows:

The Ministry is aware that Mombasa Salt Works Company Limited processes salt using firewood as its main source of fuel. In regard to sustainability, various measures have been put in place to safeguard the harvesting of indigenous mango and cashewnut trees by the local communities for use as firewood by the company. These measures include:

(i) Sustainable harvesting of trees in farmlands is strictly adhered to by ensuring that only over mature senile mangoes, cashewnuts and other fruit trees are harvested and replaced with improved fast growing and high yielding of these fruit trees.

(ii) No wood fuel materials are sourced from Government forests.

(iii) No fuel wood material is harvested before it has been assessed and approved by a forest officer.

(iv) No indigenous trees are allowed to be cut for firewood or other commercial purposes. Consequently, no transportation or movement permits for forest products for indigenous trees are issued.

Hon. Speaker, in order to ensure compliance and safeguard against environmental degradation as a result of tree cutting in the farmlands, the Ministry of Environment has put in place the following measures:

(i) Establish a local environmental committee comprising of a community member, the area chief, local agricultural officer, forest officer and representatives of other stakeholders like the Kenya Cashewnut Development Authority. The mandate of this committee is to vet and approve the farmer's application to cut down old fruit trees as well as a follow up in the farms to ensure new trees are planted to replace those cut.

(ii) Support and advise farmers on taking up the advantage of the prevailing high demand for firewood and other wood products by establishing wood lots or fast growing high yielding tree species for commercial purposes. These species include Casuarina, the Neem tree, eucalyptus and Gramela. The aim is to mitigate the current demand for wood fuel and other construction materials at the Coast. The campaign is being done by the

Kenya Forest Service (KFS), Kenya Forest Research Institute (KEFRI) and the Coast Development Project.

(iii) Advise the company to establish their own wood fuel plantation for sustainable supply of firewood in the long run. Already the company has indicated that they own 2,000 acres of land that may have been committed to tree planting.

(iv) Advise the company to contract local farmers to establish wood lot specifically for supplying them with firewood in the long term.

(v) Advise the company to explore and invest in the use of other alternative sources of energy such as imported coal, electricity and biomass.

Hon. Speaker, before the commissioning of the Mombasa Salt Works Company Limited, an Environmental Impact Assessment (EIA) was conducted by the Ministry through the National Environment Management Authority (NEMA) and the company was issued with a licence. Consequently, the Ministry undertook an environmental audit to establish whether the company has complied with the regulation imposed by the EIA licence as per the Environmental Management and Coordination Act. At the moment, there is no conclusive evidence to support the claims that pollution from the company is causing increased respiratory diseases.

Hon. Speaker, the Committee visited this site and does agree with the Ministry in the response that they have provided. Thank you.

Hon. Speaker: Well. Hon. Kombe you hear that they only harvest over mature mango trees, cashewnuts and other fruit trees especially the senile ones.

(Laughter)

Hon. Kombe: Thank you, hon. Speaker. I wish to seek three clarifications. First, I wish to thank the Chair and the Committee for the comprehensive report but all the same the poverty levels in the area are too high such that when you say you want firewood, the farmers go to the extent of even cutting the young trees that are not really mature enough.

On the measure which they have put here of having a local environmental committee, I wish to ask the NEMA people to consider having the political leadership in the committee because it has been left out here.

Two, they are claiming that they have 2,000 acres of land. May I put it across this House that, that parcel of land they are claiming to own is under dispute as we speak. Even as I speak here the area Member of the County Assembly (MCA) is at the police station being grilled over that parcel of land because the residents have totally refused to give it up. This is because they say the company encroached on that land and they now want to use it for their own purpose of growing trees instead of the residents using that land for agricultural purposes.

Hon. Speaker, again that is the only area where fresh water is obtained. At one time this salt company went and put salt bags into the water wells of which I took the initiative and cleared. As we speak, they have gone and covered three water wells. They again want to use the two that are left for the residents for their own purpose of which if no action will be taken sooner or later that place will be on fire.

Hon. Speaker, therefore, I would wish to ask the Ministry to advise the company to look for alternative land as the Departmental Committee on Land tries to resolve the issue.

Hon. Speaker: Now hon. Kombe you have told us about the efforts you have made. So, the Chairperson really does not need to clarify anything because you have done everything. What do you want the Chairperson to clarify?

Hon. Kombe: I want the Chairperson to ask the Ministry to advise the company to look for alternative land for planting their trees.

The third clarification now---

Hon. Speaker: No, you have spoken for so long. That is not a clarification now. You are just asking whether she can consider advising the Ministry to do something.

Hon. Kombe: The third one is a clarification. The company is advised to use alternative sources of energy. I would want the Ministry to compel them to use electricity only because coal will still pollute the environment in the area. Thank you.

Hon. Speaker: Honestly, you know I am at a loss. I appreciate that it is important to say what you must say because of the hour but hon. Amina can you answer that?

Hon. (Ms.) Abdalla: Thank you, hon. Speaker. In the response, we have already stated that NEMA has already advised the company to use alternative sources of energy.

On the presence of political leadership, I do not know which level of political leadership the hon. Member is proposing. But it is a committee which issues permits for people to cut their trees in their farms. I do not know if the hon. Member would want to be present in such committee that gives permits to cut down trees.

On the issue of the land that is under dispute, this is probably a matter that we need to deal with on statements in this House. Hon. Kombe had asked a similar question about land rights in that area. The Committee on land went there and then he asked the same question on environment; the answers that are coming out appear--- With due respect to the hon. Member, there is more than what he wants us to focus on.

Hon. Speaker, you need to protect Chairs of Committees when the hon. Members are not upfront on what exactly they are asking. This is because the Ministry has given answers on everything he has asked, yet everyday there is something missing. Therefore, there is more to it than the Statement.

Hon. Speaker: Very well. We should go now to the first Statement to the Chair of Transport, Public Works and Housing; hon. (Eng.) Mahamud.

TARMACKING OF RURII-KIRUA-KIBIRICHIA-KISIMA ROAD

Hon. (Eng.) Mahamud: Hon. Speaker, the hon. Member for Buuri Constituency, hon. Kinoti Gatobu, rose on appoint order on the Floor and requested for a Statement from the Chairman of the Departmental Committee on Transport, Public Works and Housing, regarding the tarmacking of roads in Buuri Constituency as follows:-

(a) why Kirua-Kisima Road was tarmacked half-way instead of doing the entire 20 kilometres and link B6 Highway and A2 Highway;

(b) the standard of the tarmac which was done in the eight kilometre section 10 years ago, which is currently worn out, and;

(c) whether there are any plans to tarmack the entire 20 kilometres of Kirua-Kisima Road.

Hon. Speaker, I beg to reply as follows:-

(a) The above road is located in Buuri Constituency of Meru County. In 2005, the road was improved to Gravel C standard by the Ministry of Roads, through the contract for the construction of Meru-Githongo-Marimba Road. Due to funding constraints, the scope of Meru-Githongo-Marimba contract could not cover the whole road.

(b) As part of the Ministry's road improvement programme, the whole road has been captured for rehabilitation and will be constructed to bitumen standard beginning 2014/2015 Financial Year.

The estimated cost of improvement and the low volume standard is Kshs525 million. The improvement has been prioritized among other roads nationally.

Thank you, hon. Speaker.

Hon. Kinoti: Thank you, hon. Speaker. I want to thank the Vice-Chairperson more sincerely for their consideration and by extension the Ministry of Infrastructure for putting it in their plans for this yearly; the Kshs525 for tarmacking of Kirua-Kisima Road.

Hon. Speaker, I also wish to humbly take this opportunity to thank you and hundreds of my colleagues who attended my wedding on 7th June, 2014. I also want to thank the President and the entire leadership of this country for the wonderful opportunity they gave me of gracing my wedding on 7th June, 2014. I am very grateful.

With regard to this matter, I want also to thank His Excellency the President---

(Loud consultations)

Hon. Speaker: Order, hon. Members! Listen to hon. Kinoti Gatobu. He is also acknowledging your support during his wedding. He is now a husband, among other things.

Hon. Kinoti: I was saying that I want to sincerely thank the Chair for attending my wedding on 7th June, 2014, along with hundreds of other colleagues of mine who graced the occasion.

I also want to thank the President and the entire Executive who attended. It was such a wonderful opportunity.

With regard to this matter, I want to thank the Vice-Chair and the whole Departmental Committee on Transport, Public Works and Housing; by extension, the Cabinet Secretary for Transport and Infrastructure. Also the Principal Secretary and the entire leadership for committing this Kshs525 million towards the tarmacking of Kirua-Kisima Road---

I am very grateful.

Hon. Speaker, I wish to acknowledge the importance of this road in a very brief---

Hon. Speaker: Do you want to seek any clarification?

Hon. Kinoti: Yes. I want to seek clarification. The issue I want clarified is whether during the tarmacking of Kirua-Kisima, the section that was tarmacked using low seal of Kirua-Kibirichia Road would be part of the tarmacking of the entire road.

Thank you.

Hon. (Eng.) Mahamud: Hon. Speaker, yes the whole road is planned for rehabilitation and reconstruction to bitumen standard and therefore, that section is included.

Hon. Speaker: Hon. Leader of Majority Party.

BUSINESS FOR THE WEEK COMMENCING 1ST TO 3RD JULY, 2014

Hon. A.B. Duale: Hon. Speaker, pursuant to Standing Order 44(2)(a), on behalf of the House Business Committee (HBC) I rise to give the following Statement regarding the business appearing before the House the week beginning Tuesday, 1st July, 2014. As usual, the HBC met on Tuesday at the rise of the House to schedule business of the House for next week.

Hon. Speaker, I would like to remind this House that on Wednesday, 11th June, 2014, we adopted the Report of the Procedure and House Rules Committee on the review of Standing Order No.44 (Statements and Actualization of Provisions of Article 153 of the Constitution). This will occasion a number of changes including Cabinet Secretaries appearing before the House to present reports and answer questions.

Hon. Speaker, the first set of the Cabinet Secretary----

(Loud consultations)

Hon. Speaker, if you could allow hon. Washiali and the Chair of Departmental Committee on Agriculture, Livestock and Co-operatives to either be very far from me or consult in low tones, I would appreciate. What I am saying is very important.

I wish to say that this will occasion a number of changes including the Cabinet Secretaries appearing before the House to present reports and answer questions. The first set of Cabinet Secretaries was meant to appear before the House on the week commencing 1st July, 2014. But following further consultations with the Chair, I wish to report that the first batch of requests for replies from Cabinet Secretaries will commence on 16th July, 2014, after the short recess.

Hon. Speaker, this coming week I will provide a schedule for the appearance of Cabinet Secretaries, which is in accordance with the new Standing Order 44(f). It requires the Leader of Majority Party to submit to the Speaker for approval a schedule containing the order in which Cabinet Secretaries shall present their reports to the House.

(Loud consultations)

Hon. Speaker: Order, hon. Members! I wish all of you could listen to this particular aspect of what the Leader of Majority Party is saying. This is because he is addressing some of the challenges we have just been going through here. But nobody is listening so that you know the procedure which is going to be followed.

I can see everybody is bewildered.

Hon. A.B. Duale: Hon. Speaker, as amendments to the Standing Orders were done; I will provide a schedule for appearance of Cabinet Secretaries beginning from 16th July, 2014, after the short recess. This is in accordance with the new Standing 44 (f) that

requires the Leader of Majority Party to submit to the Speaker for approval a schedule containing the order in which the Cabinet Secretaries shall present their reports to the House.

Hon. Speaker, I further wish to update hon. Members on the eight legislative proposals with constitutional deadlines.

(i) On Article 46, on the Consumer Protection Bill, the Attorney-General has confirmed that there is already a Consumer Protection Act, 2012, which Parliament enacted in December, 2012.

The Attorney-General and the Commission for Implementation of the Constitution (CIC) have agreed in writing that the Act suffices for the purpose of meeting the constitutional deadline of 27th August, 2014.

(ii) On Article 47, Fair Administrative Action Bill, 2014, both the Office of the Attorney-General and the CIC have confirmed that the Bill has been finalized and will be submitted to the Cabinet next week.

(iii) On Article 48, on the Fair Hearing Bill, I want to confirm that the Victim Protection Bill, 2013 by hon. (Ms.) Odhiambo-Mabona which is currently before Parliament has addressed this and suffices for the purpose of beating the constitutional deadline of 27th August, 2014.

(iv) On Article 51 of the Constitution, the Persons Deprived of Liberty Bill, 2014, the CIC confirmed that it has finalized on the Bill and the Attorney-General will submit it to the Cabinet before it is brought before this House.

(v) On Article 72, Environmental Management Coordination (Amendment) Bill, 2014, the CIC and the Kenya Law Reform Commission (KLRC) are currently reviewing and redrafting the Bill. This process will be complete on 27th June, after which the Bill can be published.

(vi) On Article 226 of the Constitution, the Public Audit Bill, 2014, the preliminary draft Bill from the KLRC was recalled by the National Treasury for further scrutiny and will be submitted back to those said institutions.

(vii) On Article 227, the Procurement and Asset Disposal Bill, 2014, the draft Bill from the KLRC was similarly recalled by the National Treasury. The CIC is doubtful that this Bill can be concluded before the deadline and have written to the Constitutional Implementation Oversight Committee (CIOC) of Parliament to seek extension of the constitutional deadline so that the Bill is not unduly rushed.

(viii) Article 228 of the Constitution; the Public Service (Values and Principles) Bill, 2014; the CIC has confirmed that it has finalized on the Bill and the Attorney-General will submit it to the Cabinet next week.

I wish to notify the House that the House Business Committee (HBC) is of the view that there may not be enough time for us to discuss ordinary Motions owing to the fact that there are several Bills sponsored by individual Members which need to be given priority as they contain solutions to the day to day issues as opposed to the ordinary Motions seeking answers. Next week the House will consider for Second Reading the following Bills:-

- (i) The National Drought Management Authority Bill, 2013
- (ii) The Kenya Qualifications Framework Bill, 2013
- (iii) The Private Security Regulations Bill, 2014

- (iv) The Scrap Metal Bill, 2014
- (v) The Climate Change Bill, 2014
- (vi) The Kenya National AIDS Authority Bill, 2014
- (vii) The Water Bill 2014
- (viii) The Mining Bill, 2014
- (ix) The Insolvency Bill, 2014
- (x) The Companies Bill, 2014
- (xi) The Order of Precedence Bill, 2014

Other Bills scheduled for consideration for the Committee Stage in the coming week include:-

- (i) The Alcoholic Drinks Control Act (Amendment) Bill, 2014
- (ii) The Counsellors, Psychologists and Physiotherapists Bill, 2013.

I, therefore, wish to urge all hon. Members with proposed amendments to any of these Bills to present the text to the Legal Department or the Office of the Clerk in good time to avoid the last minute rush. The HBC has also given priority to a number of Committee reports for debate by the House, including the report of the Committee on Health on devolution of health services, if it is not concluded today and the report of the Mediation Committee on the County Governments (Amendment) Bill of 2013. Finally, the HBC will again meet on Tuesday, 1st July, 2014 at the rise of the House to consider business for the rest of the week.

I now wish to lay the Statement of the HBC on the Table of the House.

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

Hon. Speaker: I think it is important that, that be circulated to hon. Members. It is important so that hon. Members will begin to appreciate what kinds of questions will be put to Cabinet Secretaries and how they are going to be processed. That is a key aspect of the communication from the Leader of Majority Party so that you know that the Cabinet Secretaries will not be coming here to give a report about something that happened last night in some village. The matters are supposed to be matters of national scope so that you know where to address those others which are not of national scope. It is absolutely important to understand that there will be a space dedicated to assist hon. Members to frame the issues they would want Cabinet Secretaries in charge of various dockets to come and report on when we begin that programme from 16th July, 2014. So kindly pay heed. If need be, see the Clerk's Department so that those of you who have issues that you may want addressed, you can start doing to in good time.

EFFECT OF FAILURE TO DECLARE INTEREST IN A MATTER

Hon. (Ms.) S.W. Chege: Hon. Speaker, I stand to seek the Speaker's direction on a matter of Standing Order No.90. This is on a matter that is before the Departmental Committee on Education, Science and Technology. The Committee would like to seek your direction on the matter as pertains to declaration of interest on a matter before the Committee noting that the Standing Order which guides the House provides that "(1) A Member who wishes to speak on any matter in which the Member has a personal interest

shall first declare that interest. (2) Personal interests include pecuniary interest, proprietary interest, personal relationships and business relationships.”

Hon. Kaluma requested for a Statement from the Chairperson of the Committee, particularly he sought to know a few issues about Kenyatta University (KU). Among the issues he raised was discrimination of students and staff at the university. The Committee invited hon. Kaluma for a meeting on 10th June, 2014 to give documentary evidence on the issue raised above. Subsequently, the Committee examined the evidence tabled and resolved to invite the Ministry of Education, Science and Technology and the KU management to a meeting to respond to the allegations raised by the hon. Member. During the meeting, the Vice-Chancellor of KU noted that hon. Kaluma was the legal counsel that had represented one of the plaintiffs. One of the witnesses that he presented to the Committee by the name Dr. Elena Korir had sued KU on unfair treatment and discrimination and the court had ruled that Dr. Elena Korir be awarded Kshs18 million. We also sought to meet the witnesses and today in one of our meetings, the same hon. Member, hon. Kaluma, sent a communication to our clerk that the people who were to give evidence were having a case today at the court and so they could not have managed to appear before the Committee. In view of the above, the Committee would like to seek your direction on the matter noting that the hon. Member did not declare the interest before this House or even when he came to the Committee, yet a similar matter is being handled by court. So, we wish to seek your direction on the said matter.

Hon. Speaker: I would want to get the extract of what you have from the HANSARD so that I can give you an appropriate response. We may not discuss it. I do not see hon. Kaluma here or did you say he is in court?

Hon. Mirenga: He is in court over the same matter.

Hon. Speaker: He is in court over the same matter according to hon. Obura.

I have not heard anything. We will get the extract of the HANSARD so that we will give you an appropriate direction. Next Order!

BILLS

First Reading

THE FINANCE BILL

*(Order for First Reading read – Read the First Time
- Ordered to be read the Second Time tomorrow)*

Second Reading

THE PERSONS WITH DISABILITIES (AMENDMENT) BILL

(Hon. (Ms.) Muhia on 18.6.2014)

(Resumption of Debate interrupted on 25.6.2014)

Hon. Speaker: Hon. Members, as you may notice from the Order Paper, debate on this Bill was concluded. I, therefore, proceed to do the necessary which is to put the Question.

(Question put and agreed to)

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

Second Reading

THE APPROPRIATION BILL

(Hon. Musyimi on 25.6.2014)

(Resumption of Debate interrupted on 25.6 2014)

Hon. Speaker: The record shows that the hon. Member for Kitutu Chache North, hon. Angwenyi, you have a balance of nine minutes. Proceed to make use of them.

Hon. Angwenyi: Thank you hon. Speaker for preserving some time for me. I started commenting on this Motion yesterday and I want to proceed. If you look at the Ministry of Defence, you have given a hefty amount of money; Kshs78 billion for Recurrent Expenditure. I hope they will use these resources appropriately by assisting police to bring down incidences of terrorism in this country. I suggest that they deploy army in Suguta Valley. I understand these days, not even the governor of that county can go to Suguta. I understand that the President postponed his trip to that area because of the fear of terrorists in that area of Suguta.

I also see that there is Kshs. 10 billion allocated to foreign affairs, but only Kshs.1.5 billion is allocated for capital expenditure. If you go to our missions abroad, for example, Geneva they are seriously dilapidated. The seats there are of low class. I hope the Ministry will refurbish our missions so that they provide an atmosphere of business for those who want to do business with us.

We have allocated Kshs.14 billion to capital expenditure in health. I would like to urge this Parliament to bring a Bill so that we can upgrade hospitals that are of Level 3 and above to national hospitals. That way, we can maintain standards throughout the country. As you know, today there are county hospitals and therefore, there are a lot of disparities in the standards among the counties.

I have looked at the Ministry of Industrialization and Enterprise Development, we have given them only Kshs.7 billion for a whole year. If you want to industrialise this country; you want to bring us to the next level of middle income; you want to create employment in this country, you must invest in industrialisation. I wish they had been given more money so that they can start a textile mill in Kisii and employ those idle young men and women who have finished universities and do not have jobs. I wish they could revive RIVATEX, KICOMI and Kenya Industrial Estates throughout the country and make them compete with foreign countries in industrial production.

Hon. Speaker, I lost my voice when I went to campaign for Opopo. We have given the National Intelligence Service Kshs.17 billion. That is almost as much money as what they have given Parliament. We are being warned everywhere and there is no intelligence being applied effectively. I do not know how they will account for this Kshs.17 billion.

The Ministry of Interior and Coordination of National Government has been given Kshs.80 billion. I hope they will provide proper housing for our policemen. They should also provide proper equipment and facilities for our policemen. I was in my constituency last weekend and an incident occurred. We called the police and they could not come because they did not have a vehicle and yet we are devoting Kshs.80 billion to this Ministry. So, the Committee on Security must ensure that this money is applied appropriately and that we have proper housing for our policemen and proper equipment in all our stations.

There is something which has come to me like a shock today. In the Appropriation Bill, we voted a total of Kshs.26 billion but we have been given an amendment this afternoon saying they are reducing that amount to Kshs.22 billion. They are attacking the budget for Parliament, the Parliament that we were told yesterday makes budgetary allocations. I wonder what hon. Nyamwea and hon. Ng'ongo will tell us. Hon. Ng'ongo, were you involved in reducing this amount from Kshs.26 billion to Kshs.22 billion? You know we cannot have trips anymore; you cannot meet outside Nairobi any more. You decided to reduce this amount by Kshs.4 billion when in fact you did not touch the Kshs.906 billion for the Executive and you have not touched a single shilling on the amount for Judiciary, the Kshs.17.4 billion. They have only attacked the budget for Parliament, yet we said that we are the ones who make the Budget. They have taken us back to where we were in 2001. The Budget is what made us establish the Parliamentary Service Commission. We said Parliamentary Service Commission cannot be touched by the Executive and now we are giving in. I am surprised that the Chairman of the Budget and Appropriations Committee can bring such an amendment which is only attacking Parliament.

I have seen we have allocated very little amount for tourism. We said tourism is a major contributor to national income, yet we have only given them Kshs.4 billion. The Budget and Appropriations Committee, I do not know what you were telling us yesterday. How can you allocate only Kshs.4 billion to a sector which promotes jobs, high income and earning of foreign exchange?

Hon. Speaker, I have looked at the allocation for the Ministry of Agriculture, Livestock and Fisheries. This Ministry should be allocated more funds because agriculture is the mainstay of the economy of Kenya. I can give an example. The small time tea growers are never been assisted by the Government when they are building their factories or whatever development they are doing in their areas.

Loans have been written off from time to time in other sectors like coffee and sugar. They should allocate more money and set aside some money for value addition in coffee, tea and cotton. We should grow more cotton. Why are we importing cotton when we have large land lying idle in Nyenze's place? We can use that land to grow cotton so that we can manufacture textiles instead of importing *mitumba* from abroad.

Hon. Speaker, with those few remarks, I beg to support.

Hon. G.W. Omondi: Thank you, hon. Speaker for giving me the opportunity to contribute on the Appropriation Bill. Contrary to what some people have been thinking, this Budget was a real working of the Budget and Appropriations Committee and the Treasury. I can stress that the Committee worked as a link between the National Assembly and the National Treasury. So, there was nothing that was rubberstamped in this Budget. Figures were brought and we looked at them.

Having said that, I am very happy that this Budget has identified key pillars of development in our economy and they have been financed appropriately.

We have seen money going into infrastructure including roads, energy, education, agriculture, security and health, particularly public health. To this extent, this Budget leans more towards investment spending rather than consumption. This will create economic growth in our economy.

Hon. Speaker, in this regard, we have seen money being allocated to the Constituencies Development Fund (CDF). As we all know, this is the only area where true development is being seen on the ground. To that extent, the Budget has considered development necessities in this country. However, we must watch some stumbling blocks in the fulfillment of our development strategies.

In this respect, we need to watch the problem of absorption which frustrates our development goals which have been set in this Budget. We also need to know that we did not have a lot of tax measures in this Budget and it will be financed through efficient collection of taxes. To this extent, the KRA must better its tax administration and continue with its modernization programmes.

Hon. Speaker, the problem with this is that we do not expect the KRA to increase the tax rates but it would rather widen the tax net so that many people are brought to the tax bracket or pay taxes. I have been wondering why the KRA has not done something about the *Jua Kali* sector. If they extend to that sector, taxes will be collected.

Another thing that the KRA needs to do in order to finance this Budget is give amnesty to the landlords who are currently collecting rent and are not paying taxes. This is an area which the KRA needs to look at in order for our Budget to be financed properly.

The other thing that should be taken into account in this Budget is public participation or being very vigilant in the implementation process because year in, year out, we draw a Budget and we get very concerned about it being drawn but the implementation at the last stage is not taken seriously. So many things are not done.

Having said this, I would have liked to see some areas addressed. We have got two “cancers” in our country that stop us from development. One is corruption and the other one is ethnic disharmony. I would have liked to see empowerment of the Auditor-General that identifies where there has been wastage.

I would have also liked to see the empowerment of the Ethics and Anti-Corruption Commission (EACC). This Commission should have been given the money that it requested because we need to know what is going on so that we arrest things that divert us from our development goals.

The National Cohesion and Integration Commission (NCIC) should have also been given their money. I do not think that what goes on in trying to prosecute those who claimed to have made hate speech will help us but rather to empower the NCIC. We need

dialogue at the grassroots. If a slum dweller in Nyeri finds out what is going on with a slum dweller in Kisumu and the one in Mombasa sees what is going on Eldoret, they will find that their circumstances are the same. So, we should empower this Commission through this Budget to fight the “cancers” that inflict our economy.

Hon. Speaker, finally, let me say something about the sovereign debt. This Budget is drawn based on the fact that we are going to collect Kshs1.1 trillion. It is also drawn based on the fact that we will finance part of it through the sovereign debt.

Many positive things have been said about the sovereign debt. However, let me point out that there are some pitfalls that we need to be aware of. The sovereign debt is not a gift but it is something that we will pay. The sovereign debt will work if it is applied to development projects and the returns are better than the cost that we will incur. However, the sovereign debt can also bring other side effects. We are trying to reduce interest rates in our country. The sovereign debt may create inflation that may cause the Government to go and mop the same excess money which could make interest rates to go up. We need to watch that.

Treasury needs to be alert so that, that does not happen. Alternatively, the foreign money coming into our country will strengthen our shilling which can affect our exports. That can reduce our earnings from exports. As I said before when I was contributing to the Supplementary Appropriation Bill, we need the Treasury to give us some economic fundamentals that can be reported to this House quarterly so that we know what is going on now that these Bills are being published. Let us not get excited that we can go on borrowing, but let us keep Treasury on its toes.

With those remarks, I beg to support.

Hon. Speaker: Hon. Members, I wish to draw your attention to the fact that today is the last day by which you must make some pronouncement on the Appropriation Bill No.28 of 2014. Any day beyond today will not be available. If you do not pass it by today, then I think the Parliamentary Service Commission, the national Government and the Judicial Service Commission might as well pack and go. So, it is important that even as I see Members withdrawing they realize that one way or the other, we must put the Question with regard to this one today so that you decide whether or not you are going home, you shut down the national Government and the Judicial Service Commission.

I can see hon. Mutinda Mule would want to go home and yet he just came back just the other day.

Hon. Njagagua: Thank you, hon. Speaker, for giving me this chance to make my contribution on this Appropriation Bill. Right from the outset, I would like to state my support for this Bill. I must also say that I am a Member of this Committee. I have heard Members contribute on this Bill with a lot of emotion. This is not a matter like, say, a football match between Gor Mahia and AFC Leopards. We have spent a lot of time meeting various sectoral groups to come up with this Appropriation Bill. We have allocated close to about Kshs33 billion to the CDF. This is money will go directly under the control of Members of Parliament. As you have rightly pointed out, we must, one way or another make a decision on this Bill lest, I will quote you, “Members pack and go home.”

Through the CDF money, there is a conditional grant to Members of Parliament which must be used purposely for infrastructural development for primary schools.

Money under D115 has been allocated to the Ministry of Energy. This money will be used in the exploration of oil in our country, construction of the pipeline and coal mining. Once we have these resources, it will bring the cost of trading in Kenya down.

Hon. Speaker, money has been allocated for security purposes. We know that this country has been plagued with insecurity issues in the last two weeks or so. I must say with a lot of respect that as I was coming to the Chamber some Members of this House were asking whether it is possible for the Government to arrest and charge a governor. My opinion, and I am certain that I am fortified by the Constitution, is that nobody is above the law in this country. So, even if it is a governor or a Member of Parliament, if you are on the wrong side of the law then you should be arraigned in court. The only person who is above the law for purposes of running this country is the President. Even though, he is above the law to the extent that he is the President. If, he, however, makes any infringement on the Constitution or any piece of legislation once he leaves office, I believe, he will be charged for that. So, there is no harm in what is happening today in the Coast Province where a governor is being charged.

Money has been allocated for security purposes, but we must caution NIS and related agencies that they must put this money to proper use. We have always been asking ourselves whether this money is used for the right purpose. Do they get the right information? If they get the right information, do they use it for the right reason?

I must say with a lot of respect: A gentleman was kidnapped a few weeks ago and to date the Government or the related agents have not got to the cause of that kidnapping. Any money that we give to the security agencies must be accounted for. They must give Kenyans value for their money. I am happy that money has been allocated to the police department and housing will be provided for them; we know that they live in deplorable conditions. If you visit any police station you, will realize that police officers share houses and this is not befitting of a police officer. In that same Vote, there is also insurance provided for our security agencies. I must applaud Parliament for that.

Hon. Speaker, some money has been allocated for leasing of hospital equipment to the tune of Kshs3 million per month for 94 hospitals. That translates to Kshs33 billion per year. It is expected that this arrangement will run for ten years. This translates to Kshs340 billion for a period of ten years. We need to watch out this issue of leasing of hospital equipment lest we preside over an issue that might turn out to be another Anglo Leasing or Goldenberg.

Hon. Washiali: Hon. Speaker, judging from the mood of the House and what hon. Members are contributing because I hear some kind of repetition and a lot of stories, would I not be in order to call upon the Mover to reply?

Hon. Speaker: Does that appear to be the mood? Well, it is up to you Members to make the decision.

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

(Applause)

Hon. Musyimi: Hon. Speaker, I am much obliged, but before I give my reply, I would like to donate two minutes to hon. Chanzu.

Hon. Speaker: Hon. Mutava Musyimi, it is not possible to donate. We want someone to reply and you are the only one who can reply.

Hon. Musyimi: Hon. Speaker, I stand again to thank you for giving me this opportunity and to thank the hon. Members for their much energized contribution; we have taken note of what they have said. I want to remind hon. Members that what is in this Bill reflects what they debated and what they approved in the Estimates. So, if there are any flaws or shortcomings, they have simply been carried from what the Members themselves actually deliberated upon and approved.

As I thank the hon. Members, let me also take this opportunity to thank His Excellency the President and to express appreciation to a leader who has given us a very bold agenda for this country. I am sure many of us have followed the development plan of Kenya. This is as bold as we have seen and the vision to stabilize the society in economic terms as a nation and a political entity, the commitment to grow this nation and to transform this society.

It is reflected in this Bill and I take this opportunity to express my appreciation to the President and the Jubilee team. I also thank Members of CORD who have contributed, and in very positive ways on the Floor of this House and certainly in my Committee where we have worked, as I have said before, as professionals and in a manner that has been extremely bipartisan. I wish to just indicate that there will be some amendments that I will be proposing at Committee stage. You may recall yesterday I did indicate one of the challenges that we have is the fiscal deficit and the amendment will be seeking to bring down the deficit by just under Kshs.4.7 billion.

With those few remarks, I beg to reply.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House today by leave of the House)

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

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

IN THE COMMITTEE

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

THE APPROPRIATION BILL

Hon. Chairlady: Members, you may sit down. Hon. Members, we are now in the Committee of the whole House to consider the Appropriation Bill (National Assembly Bill No.28 of 2014).

(Clauses 2 and 3 agreed to)

Schedule

Hon. Chairlady: Hon. Mutava Musyimi, you have an amendment.

Hon. Musyimi: Hon. Chairlady, I wish to seek your guidance, do I read the entire raft of amendments on this Schedule?

Hon. Chairlady: Yes, move them all together.

Hon. Musyimi: Thank you, hon. Chairlady. Having consulted with my Committee, I wish to propose that this Committee considers amending the following votes:-

THAT, the Schedule be amended –

(a) in Vote No. D146, by deleting the figure Kshs.17,833,669,037 and substituting therefor the figure Kshs.17,333,669,037;

(b) in Vote No.D157, by deleting the figure Kshs.2,784,400,000 and substituting therefor the figure Kshs.2,084,400,000;

(c) in Vote No. R204, by deleting the figure Kshs.22,471,000,000 and substituting therefor the figure Kshs.19,971,000,000;

(d) in Vote D204, by deleting the figure Kshs4,075,000,000 and substituting therefor the figure Kshs.3,129,000,000;

(e) by amending the total figures accordingly.

Let me, hon. Chairlady, speak to these changes. With regard to the first amendment, that is Vote No.D146, this matter refers to three dams which we had allocated funds, that is, Umaa Dam in Kitui County with an allocation of Kshs.300,000,000. We are proposing to reduce that by Kshs.150,000,000. We have Chemususu Dam in Eldama Ravine, which had been allocated Kshs.400,000,000. We are proposing to reduce that by Kshs.200,000,000. All in all saving exactly Kshs.500,000,000.

With regard to Vote No.D157, this concerns the Ronald Ngala Utalii College in Mombasa and it had been allocated Kshs.1.2 billion, but we just did not feel that the absorption rate will be good enough to warrant that kind of money in one year. So, we are proposing to reduce that by Kshs.700 million and therefore give it Kshs.500,000,000. Should need arise for us to give Ronald Ngala Utalii College more money and the work progresses faster than we expect, then that matter can always be brought back here and considered in Supplementary Estimates.

With regard to Vote No.R204 and No.D204, that concerns Parliamentary Service Commission. As you are aware, there are huge constructions being undertaken by the Parliamentary Service Commission and we do not expect that the uptake will be as high as we had budgeted. Should need arise for us to review this matter, we will be willing to review it. In the case of Vote No.R204, the saving there will be Kshs.2.5 billion and with

regard to Vote No.D204, the saving there will be Kshs.946 million. That is just under Kshs.3.5 billion.

Hon. Chairlady, I beg your pardon it is Kshs3.5 billion. The total number here that we propose to save is Kshs4, 646,000,000.

Hon. Chairlady, as I said in my reply, we have a very ambitious Budget here and one of the concerns that we have raised in the Budget and Appropriations Committee, and this House has continued to raise it, is the fiscal deficit. It is very important that we try to balance our Budget. We still have a hole of about Kshs12 billion that somehow we shall have to close. Indeed, we had a meeting this morning with the Cabinet Secretary, Mr. Rotich, where we were discussing these amendments that I have brought before this Committee of the whole House, on behalf of the Budget and Appropriations Committee. We said we will need a supplementary budget within two months so that we can be told among other things how the national Government is going to close that gap and that deficit of Kshs2 billion. So, the issue of a deficit is a matter we cannot take lightly.

Hon. Chairlady, as I close you may recall that we have just inaugurated a bond that has been taken up very well in the United States of America (USA) and in Europe. When we talked with the Cabinet Secretary, Mr. Rotich, I think a week ago or so we asked him what were some of the concerns of the investors when they looked at our country as a place to channel their investment. He mentioned three things. He said the investors are concerned about devolution, insecurity and the financial deficit. So, this is not a small matter and so we reluctantly bring this amendment but we also know that we try to live within our means. Even as we seek to achieve this huge programme, we might end up hurting ourselves over the long haul. So, I wish to recommend that this Committee, in its wisdom, considers supporting the position of the Budget and Appropriations Committee so that we can reduce the fiscal deficit of the Republic.

Hon. Chairlady, I thank you.

(Question of the amendment proposed)

Hon. Chairlady: Joseph Limo, is that a contribution on the same?

Hon. Limo: Yes, hon. Chairlady. I just want to say something. I think this country is faced with a lot of challenges, especially in terms of the absorption rate but we understand from the Cabinet Secretary that this time round the Government has placed a lot of emphasis on starting the programmes on time and, therefore, even if these cuts have been done, we urge this House to support. This is because we are still a House which is driving the Budget and, therefore, in the next two months we will be very strict on what the Cabinet Secretary has pledged on the absorption rate. Therefore, we will consider anything which will be required to replace what we are cutting after we bring the first supplementary budget.

I support.

Hon. Chairlady: Kathuri Murungi, is it on the same?

Hon. Murungi: Thank you, hon. Chairlady. As I support the amendments as moved by the Chairman, I have no issues with D157, R204, D204 but on D146. These three dams have issues and we thought, as the Departmental Committee on Environment and Natural Resources, we should be able to clear these issues. This is because some of

them were started long time ago and up to this hour and date they have not been finalised. We thought once they are through maybe they can assist the communities where they are based. So, I do not know the rationale which the Committee used to slash again this budget for these three important dams.

Hon. Chairlady: Benson Mulu.

Hon. Mulu: Thank you, hon. Chairlady. I want to say that I have no problem with Amendments “b”, “c” and “d” but I have serious concerns with Amendment D146. This is because while it was very clear from the presentations that amendments in “b”, “c” and “d” have been reduced because of low absorption rates, there is no reason which has been given for the amendment in D146. As we talk, these three dams are expected to provide water to community members.

Hon. Chairlady, where I come from because one of the dams is there, we have a whole county headquarters which has no water at all and one of these dams was actually targeted to provide water to this county headquarters. So, when we see money being reduced and more so money for water projects, this should be an issue of concern. So, I think this is an amendment I would want to object and say while I support the other three, I do not support this one.

Hon. Chairlady, yesterday I said that when this House makes decisions I think the Executive has a duty to respect some of these decisions because they are informed by public participation. The Budget and Appropriations Committee went to the rural setting. They met the public and at the end of the day the public pleaded with the Committee to have some of this money set aside. Now, this is a situation where we are going back to our decision in terms of what the public presented. So, I will not support Amendment D146 and I am happy that you have given me a chance to raise my concerns.

Hon. Chairlady: Robert Pukose.

Hon. (Dr.) Pukose: Thank you, hon. Chairlady. On this issue of reducing the amount of money which was allocated to projects, what we know is that for instance Chemususu Dam has not been ongoing because of lack of funds. Having been allocated around Kshs400 million and now we are reducing to Kshs200 million, I do not know whether that is based on just a figure which we are reducing or it is based on a feasibility study that we think this amount is going to take the project to a certain level. If we do it that way, then we are creating some of these white elephant projects.

One of the most unfortunate things that have happened in this Budget is D107. In as much as we are saying public participation and allocating money to priority projects -- We are aware that members of the Budget and Appropriations Committee have selected projects within their own constituencies and allocated this money to them. Why should we look at it that way and avoid being able to sort out issues that we think had been allocated money? If the project had been advertised, for example, the Chemususu Dam or the other one in Mwingi which had also been advertised and allocated money, it means that you have to revise the procurement process so that it can be done in phases. I think in the long run, it is going to be very expensive.

I think the truth here must be able to come out. If this is how we want to do the Budget, that we cut out some projects which we think are not important, then it is bad. This is because Chemususu Dam is a priority for the people of Eldama Ravine and that area which it is serving. Similarly, the dam in Mwingi is a priority to those people. So,

how can we just say we slash that amount so that we can cover the Budget deficit? I think we are moving in the wrong direction.

Hon. Chairlady, I am not supporting that amendment.

Hon. Langat: Thank you very much, hon. Chairlady for giving me this opportunity. First of all, if it was not for the statement which was made by the Chairman when he was moving, I would have opposed the amendments. This is because one of them affects the proposals which came from my Committee and the one on which we burnt a lot of midnight oil to arrive at a decision.

I agree with the Chairman that we close the fiscal gap, but my only concern is that maybe, we should have been bold enough and said that since the House passed the reports which had captured all these things--- I do not think we are saving anything serious when we talk of Kshs. 4 billion out of Kshs.1 trillion. But, anyway, since the Budget and Appropriations Committee has been convinced, I will support. We should have passed the Appropriation Bill which agrees with the report, and then these other issues would have come through the Supplementary Budget at that stage. I am not seeing why there should be Kshs.4 billion out of a ---

I beg to support.

Hon. Ogalo: Thank you, hon. Chairlady.

I belong to the Committee on Environment and Natural Resources and we discussed these three dams seriously. The amount of money allocated to those dams; Kshs400 million, Kshs300 million and another Kshs300 million are the bare minimum that can do anything in those dams. These are billion shillings dams. Giving them Kshs200 million is a drop in the ocean for any of them. Kiserian Dam is ready for use---

Hon. A.B. Duale: On a point of order, hon. Chairlady.

Hon. Chairlady: What is your point of order, hon. A.B. Duale?

Hon. A.B. Duale: Hon. Chairlady, I am sure the Chair of Budget and Appropriations Committee will agree with me that the money that he is reducing is the extra allocation from his Committee. The allocation from the Ministry of Environment and Natural Resources is still intact. What the Chair and the Budget and Appropriations Committee are reducing is the extra allocation they had given to those dams. I think he has given the reasons.

It is not right to say that the total amount for those dams from the national Government has been touched. What is being touched under Vote D146 is what was allocated. I am sure the Chair of the Budget and Appropriations Committee can confirm. What the hon. Member is saying is not the correct position.

Hon. Ogalo: Hon. Chairlady, the Leader of Majority Party does not sit in the Environment and Natural Resources Committee. I am assuring you, there is no other money allocated to those dams. We have visited some of those dams. We have gone to Kiserian and we have gone to Umaa Dam, if you go to Umaa, it is a waste of money. Materials are lying down there. If you do not allocate money to those dams, Government is losing money. We are losing public money for no reason.

Hon. Chairlady, I think at this stage, it is just important to note that, if the Budget and Appropriations Committee wants to reduce---- Once we recover Kshs500 million from anywhere; let us look at Vote D107, I do not know which development the National Treasury is doing for Kshs37 billion in one year. Instead of reducing the allocation to

water which is very essential, reduce the development expenditure of the National Treasury.

Hon. Chairlady: Before I give chance to the Chairman, let us hear from Patrick ole Ntutu.

Hon. ole Ntutu: Thank you, hon. Chairlady. I rise to support the amendment by the Budget and Appropriations Committee. For my colleagues who were concerned about these dams, we are equally concerned. What we are saying is that the money allocated, if need arises, we can put it in the Supplementary Budget and those dams will be completed.

Therefore, I would like to urge hon. Members to support this amendment because it is good for our country.

Hon. Mohamed Diriye: Thank you, Chairlady. I also wish to oppose Vote D146 because I also sit in the Committee on Environment and Natural Resources. We have visited some of these areas and we do not see the need of starting new projects that are being put in this Budget, yet there are white elephant projects. We visited some of these areas and some of these dams are white elephant projects.

Therefore, we oppose Vote D146. I think it is not the right thing to do. Kenyans are losing millions of shillings in some of these dams. Therefore, we better finish this project rather than initiate new projects.

I do not have a problem with the rest.

Hon. Chairlady: Okay. Let us hear from the hon. Chair of the Committee.

Hon. Musyimi: Thank you, hon. Chairlady. For the avoidance of doubt, let me say this: I happen to have been the Chairperson of the Committee on Lands and Natural Resources in the 10th Parliament. When the five dams were constructed; Kiserian Dam, Umaa Dam, Maruba Dam in Machakos, Badasa Dam in Marsabit and Chemsusu in Baringo, I was the Chair of that Committee. We visited those dams and we saw them when they were being inaugurated. I personally went there with Members of my Committee.

Hon. Chairlady, I also want to indicate that I am aware of the problem which is being raised here because when the Committee came to us, they had not allocated a single cent on any of these dams. There was no single cent on Umaa, Kiserian and Chemsusu. The allocation of Kshs300 million and Kshs400 million was at the discretion of the Budget and Appropriations Committee. It is important to say that. There was not a single cent allocated by the Committee and that is the fact. Therefore, we wanted to see something happening. But we have a fiscal deficit and therefore, what we have done is to give money to catalyze the activity particularly with the county governments. We did say that we cannot succeed in completing these projects unless we work closely with the county governments because water is a devolved function. Therefore, we expected the Governor of Baringo to get involved with Chemsusu Dam. It is a matter we discussed with the hon. Chair of CDF; hon. Lessonet. We expected the Governor of Kitui, Dr. Julius Malombe, to get involved in this issue. We discussed this matter with the hon. Member of Parliament for Kitui Central. We expected the Governor for Kajiado to get involved with Kiserian Dam. We discussed this with hon. Sakuda.

Therefore, the money that is here is the money made available through the discretion of the Budget and Appropriations Committee. But because of the fiscal deficit

we said, perhaps, we should go back here. If we find that we have more money during the Supplementary Budget, in another two months, we will see what we can do to support these projects. I want to give my own word of honour; this will be my priority. Therefore, we should support this amendment. If we did not care, there would be no cent. But we care for the overall Budget of the country.

Thank you, hon. Chairlady.

Hon. Chairlady: Thank you. Hon. Members, for the avoidance of doubt, hon. Lessonet, are you on a point of order?

Hon. Lessonet: Thank you, hon. Chairlady. I just stand to support the Chair of the Budget and Appropriations Committee, in terms of the Chemususu Dam which was mentioned. It is true that we want to work with the funds which have been allocated and which we have agreed together with the Treasury. We have agreed to put Kshs200 million in Chemususu Dam.

Initially, we thought we could do with Kshs400 million but because of the deficit, we have agreed to start with Kshs200 million. Let them start the treatment works and shortly we shall be in another financial year. At that time, I am sure we shall be able to get the balance of the resources. The same goes for Umaa and Kiserian dams. At the beginning, of course, there was no such allocation but it is the wisdom of the Budget and Appropriations Committee that we put that initial money. We are saying that when you are doing treatment works, is not like taking a walk into a pair of suit which you can put on immediately and go. It requires a bit of design, meaning it will take a bit of time for those jobs to be completed. Therefore, the Kshs200 and the amounts which have gone to Umaa and Kiserian dams is enough is to start us off in this particular year.

Hon. Chairlady: Hon. Members, for the avoidance of doubt, we shall put each vote; each of the four questions individually and we get the proper answer from you. So, I will then put the Question.

Hon. Tonui: Hon. Chairlady, I appeared before the Budget and Appropriations Committee where I had requested that they reallocate from the Kshs38 billion in the National Treasury, Kshs10 billion for recruitment of teachers by the Teachers Service Commission (TSC). I am surprised that they did not capture that in the amendments, yet they captured the one of the National Treasury. I appeared together with the Cabinet Secretary in charge of the National Treasury before that Committee. I am really surprised because it is a major issue. The shortage of teachers is too critical.

Hon. Chairlady: Hon. Tonui, I believe your audience has heard you; can you then allow us to put the Question.

Schedule in Vote D146

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

(The Schedule in Vote D146 negated)

Schedule in Vote D157

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

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

(The Schedule in Vote D157 agreed to)

Schedule in Vote R204

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

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

(The Schedule in Vote R204 agreed to)

Schedule in Vote D204

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

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

(The Schedule in Vote D204 agreed to)

(Schedule as amended agreed to)

(Clause 1 agreed to)

(Title agreed to)

Hon. Musyimi: Hon. Chairlady, I beg to move that the Committee doth report to the House its consideration of the Appropriation Bill (National Assembly Bill No.28 of 2014) and its approval thereof with amendments.

Hon. A.B. Duale seconded.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

**REPORT, CONSIDERATION OF
REPORT AND THIRD READING**

THE APPROPRIATION BILL

Hon. Chairlady: Hon. Speaker, I beg to report that a Committee of the whole House has considered the Appropriation Bill, (National Assembly Bill No.28 of 2014) and approved the same with amendments.

Hon. Musyimi: Hon. Speaker, I beg to move that the House doth agree with the Committee in the said Report.

Hon. Langat seconded.

(Question proposed)

Hon. A.B. Duale: Hon. Speaker, I want to thank the House and ask that our oversight role as Parliament is very crucial. This morning I drove to Machakos County and I want to report to the House what some people can do. There is a 33 kilometre road that was tarmacked three months ago. Senator Musila, Hon. (Maj-Gen. Nkaisserry and over 20 hon. Members went there. We expect our governors and Ministers to actualise the amount that this House has provided to both the national Government and the county governments. A 20 kilometre road in my constituency has taken five years to complete yet Dr. Mutua built 33 kilometres of road. He gave it to 11 contractors and told every contractor to build three kilometres. For the first time I want to thank the Wiper Party for electing Dr. Mutua. Today, I told the people of Ukambani that he has a bigger office to occupy, not only the governor's office. So, he must start and make sure he replaces--- Dr. Mutua is better than a governor and he should go for a bigger office come next General Elections.

(Hon. Wamunyinyi stood up in his place)

Hon. Speaker: Hon. Wamunyinyi, you are in the House.

(Question put and agreed to)

Hon. Musyimi: Hon. Speaker, I beg to move that the Appropriation Bill (National Assembly Bill No.28 of 2014) be now read the Third Time.

Hon. Langat seconded.

(Question proposed)

(Question put and agreed to)

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

Hon. Speaker: The Chairperson, Departmental Committee on Health, hon. Rachel Gakii Nyamai.

MOTION

ADOPTION OF REPORT ON DEVOLUTION OF HEALTH SERVICES

Hon. (Ms.) R.K. Nyamai: Thank you, hon. Speaker. I beg to move the following Motion:-

THAT, pursuant to Standing Order No.216(5), this House adopts the Report of the Departmental Committee on Health on Devolution of Health Services, laid on the Table of this House on Thursday, 20th March 2014.

I would like to thank the Members of the Parliamentary Committee on Health for the effort they put in coming up with this Report. In Moving this Motion, I will start by referring to Article 43(1) of the Constitution which provides that every person has a right to the highest attainable standard of health, which includes the right to health care including reproductive health. Further to this, Article 186 spells out that the respective functions and powers of national and county governments are set out in Schedule Four of the Constitution. Going by this therefore, the devolved health functions as per the Constitution include county health services and pharmacies, ambulance services and promotion of primary health care. I would like from the outset to state that the Parliamentary Committee on Health, just as this House, fully supports devolution of health services as per the Constitution. However, the Committee highly disapproves the manner in which devolution of critical services was done. Within the first two months of the constitution of this Committee, it was faced with some of the consequences of haphazard devolution of health services.

In July 2013, the Committee received news of a planned strike by various health workers ranging from doctors, nurses and other health professionals. Together with the Ministry of Health, the Committee moved in swiftly to call an all inclusive stakeholders consultative forum that brought together health workers unions' representatives, Ministry of Health, Treasury, the Transition Authority, the Commission for the Implementation of the Constitution and Commission for Revenue Allocation. It is through this Committee's intervention, together with the Ministry that the first strike that was scheduled for July 2013 was forestalled, a bit temporarily though. There was assurance to the aggrieved health workers that their grievances would be addressed.

The County Governments Act 2011, Section 7 is charged with various functions including:-

(a) To facilitate the analysis and transfer of functions provided under the Fourth Schedule of the Constitution to the national and county governments.

(b) To determine resources requirement for each of the functions that have been devolved.

(c) To develop a framework for the comprehensive and effective transfer of functions as provided for in and under Section 15 of the Sixth Schedule of the Constitution.

The Transition Authority failed to show leadership by hurriedly devolving functions without adequate consultations and proper frameworks and as a result, this exposed the sector to serious challenges that would have otherwise been mitigated. The Committee, therefore, recommends the reversal through consultation of some of the devolved functions and further restarting the process in an organized and consultative manner, taking into consideration the three year window that is provided by the Constitution.

Two, we are facing co-ordination challenges within the Ministry. The Committee observed that the sector lacks standardized framework to address health workers' welfare and as such, there is need for a functional body to do so. On human resource, the Committee observed that issues related to

human resource in the sector remain contentious post devolution. This concerns the hiring, training and capacity building of health workers. The Committee also took note of the hostilities that are being faced by health professionals within counties, with some of them being sent back to the national Government for posting afresh. One of the most serious challenges facing mainly doctors and nurses in the public sector is the resignation from public to private sector, and this is likely to make health care unaffordable to the common person.

We also, as a committee, realize that there is a challenge of operational matters. In this, we are facing devolution of health services with regard to the low capacity of county governments to take up procurement of essential drugs. I would relate this to the many statements that we are receiving that are related to shortage of drugs within the counties. The Committee was further concerned about the quality of drugs and the laws of economies of scale and compromise of quality when counties procure drugs from their own sources as opposed to purchasing from Kenya Medical Supplies Agency, a Government entity that has been given the responsibility of doing so. Having made official visits to some public health facilities in Kisumu, Kakamega, Mombasa and Kilifi counties to appreciate the challenges posed by devolution in the health sector, the Committee noted that these challenges are highly faced within health centers and health facilities within the counties. Having enumerated some of the challenges facing the sector, it is the Committee's considered opinion that a lot ought to be done to mitigate the challenges and also forestall the unseen and the seen consequences of unplanned devolution of health services. The country cannot afford further lack of coordination within the Ministry of Health. We know that this is one of the special services for the country.

It is for this reason that the Committee proposed various recommendations among them; invoking Article 187 of the Constitution on transfer of functions between the two levels of Government; to reverse devolution of health functions back to the national Government through dialogue within the two levels of Government and further restarting the process in an organized and consultative manner as well as taking into consideration the three year window that is provided for in the Constitution. Further, a taskforce on devolution of health care be set up to coordinate and supervise the reversal of some of the already devolved health functions most of which have been compromised. The Constitution and other governing laws, for example, the Transition to Devolved Government Act, must be applied as a guide in devolution process. Further, the

unbundling of the health functions as prescribed in the Constitution should be done as a matter of urgency. Last but not least, on the Health Bill and policy, the Committee would like to report that high level consultations have since been held between the Ministry and the Committee and consensus reached that the Health Bill, which is the guiding document in the devolution of health services be prioritized by the Executive as a matter of urgency and the Committee has already taken this up. This will guarantee effective coordination of health services and guide devolution of the health sector.

In conclusion, I wish to thank your office and that of the Clerk for your constant support and facilitation of the Committee's activities.

With those remarks, I beg to move and request hon. (Dr.) Pukose, the Vice Chair of the Committee to second. Thank you.

Hon. (Dr.) Pukose: Thank you, hon. Speaker for allowing me to second this Motion. First and foremost, I want to thank the Chair for the good work and the commitment towards this Committee and the good works the Committee Members have done. As I stand to contribute to this Motion, today in my constituency at around 12.00 noon, police officers shot a herd's boy who was looking after cows. This was an unarmed young man of the age of about 12-13 years looking after cows without even a *panga*. He was shot on the back by a police officer who is based at the ADC Olkadongo and as we speak now, tension is very high within my area. We are appropriating money here to the police officers to be able to give protection to the citizens, but here they are nipping the lives of young citizens. This is a very sad event today in my constituency. I think the Inspector General of Police is listening very carefully because this is very critical. If we are going arm our police to be able to harm our civilians, then I think the role of police officers needs to be looked at critically. They are supposed to make sure that everybody is secure within their borders.

Hon. Speaker, to come to this very important Motion on devolution of health services by the Departmental Committee on Health, again this morning one of the things I read from the newspapers is that the Global Fund has now given Kshs43 billion to this country through AMREF, Care International and the Kenya Red Cross. This money was initially meant to go to the National AIDS Control Council (NACC) for TB and malaria control. The main component for malaria and TB is now going to AMREF. This means that the international partners are losing trust in our system of health services. This will not be good.

Hon. Speaker, last year or in this financial year, we did not have money for TB and malaria component. Money was sent to the county governments and the Ministry had to go an extra mile to get money to purchase drugs. The county governments did not purchase any TB or malaria drug and this is very unfortunate.

This Committee visited several facilities. We visited the Jaramogi Oginga Odinga Referral Hospital in Kisumu. We also visited Kakamega, Mombasa and Kilifi. Coast Provincial General Hospital, Jaramogi Oginga Odinga and Kakamega Provincial General Hospital were supposed to get what we call conditional grants. This is money that was supposed to have been ring-fenced.

As we speak today, the financial year is ending and those facilities are yet to receive all their amounts. Some of them have received maybe one-tenth of what they are supposed to receive. This is hampering service delivery within those places.

In the Division of Revenue Bill that went to the Senate and is now going to the Mediation Committee, the discussion is where do the Level 5 hospitals get the money from? Do they get it from the national Government or they get it from the county governments? You will find that the Senate, being the protector of the county governments, is saying that the national Government should give money to these hospitals. If you discuss this with many of the governors, you find that they are in a position to effectively run health services at the Level 5 hospitals or former provincial general hospitals. I think they also have a challenge in running high volume hospitals. These are Level 4 hospitals like Machakos, Kitale District Hospital, Kericho, Kisii and others. In Trans Nzoia County, the amount of money that the county government allocated is about Kshs260 million in the last financial year. This is the case and yet one Level 5 hospital gets about Kshs360 million, Kshs390 million or Kshs400 million. That is the amount of money you need to run one facility. If the county will set aside almost a fraction of that amount to run all the county health services including the Level 4 hospitals or high volume hospitals, then it will be a big challenge.

The Constitution of Kenya protects against discrimination. We must have regional representation. Currently, as it stands Kenyatta National Hospital (KNH) and Moi Teaching and Referral Hospital (MTRH) are the only national referral hospitals. This means that they are not equitably distributed all over the country. If you are coming from a certain region, you are not able to access these national referral services. Therefore, it is important that we are able to distribute all the national referral hospitals within the country. This can only happen through upgrading of those Level 4 and Level 5 facilities to national referral hospitals. I think that has been addressed through the Health Bill.

In moving forward, the Constitution provides that the national Government shall provide technical assistance and capacity building to the county governments. If that is their role, then capacity building and technical assistance can be provided through Level 5 and Level 4 hospitals and also training of medical personnel so that they can take care of these services. This is important.

As the Departmental Committee on Health we are not saying just reverse but we are saying that the national Government and the county government should consult because that is what the Constitution provides. Because we are serving the same citizens, let us consult and look at the services that the county governments are not able to provide adequately or are not properly funded. This will ensure that the national Government can fund and run those services because the Constitution provides that the Government must provide the highest standard of health care. If it is the responsibility of the Government to provide the highest standard of health care, then it is important that the national Government and the county governments discuss this. We should have a committee that will manage devolution of health services. This should be formed by both the county governments and the national Government so that, that committee can look at the assets and how to move forward.

In the current Budget, we have set aside Kshs3.4 billion for equipment of two facilities per county. If we are going to equip two facilities per county, how will we manage that? This is because we must manage both the leasing of the equipment and the training of the staff. Where will we put that equipment? This is very important. It is a critical area and all of us must think like and act like Kenyans.

Hon. Speaker, with those few remarks, I second this Motion.

(Question proposed)

Hon. Nyenze: Thank you, hon. Speaker for giving me this chance to contribute to this very important Motion which I support. There is a crisis in the health sector. Devolution of health services was rushed instead of it being phased out and now it has faced challenges. That is why we are seeing its operation in the county being difficult.

I would like to say that the Constitution, in Article 187(1)(2) provide a criterion to be used in the transfer of functions between the two levels of Government. I think devolution of health services should not have been rushed to avoid the problems we are facing today.

We face serious challenges in the health sector. One of the biggest challenges is the suffering of the rural poor in rural areas. I want to say that 78 per cent of Kenyans live in rural areas and it is only 22 per cent that live in urban centres. The best health care facilities are located in urban areas where only 22 per cent of Kenyans live.

In the rural areas, people have to trek very many kilometres to reach health facilities, where services are poor. As Members of the National Assembly, our constituents come to us for transport to hospital and money for payment of medical bills since health services are not free.

Hon. Speaker, there is a big problem of understaffing in Government-owned health centres. We have 16 doctors and 153 nurses for every 100,000, as opposed to global standards of 100 doctors and 356 nurses for every 100,000 people. This situation has led to insufficient health care services in Kenya, leading to catastrophic effects. The 488 per 100 births maternal mortality rate is unacceptable. These are the findings of the Kenya Bureau of Statistics of a Kenya demographic and health survey of 2010. These statistics are unacceptable, especially given that Kenya has been independent for over 50 years.

I have been to very many hospitals. Health workers in both public and private hospitals are underpaid. Paramedical staff, doctors, nurses, security men and other people who work in the health services sector are the most poorly paid employees. I am very happy because I am facing one of the crusaders of the oppressed and downtrodden Kenyans, hon. Muchai, who is a true fighter for the freedoms and rights of poor Kenyans. I would like hon. Muchai to hear what I am saying to Kenyans in this House.

Hon. Speaker, let the salaries of health workers in both public and private institutions be increased, so that they can offer services efficiently. These people are being underpaid. It is unacceptable. We have a shortage of 30,000 nurses. The Chairman of the Committee on Health can confirm this fact.

We also have a big problem in classification of the national referral hospitals and the county health facilities. These are issues which should be addressed, so that we know which ones are national referral hospitals. We have now devolved health services. The lack of clarity in this matter is causing some teething problems, which should be addressed.

Hon. Speaker, the Chairman of the Departmental Committee on Health talked about the Kenya Medical Supplies Agency (KEMSA). The KEMSA has to be reformed

and restructured because it does not meet the requirements of the devolved units. Something needs to be done. Therefore, I would like the Cabinet Secretary for Health to streamline and restructure the KEMSA, so that it fits in the Kenyan context.

Kenya is the last in East Africa, in terms of the health budget. You will be surprised that Rwanda allocates 11 per cent of her GDP to health while Kenya is at the bottom, allocating only 4.5 per cent. No wonder people are dying in the rural areas and in poor urban areas. They cannot access medical services. We allocate very little money to the health sector. This is very wrong. Kenya boasts of being the biggest economy in East Africa yet we do not allocate sufficient funds for health services. Hon. Speaker, from time to time, everybody gets sick. Poor people have a difficult time. Every now and then we contribute money to help people access medical care because health services in this country are very expensive.

Hon. Speaker, the budgeting process for the Financial Year 2013/2014 was rushed because of the general elections of March, 2013. The Government wanted to meet very many targets and, therefore, very many things went wrong. The national Government gave the county governments very little money for health services. The money that was allocated to the health sector was insufficient. Consequently, we have lots of problems.

Insufficient funds have been allocated for basic operating costs such as recurrent expenditure in health facilities.

Hon. Speaker: Hon. Langat, what is your point of order?

Hon. Langat: Hon. Speaker, is it in order for the Leader of Minority Party, who is a senior Member of this House, to mislead the House that the national Government gave very little money for health services in the counties yet he knows that the budgets of county governments are approved by the county assemblies, and not the national Government?

Hon. Speaker: Very well. I hope that the Leader of Minority Party will appreciate that particular aspect.

Hon. Nyenze: Hon. Speaker, I think my good friend, hon. Langat, was asleep because I was referring to the 2013/2014 Budget. Anyway, we are now past that particular aspect. I thank him for the point of order because he has woken up.

Hon. Speaker, when health workers are transferred to the counties, they face hostility and sometimes they are not promoted because some county leaders feel that they own the counties. This is an issue which this Committee should sort out, so that anybody can work anywhere and feel at home.

The establishment of the Health Service Commission was one of the key recommendations of the Musyimi Report, which is also known as the “Report of the Task Force constituted to Address Health Sector Issues raised by the Kenya Medical Practitioners, Pharmacists and Dentists Union”. The report was presented to the Government of Kenya on 2nd February, 2012.

I had hoped that the Health Committee would also consider and report the fate of the Kenya Medical Training Colleges (KMTCC) land, because 31 of the 38 MTCs do not have title deeds for their land. The MTC land is normally next to the hospitals, but they do not have title deeds. This is one of the issues that the Committee should have looked into. I have not seen it in their Report.

Hon. Speaker, there is lack of coordination between the Ministry and the counties. I am happy that the very able Chairlady, Dr. Nyamai, has alluded to this matter. I know that the matter will be addressed, because she talked about it. Let it be addressed. The state of health in Kitui County is pathetic. Starting with Kawi Health Centre, most of the time the facility does not have medicines. A van that was allocated to the health centre has been taken to Kitui District Hospital.

Therefore, Kawi Health Centre has no vehicle yet it serves the whole constituency. I want the Cabinet Secretary and the Chairman of the Committee, who is very able; to look into that matter. Kawi Health Centre cannot stay without its rightfully allocated vehicle that has been taken to another health facility.

With those few remarks, I beg to support.

Hon. Limo: Thank you, hon. Speaker. I rise to contribute to this important Motion on devolution of health services. Before I say anything about this, I would like to appreciate the fact that the Constitution that we passed in 2010 wanted, in good faith, to share the functions between the national Government and the county governments. That is why under the Fourth Schedule of the Constitution health services were devolved to the grassroots. If you allow me to read, the Fourth Schedule of the Constitution 2010 states thus: "County health services, including in particular - (a) county health facilities and pharmacies; (b) ambulance services; (c) promotion of primary health care; (d) licensing and control of undertakings that sell food to the public; (e) veterinary services (excluding regulation of the profession); (f) cemeteries, funeral parlours and crematoria; and (g) refuse removal, refuse dumps and solid waste disposal."

I want to say that (a), (b), and (c) which touch on county health facilities and pharmacies, ambulance services and promotion of health care respectively are the ones with a lot of trouble at the county level. It is partly because of the failure by the two agencies which the Government relies on in terms of ensuring that devolution is implemented successful and that is the Commission on Revenue Allocation (CRA) and the Transition Authority (TA) which have actually failed this country because of this. County health has been transferred to the counties without the costing which has been awaited for a long time. The CRA is currently allocating revenues to the various counties using among other things population, land, poverty index etcetera without considering the real cost of the transferred functions. It is required that all functions must be transferred including the resources to support those function. Failure to do this is a real problem especially for counties which had big structures, for example, Kiambu, Nyeri, Kericho and Kakamega. These are counties which have a lot of facilities in the health sector.

Of particular concern is Kericho County. This county receives about Kshs4 billion out of which Kshs1 billion is used on Recurrent Expenditure in the health sector. This money is not enough to run those facilities in the health sector even if we claim that they have devolved this particular function. We all agreed that the Constitution 2010 had a lot of issues which ought to have been sorted. The people who were supporting this Constitution, with all due respect, said that we pass this Constitution and then we correct the issues as we go along. I am sure that the governors who are listening to this debate will agree with me that the health sector was not well prepared for devolution. This is because currently there are a lot of problems. The people in our constituencies do not appreciate that the health sector is not under Members of Parliament. I receive so many

calls about power being disconnected, medicine not being available, lack of staff and so on. I have a dispensary by the name Kimogul which has been operating without a nurse for the last three weeks. There is also Londiani District Hospital which has been operating without electricity which was disconnected because of non-payments.

As we devolve functions, it is important for us to realize that the country is not divided into pieces and there is need to work together. I really wonder if Kenya Power Company is still a State agency or it is a private agency. How can they disconnect power in a Level 3 or Level 4 hospital yet they know health is fundamental? To deny the hospitals power for a whole month is really serious.

The drafters of the Constitution realized that the Constitution is not supposed to be fixed; rather it is supposed to work for us. Article 187 of the Constitution states “A function or power of government at one level may be transferred to a government at the other level by agreement between the governments if: (a) the function or power would be more effectively performed or exercised by the receiving government; and, (b) the transfer of the function or power is not prohibited by the legislation under which it is to be performed or exercised”.

Hon. Speaker, there is nothing which will stop us by saying that we are not prepared to mess the health sector by transferring some of the roles when we realize that some of the agencies charged with devolution are not well prepared to ensure that the transferred functions are exercised in a manner that will serve Kenyans properly. Those functions should not be interfered with by the inefficiencies that are inherent in any system. The drafters of the Constitution indicated that the functions would be transferred in phases; three years. Unfortunately, the functions were transferred in haste. It is time for Kenyans to realize that what is important is not who is in charge; what is important is that service is being rendered efficiently.

The national Government and the county governments must realize that the health sector is very important. It is time they sat together and agreed that there are functions which can still be performed together. I want to thank the Departmental Committee on Health because they have given us an elaborate report. We support that the two governments must come together and discuss this matter because we are interested in ensuring that the services rendered in our health centres and hospitals are efficient and enjoyed by Kenyans in accordance with the Constitution. Kenyans need to access health care without problems.

I want to support this Report and say this House should come together and support it. Thank you, hon. Speaker, for giving me this chance to discuss this important Report.

Hon. Speaker: Hon. Mule.

Hon. Mule: Thank you, hon. Speaker. First and foremost, I want to go on record stating that for those who believe that the Committee wants to make sure devolution does not happen, they are daydreamers. As a Committee, what we are looking at is to make sure that the Constitution is followed and devolution of health services is done in accordance with it.

Hon. Speaker, on the outset, I want to tell you something. The Ministry of Health used to receive money from the Global Fund for a very long time, but yesterday I was shocked because they no longer have confidence in this Government. Instead, they have

decided to give Kshs.43 billion to Kenya Red Cross, AMREF and Care International. These are NGOs and the Government has no control.

Today in the morning we had a meeting with the Cabinet Secretary at the Ministry of Health. In the 21st Century, it is a shame that a country like Kenya can borrow Tuberculosis (TB) drugs from Malawi for the simple reason that the Ministry was left without any mechanism to provide for these services. It was even more shocking when we visited various hospitals. I want to give two examples. In Kakamega Provincial Hospital, we allocated Kshs.350 million. The financial year is coming to an end and they have received no single cent from the county government. We went to Kisumu, it was allocated Kshs.385 million to develop infrastructure. The year is coming to an end and the county government has not been able to release a single cent to Kisumu Provincial Hospital. They only gave them Kshs.33 million.

What we are saying is that this House goes above board and makes sure that we correct this thing. In one of our recommendations, we are saying that let the county governments and the national Government form a task force immediately to make sure that devolution of health services is done in the correct manner and that we do not have any more calamities and lose any more patients in our hospitals because of lack of funds.

As hon. Limo has said it very clearly, we are getting communication that power has been disconnected in some institutions. We have heard that there is no water and drugs. During the financial year that is coming to an end, the county governments gave Kshs.69 billion to the Ministry of Health. Kenyans were expecting this Kshs.69 billion to be apportioned properly by the county governments to improve the health sector within their counties, but that has not happened.

I want to say on the outset and be on the HANSARD that it is very wrong and it will remain wrong for governors to have arm-twisted the national Government and failed to follow the Constitution while devolving health services. The health services were supposed to be devolved within three years, in phases, but it was done in six months. When you do something in a haphazard manner, what are we supposed to do? I know there are Members who, probably, have not read this Report and are thinking the Committee on Health wants to reverse the devolution of health. If that is the case, let it be but we do it within the three years which have been provided within the law. The country is in a crisis. Today, we are talking about TB, we do not have drugs for malaria, HIV/AIDS and even money for mosquito nets, yet we are bragging that we have a Constitution. Devolution of health is not like building roads and that is what we are saying. We are dealing with human beings and lives of Kenyans.

We must do this according to the law and put the correct mechanism to make sure that devolution of health is done the right way and we protect the professionals in the health sector. You will be shocked for the last one year we have lost so many donated items on health sector. This is because of a bill we passed here, which we do not know the implication. That is the VAT Bill. If America sends donations, once they get to Mombasa, the Cabinet Secretary has to look for money to clear those goods in Mombasa Port. We know very well, as a Committee, that several containers have been diverted to Tanzania and they are benefiting the Tanzanians. Others are benefiting Ugandans. What are we doing?

It is important as a House to rise above board. I know the governors who are watching us are saying we want to kill devolution. I want to tell them they are the ones who are killing devolution. We gave them money to deal with health issues in their counties and instead of doing that, they went to a bazaar to buy cars. They also organized for international trips and all manner of other things which are not helping, forgetting the Kshs.69 billion, out of Kshs.210 came from this Ministry.

Hon. Speaker, we beg this country to be above board and to make sure that we get devolution of health services done in the correct manner so that we do not see any more strikes by health workers. Lastly, if you ask the Committee on Health the number of doctors who have resigned and gone to look for greener pastures in different parts of Africa and Europe, they are so many. These doctors are trained using taxpayers' money and we give them internship and pay them locally here and immediately after that, we do not give them any good working environment. In other words, we are training doctors and sending them away. This is because of one simple reason of devolution which was done in a manner to suggest that we cannot follow our Constitution.

I support this Report. I wish the Committee on Implementation would pick it immediately and give recommendations to the President of this country so as to save this country from crisis of health care.

Thank you, hon. Speaker.

Hon. Speaker: Obviously, you know this is a subject which topic is part of negotiations in the Mediation Committee. The stalemate brought about by the passage of the Division of Revenue law, still touches on this issue of health services. But even as that happens, I think it is important that whatever debate, if it is on transfer of services or functions, it be done within the strict provisions of the law and more particularly Article 187(1) and (2). So, if functions are going to be transferred, appropriate resources must be made available to those levels. Hon. Patrick ole Ntutu.

Hon. ole Ntutu: Thank you, hon. Speaker, for giving me this opportunity to also join my colleagues in supporting this Motion. I want to thank the Budget and Appropriations Committee for the good work that they have done. When we attained Independence, our first President talked of three things which we need to fight as a country. These were diseases, illiteracy and poverty. Up to date after 50 years plus we are still fighting diseases in the name of devolution. The reason why we have this problem is because when we promulgated our Constitution two years ago and we elected our mini-presidents, the so-called governors they went on a spree wanting to divide this country into 47 units.

Hon. Speaker, one of the urges that they had was how they could grab power in the name of functions. When they took over this health sector which was supposed to be phased out in three years and they wanted it in six months, they made a mistake. When you hear the English say that too much of something is poisonous then that is what we are seeing in our health sector. They wanted too much and they could not chew it.

Hon. Speaker, the reasons for opposition by health workers are attributed to lack of a proper legal framework and harassment by county officials. Some Governors took this issue of devolution of the health sector as an opportunity for them to hire their cronies and practice tribesmen and that is why you see doctors in our health sectors being chased away in the name of governors wanting to hire their own people.

Hon. Speaker, I want to thank the Departmental Committee on Health because they came out clearly and said that we have a problem and we have to deal with it. The only way we can deal with it is if the national Government and the county governments come together and think of having a health service that will help our people. It does not matter even if the Constitution says that certain functions are going to be devolved if people are dying in the name of waiting for our counties to be able to have hospitals and other health facilities.

Hon. Speaker, in one of the smallest dispensaries in my village the nurse there is always absent from duty. When I ask her why she is absent from duty, she tells me she is absent because she does not have drugs and she has not been paid. She has so many problems. The other day I went around asking who is supposed to supply these drugs and she told me that three years ago she used to have a full store of drugs but today she has none.

Hon. Speaker, I think the reason why this country sometimes fails is because of lack of priorities. I understand the Constitution. It has come with all these provisions but I think now we understand where the shoe pinches. As much as we all support this Constitution, I think there is a problem with this sector being transferred to the counties.

Hon. Speaker, when you look at the blanket transfer of functions to counties in disregard of the three year transition period provided in the Constitution, I think that is where the problem is. If these governors had taken over the function that was given by the Constitution, we would not have all these problems. When you look at the lack of structures and clear cut guidelines, it is again because our counties do not have the capacity for this function. I remember one day I asked the Cabinet Secretary for Health in my county what they are doing to improve the sector and he had no idea. They do not know why they are there. They have just been put there and they have not been given the functions. Even the governors do not understand what they are supposed to do.

Hon. Speaker, I want to say that it is time for this House to act. I realise that there is a committee that has been formed so that we look at these issues. However, I want us to take this health sector seriously because it is a matter of life and death and it is not like any other sector in this country. This sector is very important.

With those very few remarks, I thank you for giving me the opportunity and I support.

Hon. Speaker: Hon. James Nyikal.

Hon. (Prof.) Nyikal: Thank you, hon. Speaker for giving me the opportunity to contribute to this debate. The history of health during any transition is important. It is not only this time that we are really having a problem. In 2002/2003 when we had a real major change in the Government there were a lot of efforts to actually improve the health services and we started doing very well. In fact, there is data that indicates that between 2003 and 2008 there was a lot of improvement in the health sector. In 2007 and 2008 when we decided that we are going to split the Ministry of Health into two, once again we had a lot of problems with health and there are clear indications in the data that we had deterioration in the health services.

Hon. Speaker, the issue here is not really the Constitution and devolution. The issue here is the management of implementation of the Constitution and devolution in particular. Health and security are very sensitive functions in any country and no wonder

now we are having problems in those areas. As regards health, the mistake we have done is we have not followed what the Constitution laid down. There is absolutely nothing wrong with the Constitution and devolution is probably one of the most important aspects of this Constitution.

[Hon. Speaker left the Chair]

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

Hon. Temporary Deputy Speaker, however, Schedule Six of the Constitution clearly indicates how we should devolve. Section 15 of Schedule Six indicates very clearly the processes that we should go through, the time that we should take, the support that is required and the criteria that are required as we devolve. All these were not adhered to. Section 15 of Schedule Six indicates clearly that the transition should be in phases and not more than three years. It also indicates that Parliament should put into place an Act to guide this and this was done in the Transition to Devolved Government Act which clearly indicated the functions, bundled the functions and showed how we should cost the functions. These were not done. Therefore, the crisis in health is a clear indication of what wrong we have done.

Hon. Temporary Deputy Speaker, even division of functions as stipulated in the Constitution were actually guidelines and we have taken them like that without unbundling the definition that was required and would have been done by the Transition Authority (TA) through the Health Act.

I squarely blame the Governors' Council for manipulating the country in going into instant dissolution. They must accept that they failed the country; at least, in the area of health. I am not sure whether probably that is not what we are seeing in security. But let me confine myself to the health sector.

We have talked about county health services and nobody has gone around to define exactly what the county health services are. What we have seen are ambulances and the county health facilities are not defined. What are county health facilities? When we said national referral hospitals, it was assumed that Kenyatta National Hospital and Moi Teaching and Referral Hospital are the national referral hospitals. Where did that come from? Who said that Level 6 hospitals are the national hospitals other than the title that they have been given?

Hon Temporary Deputy Speaker, when we worked on the levels of hospitals; we were working on functional levels, not administrative levels. We have had lot of problems because of that, if you look at the area of human resource. I do think that there is any area where the human resource components are as complex as in health area. You have over 10 or 20 professionals within the health sector. We needed to actually look very carefully, who are needed where and for what functions? If you simply take nurses, you will have several different cadres of nurses that are doing different things. You cannot just assume all of them are nurses and put them in one place. This was never done. If you look at the regulation of the health personnel, we have about four health regulatory authorities just for the health personnel only. This was not considered.

Hon. Temporary Deputy Speaker, if you look at the training of health personnel, this was not considered. Even their progression within their professions was not considered. There are a lot of complexities of the services that are provided within the health sector. Some were very well organized at the national level. One day you cannot just jump in and break them and say that these are now the functions.

Hon. Temporary Deputy Speaker, look at immunization which is a completely well organized structure at the national level. That needs to be very carefully looked into and planned before you transfer that function. For example, the HIV/AIDS and Tuberculosis control programmes are well organized and designed on a national level. They needed to be carefully planned, looked at and decided on when to devolve them. These were not done.

Hon. Temporary Deputy Speaker, look at what we call Level 5 hospitals. The reason why we created Level 5 hospitals – I know that because I was there when they were being done – was because these hospitals were serving areas beyond just the provinces that we had at that time and they were big hospitals. Therefore, we felt that they should be supported in a special way so that they cover more than one region. Unfortunately, we took them and decided that this is where they are going to be located. No wonder, we have the problems that we have with them. Let us not blame the Constitution or even devolution. The problem has been poor planning in devolution. I want to repeat, the Council of Governors made a mistake.

If you look at donor support, we needed to work carefully on how this will be worked out. We had an overriding health policy that covered everything; regulations and service provision across the country. How were we to split this and put it into various counties?

With regard to health law, as of now, the overriding law is the Public Health Act. We are in the process of making the health Bill that will bring standards and regulations in health services. We are still working on a health Bill now. Therefore, the problem is not the Constitution or devolution *per se*; the problem is that, as a country we did not sit down to plan the devolution of many services; particularly health services. Even in the area of procurement and standard of drugs, you cannot say that everybody is going to walk to any place tomorrow and buy any drugs. What are the quality control systems that are in place?

I have noticed that the red light is on, but I want to say that what we need to do is not just reversal but put in place a taskforce to plan health services properly under Article 187 of the Constitution. It provides that taking into consideration what has now happened in the counties. Unless we do that----

The Temporary Deputy Speaker (Hon. Cheboi): You time is over Prof. Nyikal. We will have hon. Kirwa Bitok to contribute, followed by hon. Diriye Mohammed.

Hon. Bitok: Thank you very much, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute on this crucial matter that affects our citizenry and constituents.

From the outset, I would want to laud or congratulate the Departmental Committee on Health for having delved into this matter which is really bedeviling our people.

As per their recommendation, I would say that it is really sad that we did not manage to plan properly the devolvement of health facilities. When you go to the ground, you really see the desperation of the citizens in trying to access health facilities, leave alone getting quality services. This has arisen from the haphazard transfer of functions from the national Government to the county governments. It is a matter that sincerely needs our people or the national Government and the respective county governments to think clearly and utilize available avenue so that we can have these functions properly managed.

Hon. Temporary Deputy Speaker, when you realize the same functions need to be managed properly under Article 187 (1) and (2), I support the idea of reversal. When we are dealing with the issue of Level 5 hospitals in the Budget and the money that will be used to handle those facilities, it shows that the capacities at the counties are not adequate. Therefore, the national Government should actually handle the functions and finance them.

You will realize that equipping hospitals that are in the county requires a lot of input from the Government. The other day we were discussing the Budget and we realized that the national Government must intervene through the hiring of equipment to a tune of Kshs3 million every month which shows that despite the fact that we have transferred these functions, the national Government still has to spend to ensure that citizens get services.

Hon. Temporary Deputy Speaker, you also realize that there is a lot of displeasure by the health practitioners to a level that most of them are leaving the services of the counties to go outside the country or into private practice. This is also promoting inefficiencies and nepotism because you find counties employing people who they are close to. No professionalism is observed.

On the terms and conditions of service for the health workers, you realize that they are a frustrated lot. In some counties, there has been a bit of interference in the earnings and benefits that health workers are used to. The procurement processes practised at the county are wanting.

I, therefore, support this Report that there should be a reversal of the health functions. There should be formation of necessary taskforce to deal with the devolvement of health functions.

With those few remarks, I beg to support.

Hon. Mohamed Diriye: Hon. Temporary Deputy Speaker, thank you. I wish to oppose this Report.

For health functions, as we know health is very important and it is not something that should be tossed back and forth between counties and national Government. I agree with some of my colleagues that initially we rushed the process. Perhaps, it was important at the beginning that the phased transfer of the functions to the county government is done within a period of three years. Right now, already the horse has bolted and the process has begun. Functions have already been taken up by the county governments. So, what are we trying to return? I think that is doing something that does not augur very well for our people. For example, in my Wajir County, the county government has already fully taken up health functions. They have already procured drugs; they have rehabilitated hospitals and they have recruited nurses and medical staff.

In fact, they have recruited nurses three times. Taking that health function that is already devolved is just mockery. So, I am pleading with my colleagues. This is a very serious matter. Right now you say we must return this thing, we will be back to square one. What are we going to debate? Taking back health functions which have already been taken up and the county governments are already working and doing well is not right. Remember we are already in the second year and if we talk about a three year phased programme, we are in the second year and only one year remains. If you bring back this thing, this is serious and I want hon. Members to be serious. We are in the second year and the third year is remaining. So, if we start this process again and if this Report is passed, it is going to give a lot of leeway and energy for health workers to demand that they are coming back to the national Government. It is going to be acrimonious and we are going to be in confusion, yet we have enough problems in this country. We are dealing with insecurity issues and many other challenges. So, health functions are already devolved. I am talking from experience; particularly in the marginalized counties like Mandera and Wajir, we have fully taken up the functions. The county governments have fully taken up the health functions and there is no way we are going to return unless we are kidding. I want the Chairperson of the Departmental Committee in charge of health because she came up with this Report to tell me what she had in mind because we are in the second year. We should have talked about this in the first year or even before we came to Parliament but right now you are talking of three years yet we are in the second year.

On why the Global Fund money for TB and HIV/AIDS is being given to NGOs like Care International and AMREF, it is because our Ministry at the headquarters is corrupt. That is the reason. It is not because the health functions were devolved. I can give you examples. In my county, when the county government took up the health function, it did an audit of the health staff and what they found out is very shocking. They found out that 30 per cent of the health staff that was in the payroll for that particular county were all ghost workers. They would be paid salaries but engage in private businesses with NGOs or universities. So, in essence we want to go back there yet things are already very clear. I want to plead with you; let us think seriously. This Report should not be passed. It is already something overtaken by events because the functions---

Hon. Mule: You have not read it!

Hon. Mohamed Diriye: I have read it. The only substantive thing is recommendation No.2 which says it should be done in phases.

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Member! I can see the hon. Member for Matungulu. What is it?

Hon. Mule: On a point of order, hon. Temporary Deputy Speaker. I am a bit disappointed with my friend because he has not even read the Report. I will say with authority that he has not read the Report because he thinks it was done today. We have sat for more than eight months trying to get a solution to this problem. He cannot stand here and try to pretend that he is holier than though and tell us how to go on.

Hon. Mohamed Diriye: Hon. Temporary Deputy Speaker, I can confirm to you that I have read this Report.

*(Hon. Mule and Hon. Mohamed Diriye
stood up in their places)*

The Temporary Deputy Speaker (Hon. Cheboi): I think for the future, whenever a colleague is on his feet, you should resume your seat when I have given them the authority to speak. Can you say something about what your colleague has said, hon. Diriye?

Hon. Mohamed Diriye: Hon. Temporary Deputy Speaker, I can confirm to you that I have read this Report twice and I can tell you the only substantive---

The Temporary Deputy Speaker (Hon. Cheboi): If you are saying you have read it and your colleague is saying that you have not read it, I am inclined to believe you. So, proceed.

Hon. Mohamed Diriye: Hon. Temporary Deputy Speaker, I am again confirming to you that the only substantive recommendation is No.2 because No.1 just talks about having the governing laws like the transition to devolve governments. The only substantive recommendation is No.2 which talks about reversal of devolved health functions back to the national Government and this is what I am against. What are you trying to do? Are you trying to fight the Constitution? For once, hon. members, please let us not try to do something that we--- We should debate serious things and not this Report. This Report should not have found its way to the Order Paper and the House Business Committee (HBC) should stop such things. Think of the mothers and women who are in Wajir County. I made a round in my constituency the other weekend with my governor and he would be asked in every village about drugs, personnel and hospitals and He would respond there and then. So, if you try to reverse these things, who will my people ask? Who do they know here? Even the Cabinet Secretary for Health is very difficult to access. I cannot have access to the Cabinet Secretary of Health. I cannot even see him.

We have a fully-fledged department. The county executive for health is functioning and they have already been working for the last seven months. So, reversing such a function is a joke. This Report should be rejected and let us look at the mothers and the children who are now being served well. We better improve on what has been done for the last seven months than trying to restart the process. It will not help us. We reject this Report.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the Deputy Leader of Majority Party, Member for Taita Taveta.

Hon (Dr.) Shaban: Thank you, hon. Temporary Deputy Speaker. I want to say that I join the Chair of Health Committee. Being a member of that Committee, we have looked at this issue and we have seen it as a big problem. A healthy nation is a working nation. We cannot be burying our heads in the sand and pretend that all is well. What is going on in the health sector is something that we really need to look at very seriously, and not look at it like it is a very simple thing because it is more complicated than what people think.

The health sector should have been one of the sectors that should not have been politicized. It should have been devolved piece meal not wholesale. I know the governors were very keen on this. They thought they will be doing a service but this is not a very easy service to manage. It should have been done bit by bit so that by the end of the three transitional periods, we would be able to achieve maximum gains. When the Committee of Experts was in the process of making the Constitution, I imagine they put the three

year transition period because health sector is important. We have a very big problem. A number of people think their governors have done very little.

The Temporary Deputy Speaker, all former provincial general hospitals, referred to as Level 5 hospitals are facing problems. It is a time bomb which is just waiting to explode. In this financial year, a lot of money was given through grants to those Level 5 hospitals. Unfortunately, the governors chose not to ensure that money gets to those hospitals. We visited those hospitals but there was no money granted to them, yet governors were proudly telling us how they intend to build new hospitals.

Our recommendation would be to look at those hospitals and make sure that the former provincial general hospitals are all elevated to Level 6 so that they can be teaching and referral hospitals. That way, there can be a budget line for them and they can be given money directly from the national Government. I think as National Assembly and Senate, we really need to look at it and see how best we can deal with that issue of general hospitals. Otherwise, Kenyatta National Hospital and Moi Teaching and Referral Hospital will continue to be used for basic medical attention because everybody will be running there considering that the Level 5 hospitals are not doing what they ought to do.

The Temporary Deputy Speaker, we hear that grant was sent to the governor and he only gave Level 5 hospitals 10 per cent of the total allocation. The ones who give more, they only manage to give 15 per cent. My advice in such a case would be that the National Treasury recovers this money and sends it to the right institutions. Money given in form of grant should be used in hospitals as intended.

Hon. Temporary Deputy Speaker, the other thing that I really want to talk about is the issue of runaway medical professionals. Our medical professionals are running away because they are very unhappy. They are not happy with the way things are being done. They are not happy because even when they are in those institutions nobody really asks them for advice. Some executive members sit somewhere and make decisions without involving the hospital superintendents. The end result is that people are given drugs which they had not asked for. Even when they are given the drugs, half of the drugs would not be delivered. This will be one way of killing our people instead of helping them.

You have heard our development partners like the Global Fund giving money to the civil society because they are frustrated. They are frustrated not because they do not trust the Government but it is because of the confusion in the health sector. They have been giving money to the Ministry of Health over the years. This Fund has decided to give Kenya money but they cannot channel it through the national Government. Why is this case? This is because the Government does not have a way of supervising those institutions. This is one way of putting money where it will not be used for the right purpose.

It is sad that we are here today, instead of looking devolution as a plus, we are looking at it as a negative on the health sector. I want to urge my colleagues that we sit down together with the Senate to see how best we can come up with the way forward so that we can sort the issue of the health sector. If we do not do that, our people will die and suffer. If you go out there, you will find that there is no medicine on the shelves and the pharmacies are empty.

Apart from the pharmacies being empty, we are on a campaign of destroying KEMSA. Most of the issues we raise are just politicking about corruption in an institution which can control quality of drugs. Today, our people are being given drugs whose quality we are not sure of or we do not know. This is because quality assurance is not being practised at the county level.

Hon. Temporary Deputy Speaker, delivery of drugs is not properly done. Pharmacists have been forced to pretend that they have received drugs which were procured but never reached the destination. We have a big problem. I will continue to ask my colleagues that we sit down together. This should not only be a problem of the Departmental Committee on Health. We should also sit with the Senate Committee and we put our heads together and see how we can best deal with this problem.

This is a problem and a cancer, and if we are not careful this cancer will destroy this nation.

I beg to support this Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Sumra, you will contribute for two minutes only. You will utilize the balance of your minutes when the House sits again.

Hon. Sumra: Thank you, hon. Speaker. First of all, I am glad that the Departmental Committee on Health has been sitting for eight months to come up with this Motion. I thank the Chairperson because I know what she has gone through.

I want to talk about the Global Fund in this country. The Fund gives money for the purchase and distribution of mosquito nets. Hundred per cent of this money is sent to this country. International companies come into this country, register and leave with the money.

I would like the Departmental Committee on Health to visit A to Z Company in Arusha which employs 10,000 workers. This company was opened by President Bush. These mosquito nets have got some restriction. At least, 10,000 jobs will be created if we implement this policy that mosquito nets should be manufactured locally.

On the Global Fund and the World Health Organization (WHO)---

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Sumra! You have actually spent one minute and thirty seconds. You will have your eight minutes and thirty seconds when the debate resumes.

Hon. Sumra: Thank you, hon. Temporary Deputy Speaker.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Members! We have come to the end of today's sitting. Therefore, the House stands adjourned until Tuesday, 1st July, 2014, at 2.30 p.m.

The House rose at 6.30 p.m.