

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 10th December, 2014

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Hon. Members, there is no quorum in the House. I, therefore, direct that the Division Bell be rung for ten minutes, in the first instance.

(The Division Bell was rung)

Hon. Speaker: Order, hon. Members! We now have quorum; we can proceed.

COMMUNICATION FROM THE CHAIR

DEMISE OF HON. J.J. KAMOTHO

Hon. Speaker: Hon. Members, I have the following communication relating to the demise of hon. J.J. Kamotho. Hon. Members, as you may be aware, the hon. J.J. Kamotho passed on, on 6th December, 2014 in South Africa after suffering a cardiac arrest. The late hon. J.J. Kamotho was born in 1942 in Murang'a County. He joined Muthangari Primary School in Murang'a in 1948 where he sat for the Common Entrance Examination (CEE) in 1952 and later joined Njumbi Intermediate School in 1955. In 1958, he sat the Kenya African Preliminary Examination (KAPE) and was admitted to Nyeri High School. He then proceeded to Syracuse University in the USA for a degree in liberal arts. After completion of his degree in the USA, he went to the UK for a Masters Degree in Social Science at the University of Birmingham.

The late hon. J.J. Kamotho made his debut in politics in 1974 when he was elected as a Member of Parliament for Kangema Constituency. During his long career in politics, he also served as a member for Mathioya Constituency and as a Cabinet Minister in several Ministries, including the Ministries of Environment and Natural Resources, Education, Trade and Local Government. He leaves behind a spouse and children. Hon. J.J. as he was fondly known will be remembered for his fiery brand of politics during the 1990s, when he cut for himself a niche in Kenyan politics.

Allow me on my own behalf and on behalf of all hon. Members and the staff of this House to pass our condolences to the family, relatives and friends for the loss of such a great and shrewd politician. Hon. Members, as tribute to the late hon. J.J., I request that we all stand to observe a minute of silence.

(Hon. Members observed a minute of silence)

May his soul rest in eternal peace.

Hon. A.B. Duale: Hon. Speaker, through your indulgence, is it possible to allow us about 10 or 15 minutes to send our condolences on behalf of our constituencies.

Hon. Speaker: Very well.

Hon. A.B. Duale: Hon. Speaker, on behalf of the people of Garissa Township and on my own behalf, I want to send my condolences to the family, friends and the people of Mathioya Constituency for the loss of hon. J.J. Kamotho. Hon. J.J. Kamotho was an icon in Kenyan political and public life. He has been a diligent politician, who worked very well with the former President Moi. He was a very astute, diligent and hardworking Secretary-General of the party of *baba na mama*. I did not have the opportunity to join that party, because I was in school. He also served well in the Ministries that he headed, the Ministry of Education, the Ministry of Commerce and Trade among others. Hon. J.J. Kamotho will be remembered for the famous Kasarani meeting when he lost his seat of the Secretary-General to none other than the former Prime Minister, Raila Amolo Odinga during the merger of KANU and NDP. It was in that meeting that his old friend and former Minister for Internal Security, hon. (Prof.) Saitoti said “a time comes when Kenya is bigger than the individual”. I wish the young secretary-generals of today, hon. Ababu--- We pray that he will not suffer the fate of hon. J.J. Kamotho in Kasarani. We pray that hon. J.J. Kamotho will be the last one to suffer that fate as a Secretary-General, because mergers are there. I hope the day Wiper Democratic Movement, FORD (K) and ODM will merge, hon. Ababu will not be the sacrificial lamb. If that happens, he will join history as the second after hon. J.J. Kamotho.

Hon. J.J. Kamotho was described by many. Some described him as a good leader and some described him as a sycophant of the then Government of President Moi. I am sure sycophancy in the true meaning of the Kenyan politics is when you serve your party, your leadership and your Government in the way they best need you. The way hon. Ng’ongo and hon. Ababu will serve their party is the same way I will serve in the Jubilee Coalition, with dedication. So, it all depends on where you are shooting from. If you are shooting from Jubilee, the CORD fraternity will look at you as a sycophant. If you are shooting from CORD Coalition as hon. J.J. Kamotho did during his days in KANU, others will see you as a sycophant.

But I am sure the people of Mathioya are now represented well for the second time by hon. (Capt.) Wambugu. We want to join them in this hour of grief and say that hon. J.J. Kamotho has left a mark in the political map of the Republic of Kenya. I send my condolences.

Hon. Speaker: Let us have hon. Gunga Mwinga.

Hon. Chea: Thank you, hon. Speaker for this opportunity. On behalf of the people of Kaloleni Constituency, my party, the Kenya African Democratic Union (KADU) Asili and my family, I wish to condole with the family and relatives of the late hon. J.J. Kamotho. Indeed, the country has lost a great leader. As a result of his death, there are a few lessons that we have learned. The first one is humility. The late hon. J.J. Kamotho served his party with a lot of humility. He dedicated his life to the party and I think this is one important thing we need to emulate.

I wish to pray to the Almighty God to give his family strength at this trying moment and rest the soul of this great leader in eternal peace.

Thank you.

Hon. Speaker: Let us have hon. Cornelly Serem.

Hon. Serem: Hon. Speaker, let me join my fellow Kenyans in expressing my words of condolences to the family of hon. J.J. Kamotho. Hon. Kamotho did so much for this country. He came into Parliament when I was only three years old and I got an opportunity to see him when I was about 11 years old. He was a man who had no boundaries in terms of development. He was in my constituency when I was a little boy, trying his best to encourage the youth who were in school. At that time, he was the Minister for Higher Education.

This was a man who did so much for this country. We will greatly miss a man who dedicated so much of his energy and life to this country. Let us forget about parties that we mentioned earlier. This is a man who had his country at heart. I hope all of us will have the same energy to work for this country.

Thank you, hon. Speaker.

Hon. Speaker: Let us have Dr. Susan Musyoka.

Hon. (Ms.) Musyoka: Thank you, hon. Speaker. I would like to join my colleagues in giving my condolences on behalf of the people of Machakos County and on my own behalf to the family of the late hon. J.J. Kamotho. To me, he was a very committed, loyal, passionate and firm Secretary General of the Kenya African National Union (KANU). He was so committed and the way he worked so hard made me start thinking about politics.

I remember those days when we had to carry our KANU cards even when we were going to the market. I also remember that because I was not supporting KANU, I had to be pulled out of board meetings. It was not easy to associate. However, I still admire the way he was so committed and the way he worked hard to show that what he believed in was what was right at that time.

I just want to say *pole* to KANU members, to the family members and to all of us as Kenyans. He was really a hard working man and what he believed in changed a lot of things in this country.

Thank you very much.

Hon. Speaker: Let us have hon. Katoo ole Metito.

Hon. Katoo: Thank you, hon. Speaker. On behalf of the people of Kajiado South and my own behalf, I also want to take this opportunity to express my condolences and sympathies to the family of the late hon. J.J. Kamotho for the untimely death. As others have said, the late hon. J.J. Kamotho has been a servant of this nation for a long time. He was known for his very firm and loyal beliefs and aspirations of the KANU party. I think he was the most effective and efficient Secretary-General of any party that we have ever had. He really believed in party ideals to an extent that he even sacrificed his parliamentary seat in 1992 because of being a staunch believer of the KANU party, which was not doing well in his area at that time. He was a man who could sacrifice for the sake of the party. It is in that spirit that we are calling for party democracies even at this time. It has been said that he has served this nation in so many high positions. We live to appreciate and really acknowledge his contribution in all spheres. May the Almighty God rest his soul in eternal peace.

Hon. Speaker: Let us have hon. Wambugu.

Hon. Wambugu: Thank you, hon. Speaker for giving me a chance to pass my condolences on behalf of myself, my family and the people of my constituency; Mathioya and Murang'a County in general. I send my condolences to the family of the late hon. J.J. Kamotho who was a former Member of Parliament of my constituency. It is sad that we had to lose such a

person. He was Member of Parliament and a Kenyan who served this Parliament with a lot of diligence.

I knew hon. Kamotho when I was a very young person because of the way he used to manipulate things and also propagate the KANU agenda. Nobody in this country will not miss him. I still say that if we had such people in political parties at a time like now when we have not been able to stabilise properly, we would be able to strengthen political parties in this country and make the country very strong.

Hon. Kamotho's contribution to this nation in the Ministries of Education, Environment and Trade and in particular the Parliamentary Service Commission (PSC)--- I believe he was part of the group that modelled what we are enjoying today together with other people like hon. Oloo Aringo. We have salary structures and other benefits that we are getting. He will, I think, need to be remembered by this Parliament because of the work he did.

As I pass my condolences, it is also good to advise the House that the body has now been brought to Nairobi. It is now lying at the Lee Funeral Home. The family and committees shall be meeting at All Saints Cathedral, for those of us who would like to go and condole with the family in the evening, or even visit them, in their house.

Hon. Speaker, on behalf of Mathioya people, I welcome you when we will be laying this old hand and *guka*, J.J. Kamotho, to rest. We are expecting that to be on Wednesday next week.

Thank you and may God bless all of you.

Hon. Speaker: Finally let us have hon. Timothy Wanyonyi.

Hon. Wetangula: Thank you, hon. Speaker.

On behalf of the people of Westlands Constituency and all the people of Kenya, I wish to condole with the family of the late J.J. Kamotho, one of the greatest men of the former ruling party, KANU.

Hon. Speaker, the late hon. J.J. Kamotho is a resident of Westlands Constituency, just like the other two hon. Members who have passed on. I was so touched by the way he performed his duties as Secretary General of KANU; he did it with zeal. If everybody performed his or her duties the way the late hon. J.J. Kamotho did--- For example, he took on everybody.

Hon. Speaker, Opposition at the time was very strong, but the late hon. J.J. Kamotho held KANU ideals and fought until the time he was defeated at Kasarani. The family of late hon. J.J. Kamotho and all of us Kenyans are mourning the loss of another great Kenyan. No matter how you look at it, the man did his work very well. He performed his duties with a lot of commitment and dedication. He never betrayed his party; if all of us could do the same, I am sure this country would go far.

I beg to convey my condolences to the family of the late J.J. Kamotho and, may his soul rest in eternal peace.

Thank you, may God bless him.

Hon. Speaker: Hon. John Mbadi Ng'ongo, the Floor is yours.

Hon. Ng'ongo: Thank you, hon. Speaker for giving me this opportunity to eulogize the late hon. Kamotho and condole together with my colleagues on the demise of this great politician. Many of us came to know J.J. Kamotho when we were in school. He was someone who had admirers, but equally he had people who felt that his political direction was not the most preferred.

However, one thing that stands out and which, probably, the Leader of Majority Party was trying to bring out, but did it in a way that brought confusion, is that, the late hon. J.J.

Kamotho was a principled politician in the sense that, once he did something, he believed in it. There are two examples that I will give. One was when he believed in KANU and President Moi's leadership. He would go to great lengths to defend that position. Many people were offended by that, but he believed in it and supported it. However, when he felt the former President Moi made mistakes in terms of appointing, or rather anointing the current President, Uhuru Muigai Kenyatta, to be the President from 2003, the late hon. J.J. Kamotho decided to break with tradition. No one expected him to break away from KANU, thus making him a principled politician, whether you like it or hate it.

I am not really sure whether I can compare him with the Leader of Majority Party, hon. A.B. Duale. To me, it has not come out clearly what hon. A.B. Duale is fighting for or what he stands for, apart from the fact that in all cases he tries to support everything that comes from Executive.

Hon. Speaker, it is equally not so clear to me why the Leader of Majority Party would compare himself to hon. Ababu Namwamba and myself. Hon. A.B. Duale, the Leader of Majority Party holds no position in his party. He holds a position that we do not know who appointed him to. He was just told "You go and be the Leader of Majority Party". In fact, by a phone call, he can cease to be the Leader of Majority Party in this House. For me to cease to be the Chairman of the largest party in East and Central Africa, you have to call a party organ called National Governing Council. Therefore, there is a huge difference between the Leader of Majority Party, hon. Ababu Namwamba and me. The two of us have substantive positions in a serious political party.

(Loud consultations)

Hon. Speaker: Order, hon. Members! Order, hon. Members! Hon. Ng'ongo, what is it that you are saying that appears to have stirred up a hornet's nest?

Hon. Ng'ongo: Hon. Speaker, I am really equally shocked. What I was saying was that I just did not understand why the Leader of Majority Party was comparing himself to hon. Ababu and me. The two of us hold substantive positions in a serious political party; the largest party in East and Central Africa, yet the Leader of Majority Party holds no party position. Actually, he has never held any serious party position. If he has ever held one, then it must have been as a sub-location chairman

Hon. Speaker: Hon. Ng'ongo, obviously, hon. A.B. Duale is the Leader of the Majority Party, a position that is provided for in Article 108 of the Constitution of the Republic of Kenya, 2010. I doubt that if we go through the Constitution of the Republic of Kenya 2010, we will find a position similar to the one you are talking about in relation to the late J.J. Kamotho.

Hon. Mbadi, why do we not just respect positions that are outside the House? It is okay to have them and we congratulate those who are able to acquire them, be it through election, appointment, nomination or selection; all of them are recognized modes of assuming or acquiring office. Let us just pay tribute to the late hon. J.J. Kamotho. You have said that he held a position not similar to the one you hold, but hon. A.B. Duale said that he held a position similar to the one held by the indomitable hon. Ababu.

Leader of Majority Party, what is your point of order?

Hon. A.B. Duale: On a point of order, hon. Speaker. You have put it very well. I am the first occupant of that position, according to Article 108 of the Constitution and the history of Kenya will record me as the Leader Majority Party nominated by the ruling coalition.

(Applause)

If you allow the hon. Member for Kisumu Rural--- We were sending our condolences to the family of the late J.J. Kamotho. You have seen those who turn funerals into politics. You have seen the way they behave.

(Laughter)

He has forgotten that we were mourning one of our old colleagues. He is used to attending funerals in his backyard where he uses them as a platform for politics. You will never see him in *Harambees* or development functions; he uses funerals for politics. He has forgotten that this is the august House and we are sending condolences to the family of the late J.J. Kamotho. He thought he would discuss hon. A.B. Duale, the Leader of Majority Party

Hon. Speaker, I was the Vice Chair in charge of political affairs of the party that was then called ODM. I was elected as the Deputy Leader of ODM by delegates before we left Bomas. In my life, I have never been given a position in a boardroom like hon. Mbadi.

(Laughter)

Hon. Speaker, who gave me the position? The Party that I belong to is led by the President, who even does not come from my community. We are not even from the same religion. But the person who gave him a position in a boardroom is his next cousin.

Thank you.

(Laughter)

Hon. Speaker: Order! Order, hon. Members!

Finally, I wish to recognize hon. Hellen Sambili, KANU Member of Parliament for Mogotio Constituency.

Hon. (Prof.) Sambili: Thank you, hon. Speaker for giving me this opportunity. On my own behalf and on behalf of the people of Mogotio, whom I represent in this House on a KANU ticket, I wish to pass my condolences to the family of the late hon. J.J. Kamotho, who was the Minister for Education when I heard about him.

I want to say that when this happens, it becomes a very serious moment, because, as it has been said by some Members here, hon. J.J.Kamotho was a very principled person. He served the party *ya mama, baba na watoto*.

(Laughter)

Hon. Speaker, I would like on a very serious note to say that this country has lost a very able leader. I want to pass my condolences and those of my other colleagues who are in this

party of *mama, baba na watoto*, and who may not get a chance to be with the family. Hon. Manga, who is the Vice-Chair of our party, should send condolences on behalf of the party. If he is not in the House, since I am the only female Member of Parliament who has come into this House on a KANU ticket, I want to say *pole*.

We are not campaigning for parties, but I would like to say that hon. J.J. Kamotho left our party not because our President was made a presidential candidate but because his position of Secretary-General was given to the former Prime Minister. It is good and I am not attacking anyone, but I am saying the truth especially when really we are condoling with the family of the late hon. Member. I would like to say that we should serve this country with diligence and commitment.

I remember when hon. Kamotho said: “*Baba ukisema itatosha, itatosha.*” The late Kamotho appeared on *Redykyulass programme*.

We need to also recognise the artists in this country. On a serious note, I want to say *pole* and condole with the family of the late hon. Member.

Thank you, hon. Speaker. *Asante sana.*

COMMUNICATION FROM THE CHAIR

PRESENCE OF ALGERIAN DELEGATION ON SPEAKER’S ROW

Hon. Speaker: Hon. Members, allow me to make the following Communication to introduce to you a delegation from the National Assembly of the People’s Democratic Republic of Algeria, who are seated on the Speaker’s Row. The delegation comprises of the following hon. Members: - His Excellency, the hon. (Dr.) Larbi Ould Khelifa, the president of the National Assembly (Leader of Delegation); The hon. Chenin Abdelkrim, the Vice President of the National Assembly; The hon. Bouras Djamel, Vice President of the National Assembly; the hon. Benkhallel Lakhdar, Member of the National Assembly.

Hon. Members, the delegation is accompanied by the following members of staff: Mr. Sellam Farid, Director of Protocol and Mr. Boulami Idir, Director of Studies. They are in the country on a reciprocal visit to benchmark, learn, exchange and share experiences with the Members of this House.

On my own behalf and that of the House, I wish to welcome them to the National Assembly of the Republic of Kenya and wish them fruitful engagement.

I thank you.

(Applause)

Hon. Speaker: Hon. Shill, what could be troubling you?

Hon. Shill: Thank you, hon. Speaker. I also take this opportunity to give my condolences to the family of J.J. Kamotho.

Hon. Speaker: We are now through with that. Nevertheless, you have said it.

Hon. Shill: Can I continue?

Hon. Speaker: You can continue for one minute.

Hon. Shill: Hon. Speaker, I thought that you gave us permission to pass our condolences.

I want to take this opportunity to pass my condolences to the family of J.J. Kamotho, the people of Mathioya Constituency and the greater Murang'a County.

When I joined the Eighth Parliament, I had the opportunity to work with J.J. Kamotho. He was a very wonderful person who never believed in tribalism. He believed in Kenya and in his party. In fact, I remember one time when I was very much aggrieved as a Member of the Opposition during the KANU time, he took me to State House and, at least, helped me to do some projects in my constituency. Those days if you were taken to State House and somebody helped you, you felt very great. Therefore, I owe thanks to him and his family. Therefore, I want to grieve with his family.

I would also like to say that he is a man who made his name in politics. He was not a sycophant and a puppet, but he was a true believer of his party KANU. This is what we should emulate; that is why we have passed the Political Parties Act. Everybody should become a real believer in their parties instead of hip-hop business. Let us emulate him as Kenyans if we want to remember him.

Thank you very much.

MESSAGES

SENATE BILLS

Hon. Speaker: Order, Members! Members making their way into the Chamber, could you take your seats? Please take your seats. You do not have to walk all the way. You can take a seat next there for a little while.

Hon. Members, I have two Messages from the Senate. Standing Order No.41 relating to Messages requires the Speaker to expeditiously report to the House any Messages received from the Senate. In this regard, hon. Members, I wish to report that on Tuesday, 9th December, 2014 in accordance with the provisions of Article 110 (4) of the Constitution of Kenya, I received a message from the Senate regarding the passage of the following Bills:-

1. The Government Proceedings (Amendment Bill), Senate Bill No.10 of 2014;
2. The Persons with Disabilities (Amendment) Bill; Senate Bill No.24 of 2014.

Hon. Members, the Message states that:

“The Government Proceedings (Amendment Bill), Senate Bill No.10 of 2014 and the Persons with Disabilities (Amendment) Bill, Senate Bill No. 24 of 2014 as published in the *Kenya Gazette* Supplement No.44 of 4th April, 2014 and No.95 of 27th June 2014 respectively as Bills originating in the Senate, were passed by the Senate on Tuesday 2nd December 2014 without amendments.”

The Message continues and I quote: “The Senate now seeks the concurrence of the National Assembly on the said Bills as passed by the Senate.”

Hon. Members, I am now directing the Clerk to circulate copies of the Bills and upon being read the First Time, the Government Proceedings (Amendment) Bill, Senate Bill No.10 of 2014 will stand committed to the Departmental Committee on Justice and Legal Affairs, while the Persons with Disabilities (Amendment) Bill, Senate Bill No. 24 of 2014 will stand committed to the Departmental Committee on Labour and Social Welfare.

I also direct that before the Bills are scheduled for Second Reading, the two Committees engage the Budget and Appropriations Committee with a view to satisfying the requirement of Article 114 of the Constitution relating to money Bills.

Hon. Members, the third Bill for which I received a Message from the Senate on 9th of December, 2014 is the County Assemblies Powers and Privileges Bill, Senate Bill No.14 of 2014.

The message reads:-

“That the County Assemblies Powers and Privileges Bill, Senate Bill No. 14 of 2014, as published in the *Kenya Gazette* Supplement No.54 of 22nd April, 2014 as a Bill originating in the Senate, was passed by the Senate on Tuesday, 2nd December, 2014 with amendments. The Senate now seeks the concurrence of the National Assembly on the said Bill as passed by the Senate”.

Hon. Members, I am now directing the Clerk to circulate copies of the said Bill and upon being read for the First Time, the Bill will stand committed to the Departmental Committee on Justice and Legal Affairs. I also direct that before the Bill is scheduled for Second Reading, the Committee engages the Budget and Appropriations Committee with a view to satisfying the requirements of Article 114 of the Constitution relating to money Bills.

I thank you, hon. Members.

PROCEDURAL MOTION

APPROVAL OF THURSDAY MORNING SITTING

Hon. A. B. Duale: Hon. Speaker, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order No. 30(3)(b), this House resolves to hold a Sitting on Thursday, 11th December, 2014 between 9.30 a.m. and 1.00 p.m. for the purpose of considering Bills.

Hon. Speaker, without anticipating an Adjournment Motion, this afternoon and maybe, tomorrow, will be the last sitting of the House this Session unless a Special Session is requested through you. We only have tomorrow afternoon and looking at the business, both private and public, before the House, which is very urgent, the House Business Committee, last evening, felt that we should have a sitting tomorrow morning. This will allow the House to consider the very important business.

First are the reports of the Public Accounts Committee on the Appropriations Account, Other Public Accounts and the Accounts for the Funds of the Government of Kenya. If not concluded today, that is a very serious report. I want to tell my colleagues that yesterday, when the Chairman of the PAC was moving this Report, which moving he is yet to conclude, there were hardly five Members in the House. That portrays Parliament in very bad light in its oversight role. The PAC, being one of the most important Committees, I will ask my colleagues that this afternoon, tomorrow morning and if possible, tomorrow afternoon, we must digest, speak and either agree or disagree with the recommendations of the PAC from the reports of the three consecutive years that they have tabled.

Secondly, the Security Laws (Amendment) Bill, 2014, is to be considered for Second Reading before the House goes on recess. This Bill is before the House in a very extraordinary situation. We lost Kenyans in Mpeketoni and in Mandera twice. Parliament has a moral obligation that tomorrow we do not get accused that we did not fulfill our obligation, as a House

if, God forbid, more Kenyans die. This Bill is from the Committee on Administration and National Security.

In my opinion, in developing this Bill, they must have consulted, either formally or informally, all the players and institutions whose 30 plus Acts are being amended. It is now an opportunity for the Committee - I am told the whole morning and this afternoon they are still engaged in public participation, to fast-track the Bill. This is a unique Bill, for which the House can be recalled. The situation in which this Bill has been brought necessitates that if we were on recess, we ought to be re-called to discuss it; it touches on the lives and the property of the people of Kenya.

The Law Society of Kenya Bill, 2013, which has been here for too long, is also a very important agenda. The Law Society of Kenya, through their Chairperson and its membership, has written to my office and I have said that we will consider it. It is also very bad on the part of Parliament to go on recess at the end of the Second Session in 2014 when we have not disposed of a very important Law Society of Kenya Bill, which was published and the First and Second Readings undertaken. It is just awaiting the Committee stage.

Thirdly, there is a report of the Public Investments Committee (PIC) on the procurement of independent consultant for the design, review, construction and supervision of the Standard Gauge Railway. If the PIC agrees with us this afternoon, then we can dispose of that matter because it touches on the Standard Gauge Railway, a project that is already underway. Yesterday, this House approved the increase of debt ceiling under which, primarily, money to fund the Standard Gauge Railway project is to come from external funding.

Finally, there is a report by the Departmental Committee on Finance, Planning and Trade on privatisation of sugar companies. If we get time between tomorrow morning and the afternoon sitting, that will enable us to deal with the Security Laws (Amendment) Bill, finish with the PAC Report and the accounts of the Kenya Government for the three financial years that the Committee diligently discussed. Also, we will deal with the Law Society of Kenya Bill and the two reports.

It is important that we rise to the occasion in as far as the Security Laws (Amendment) Bill is concerned. Many times, we have accused the Executive, Joseph ole Lenku, the former Cabinet Secretary for Interior and Coordination of National Government. On this Floor in various Adjournment Motions, we have accused the former Inspector-General of Police and the presidency. If the buck stops with the President, then that must also be seen in legislation. We must make sure that conflicts between the various arms of the Government are considered.

I do not want to talk much about that Bill because my colleagues and I will do so when it comes to the Second Reading, if this Motion is approved, tomorrow morning.

I will ask hon. Katoo ole Metito to second this straightforward Procedural Motion to allow us to have a sitting tomorrow, Thursday, 11th December, 2014 from 9.30 a.m. to 1 p.m.

Thank you, hon. Speaker.

Hon. Katoo: Hon. Speaker, I rise to second this Procedural Motion in a few words. This House unanimously resolved last Thursday that we should not go for recess and extended sittings for one week, which ends tomorrow. It was because the business of the House was seen to be overwhelming. Therefore, in the same spirit, I just want to tell the House that this is the business for which we extended your sittings, and we better try and finish it tomorrow morning and in the afternoon, so that if possible we break for a recess. If you look at the House, it is already in a recess mood. Hon. Members already know that since they approved the calendar of this House,

they should have gone for recess on Thursday last week. I just want to appeal to my colleagues that they give a little bit more time for just two sittings; tomorrow morning and in the afternoon and then we break for the long recess.

I beg to second.

(Question proposed)

(Question put and agreed to)

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD FOR BILLS

Hon. A. B. Duale: Hon. Speaker, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provisions of Standing Order 120, this House resolves to reduce the publication period for the Public Audit Bill (National Assembly Bill, No. 38 of 2014) and the Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014) from 14 days to two days.

The reduction of the publication period for these two Bills with a deadline of 25th May, 2014---

(Hon. (Maj-Gen.) Nkaisery consulted loudly)

Hon. Speaker: Hon. Members, it is important to listen.

Hon. A. B. Duale: Hon. Speaker, the nominee for Cabinet Secretary for Interior and Co-ordination of National Government, hon. (Maj-Gen.) Nkaisery should go out and wait for grilling tomorrow morning. In fact, he should not be here. He should go and prepare himself for tomorrow's vetting. We wish him well if the Committee approves him.

(Laughter)

Hon. Speaker, the reduction of the publication period for these two constitutional Bills, with a deadline of 25th May, 2014, is very important. Even though we extended the period by nine months, four months have already elapsed. We need to fast track the deliberations on these two Bills to ensure that we are not caught up by time again, seeing that their passage will also involve their consideration by the Senate.

I urge that the period of publication for these two Bills; the Public Audit Bill, 2014 and the Public Procurement and Asset Disposal Bill, 2014, be reduced from 14 to two days. This will allow for the Bills to go through the First Reading before we proceed for recess; thereafter during our break they will go through public participation process in Committees, in accordance with Standing Order No.127. When we come back, hopefully, on 14th February, the House will be ready to discuss them in the Second Reading and Committee of the whole House Stages.

Hon. Speaker, this is a straightforward Procedural Motion. We have a deadline which we cannot extend; this reduction basically is to allow the First Reading to take place and the Committees to be seized of these Bills for discussion and public participation, so that when we

come back in February we will be ready to discuss the Second Reading, Committee Stage and Third Reading.

Thank you, hon. Speaker; I ask hon. (Dr.) Shaban to second.

Hon. (Dr.) Shaban: Thank you, hon. Speaker. I stand up to second the Procedural Motion on the reduction of the publication period for the Public Audit Bill and Public Procurement and Asset Disposal Bill. It is actually in our own interest to make sure that when we come back from our recess, we will be able to continue from where we will have left. It is important for us to make sure that these Bills come for the First Reading before we go for recess. These Bills should be fast-tracked because they are the kind of Bills which should have been dealt with earlier, but we had to extend time for them.

Hon. Speaker, I beg to second.

(Question proposed)

(Question put and agreed to)

BILLS

First Readings

THE PUBLIC AUDIT BILL

THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL

(Orders for First Readings read – Read the First time and ordered to be referred to the relevant Departmental Committees)

MOTIONS

REPORT ON PROGRESS MADE IN FULFILLMENT OF INTERNATIONAL OBLIGATIONS

(Hon. A.B. Duale on 9.12.2014)

(Resumption of Debate interrupted on 9.12.2014)

Hon. Speaker: Hon. Members, what remained of Order No. 12 was to put the Question.

(Question put and agreed to)

ADOPTION OF PAC REPORTS FOR 2010 - 2013

(Hon. Ababu on 9.12.2014)

(Resumption of Debate interrupted on 9.12.2014)

Hon. Speaker: Hon. Ababu, I am informed you have a balance of 41 minutes.

Hon. Ababu: Thank you, hon. Speaker. Let me just put it on record that as at the time when the House rose last evening, I had made considerable progress in moving this Motion. I had given an outline of the three reports. I had indicated to hon. Members that, for ease of reference and debate, the Committee provided executive briefs in each of the three reports, which will make it easy for hon. Members to have a snap preview of the reports, and take note of the big issues noted by the Committee in each of the financial years. I had already put on record the big issues for Financial Years 2010/2011 and 2011/2012. I was in the process of doing the same for the Financial Year 2012/2013. I had indicated a number of big issues highlighted by the Committee in this financial year, and I was explaining one major issue, or the biggest issue in this year, which is a confidential expenditure amounting to Kshs2,853,000,300.

Hon. Speaker, I was explaining to the House that the Committee expressed grave concern that the so called confidential expenditure involved huge cash withdrawals with neither explanation nor any logical rationale. The Committee noted that in many instances, multiple withdrawals of up to five times would be made in a single day. For instance on 26th February, 2013 five withdrawals of amounts ranging from Kshs20 million to Kshs30 million each were made for a total sum of Kshs130 million in a single day. Between 4th April, 2013 and 30th June, 2013 the Ministry of Interior and Co-ordination of National Government got cash amounting to Kshs190 million, also drawn in cash. The Committee has provided an extract of those withdrawals and on page (vii) in the executive brief of Financial Year 2012/2013, hon. Members will notice a table which has been extracted from a submission from the Ministry by the Kenya National Audit Office (KENAO). That table, which I invite you to interrogate with a keen eye of a neurosurgeon and, perhaps, the patience of a monk, you will notice the hefty cash withdrawals by this Ministry which could not be explained. I will not go through that table. I will leave it to hon. colleagues to look at it in the process of debating this Motion.

The Committee proceeds to say that in the absence of documents to support expenditure of these numerous cash drawings, among others, it is impossible to tell how exactly these funds were utilized and on what purpose. It did not escape the Committee's attention that transactions were handled by a single officer, Mr. Ben Kihia, a Senior Accountant at the Office of the President (P/No.1987083788). This Mr. Kihia generates, examines and approves payments. It alarmed the Committee that this Mr. Kihia, who has served in his current office for almost a decade, recently refused to honour his transfer to the Ministry of Industrialisation. Months after the notice of transfer, Mr. Kihia continues to serve at the Office of the President, and no action has been taken against him; the Committee found this supremely curious and of great concern.

In view of the foregoing, the Committee, accordingly, recommends appropriate disciplinary and prosecutorial action against the relevant Accounting Officers and other public officers responsible. Specifically, the appointing authority must take immediate stern internal disciplinary action against all those culpable, including surcharges and withdrawal of the appointment of the Accounting Officer. Most importantly, the Accounting Officers, and all other officers involved must face the full force of the law for violating the letter and spirit of the Constitution, statutes and regulations. In accordance with Article 226(5) of the Constitution, they must bear direct personal responsibility and liability for any public funds lost, wasted or misapplied by reason of their direction or under their watch. The Committee invites the Director of Public Prosecutions (DPP) to act accordingly in this respect. The Committee also recommends

a total overhaul of the law, regulations and practice governing all aspects of confidential expenditure in Government to protect public funds from abuse on the pretext of confidentiality for national security.

The new system that the Committee proposes should be considered must be one that finds a perfect equilibrium between the ends of national security *vis-à-vis* constitutional principles of open, prudent, responsible and accountable use of public resources. Among the international best practices cited in this, is the South African example, which has been explained by the Committee at page 40 of the detailed Report. The Committee also recommends that Mr. Ben Kihia should report to his new station at the Ministry of Industrialisation with immediate effect and invites the Ethics and Anti-Corruption Commission (EACC) to investigate his activities at the Office of the President with a view of taking appropriate action against this officer. The report refers hon. Members to pages 39-40 for details of these recommendations.

The other issue of concern that we have drawn hon. Members' attention to, under the same Ministry is irregular procurement of residential houses and commercial units for police. The Committee records that seven payments totaling Kshs.1.3 billion were made between 15th June, 2012 and 23rd November, 2012 to East Gate Apartments Limited for purchase of 300 residential units along Kangundo Road in Nairobi, for both the Kenya Police and the Administration Police. Direct procurement by way of expression of interest was used instead of open tendering. Invitation for sealed bids was made to a single vendor who also determined the purchase price. Curiously, a subsequent valuation by the Ministry of Lands merely confirmed the vendor's bid price as the value of the property. The Committee noted that the law used to back this procurement is section 76(1)(a) and (b) of the Public Procurement and Disposal Act, which is restricted to procurement for services or a combination of goods and services. The Act specifies that a service to be procured in this manner must be of advisory or predominantly intellectual nature. The Committee notes that housing units certainly do not fit this classification.

Further, a sum of Kshs.30,193,971.63 of public funds appears to have been lost by way of overpayment because the plinth area was inexplicably overstated by 228 square metres from the correct 314 square meters, which was paid for. Other issues of concern noted include the arrangement where uniformed officers share premises with civilians who own private houses in a compound classified as a police line that is complete with an armoury.

Hon. Speaker, the Committee noted the myriad irregularities and concluded that this transaction appeared tailor-made to benefit a particular favoured vendor. There are indications of collusion and the law was clearly violated, specifically sections 74(1), 74(2)(a) and (b) and 74(3)(a), (b) and (c) of the Public Procurement and Disposal Act, and Section 62(2) of the Public Procurement and Disposal Regulations. The irregular selective process compromised value for money and robbed the public of the benefits of competition. The Committee recommends disciplinary action against the Accounting Officer and other officers involved and invites the EACC to investigate this matter further, including lifting the corporate veil to determine the real faces behind East Gate Apartments Limited.

The public officers responsible must duly face the law. The responsible Accounting Officer must also be surcharged the full amount of Kshs30,193,971.63 overpaid for the overstated 228 metres square area. The Committee refers hon. Members to page 70 of the main Report for details on this matter.

I will just mention in passing the other big issues, one of which includes a stalled construction project at State House. It also involves serious irregularities, including payment for

work not done amounting to Kshs88,826,396. This is money that the Committee fears may have been lost. There is also irregular change of user of this particular project from a petrol station to office suites for staff at State House. We have also taken note of issues raised in the Judiciary, at the Independent Electoral and Boundaries Commission, the Constituencies Development Fund, specifically in Mutito, Tigania East and Chepalungu constituencies, the Ministry of Roads and the Ministry of Medical Services.

Besides the big issues that I have run through in this Report, there are also general observations that have been made in the Report. I will not go through those general observations as I have agreed with the Vice-Chair of the Committee that he will highlight those issues when seconding this Motion.

I will go straight to the last part of this Report, which is a meeting the Committee held. As is the tradition, at the conclusion of the process of hearings, the Committee normally holds a session with the Cabinet Secretary for the National Treasury and his peers. I will conclude by bringing to the attention of the House the issues discussed between the Committee and Treasury. The Committee discussed a total of seven issues with the Treasury.

The first issue is on the Integrated Financial Management Information System (IFMIS). After listening to the Cabinet Secretary for the National Treasury, the Committee expressed satisfaction with the progress made by the National Treasury and urged the Cabinet Secretary to ensure that accountants in both the national Government and the county governments are fully conversant with all the IFMIS modules. The Committee further noted that IFMIS-related excuses from Accounting Officers will no longer be entertained. The Committee was particularly impressed by efforts made by the Treasury to move to the e-procurement system as the next frontier in the development of IFMIS.

The second issue was the External Resources Policy, which has been a major area of concern regarding external financing. After interaction with the Cabinet Secretary, the Committee urged him to ensure that the Kenya External Resources Policy is submitted to the National Assembly for approval not later than 31st December, 2014 to comprehensively address issues related to funding by development partners.

The third issue was the public finance management generally. Again, the Committee was satisfied with progress made by the Treasury and urged the Cabinet Secretary to ensure that accountants in both the national Government and the county governments are fully conversant with the standards and best practices.

On the question of confidential expenditure, the Committee expressed grave concern to the Cabinet Secretary on how the whole arena of confidential expenditure is handled. The Committee noted that confidentiality that advances the ends of national security is important, but this does not exempt the public officers responsible from the principles of prudent financial management enshrined in the Constitution and the Public Finance Management Act. The Committee, therefore, urged the Treasury to ensure that the planned interventions in respect to confidential expenditure are instituted the soonest possible. The Cabinet Secretary should present to the National Assembly a status report by 31st December, 2014.

The fourth issue discussed with the Cabinet Secretary was the question of Anglo Leasing-related projects. The Committee expressed grave concern that for the last 17 years, the ghosts of Anglo Leasing-related projects have remained alive and active, with questions galore on the handling of the cases that have cost Kenyan taxpayers billions of shillings. The latest is the controversial payment of Kshs1.4 billion to First Mercantile Securities Corporation and

Universal Satspace in May 2014. Another claim for Kshs3.05 billion by the same firms is in the offing. The Committee also raised serious questions on the way the State Law Office defended the suits by the First Mercantile Securities Corporation and Universal Satspace culminating in the award of Kshs1.4 billion against the Government of Kenya. The quality of the defence and generally the manner of handling the suits raised some fundamental doubts and fears about the State Law Office's commitment.

The Cabinet Secretary informed the Committee that of the 18 Anglo Leasing-related projects, four had been cancelled, seven had been fully paid for and another seven were under investigation. Only one flagship project, also called Ciara Systems, for the NIS, was active. The exact status of completion of the projects could not be conclusively ascertained. The Government had not undertaken any assessment in this respect, but only relied on valuation done in 2007 by the Price Waterhouse Coopers (PWC). That valuation covered 17 projects and omitted Project Ciara, which was considered a high level security project. The latest payment of Kshs1.4 billion was made on 19th May, 2014 and transmitted in two tranches to one Trevor Smith, through JP Morgan Chase Bank, Account No.GB229 NWBK 60001100859184. The payments were ordered by the President himself, but in making the payments, the Accounting Officer had not obtained a signed authorization from the President. He used a written communication signed by the Director of the Presidential Press Service. He, however, had official written authority from the Controller of Budget.

The Committee noted that this matter of Anglo Leasing had protracted for inordinately long, and continually involved unending legal tussles. It was not lost on the Committee that even the PWC valuation report relied on by the Treasury to assess status of the various controversial contracts, had itself become a subject of litigation. The Committee expressed disappointment that the Treasury had, as yet, not undertaken their own assessment of these transactions, meaning that there really was no official Government valuation report on the 18 Anglo Leasing related contracts.

The Cabinet Secretary was formally notified that in view of the numerous long standing loose ends in this Anglo Leasing saga, the PAC had resolved to conduct closure proceedings to bring this matter to a logical conclusion. The Committee, therefore, recommends as follows in respect of the Anglo Leasing related projects:-

- (i) The Treasury should freeze any further payments for any Anglo Leasing related pending the conclusive determination of this matter;
- (ii) The State Law Office, the Office of the Attorney-General, must mount and sustain robust defence in every single case arising from the Anglo Leasing projects;
- (iii) All ongoing investigations into the scandal must be concluded expeditiously and individuals found to be responsible for loss of public funds prosecuted.
- (iv) to aid the speedy conclusion of this matter, the Committee will undertake time-bound closure proceedings.

The other old matter that the Committee engaged the Cabinet Secretary over was KenRen. The Committee expressed concern that for over 40 years, KenRen saga has remained in the books of accounts of Government, as a toxic debt obligation, placing immense burden upon the Kenyan taxpayer. The Committee had resolved to commence closure proceedings on this matter alongside Anglo-Leasing and wanted to get a status brief from the Cabinet Secretary.

In his brief, the Cabinet Secretary reminded the Committee that KenRen arose out of a joint venture entered into in the mid-1970s between the Government and an American firm, N-

REN Limited, to form a company registered as KenRen Chemical and Fertilizers Company Limited. The total loan guarantee by the Kenya Government then was US\$42,796,000 at an interest rate of 8.5 per cent per annum. However, no fertilizer factory was ever constructed by KenRen, and the country never got value for money for the Kshs.3,000,685,925 expenditure incurred on the project as at 30 June 2011. He informed the Committee that all KenRen related debts will be fully settled by the year 2016.

The Committee expressed outrage that such colossal sums of precious public funds were being thrown down the drain over a deal that had delivered exactly zero to the Kenyan people, yet Government has never instituted any action to apprehend and punish the culprits. Noting that KenRen was a sad classical case of crooked and inept Government officers committing public funds into dubious deals of a fraudulent nature, the Committee recommends as follows:-

(i) the Treasury must institute stringent measures and stay alert to forestall such occurrences in future;

(ii) the Government must get to the root of the KenRen saga and individuals found to have been responsible for the loss of public funds dully prosecuted; and

(iii) to aid the speedy conclusion of this matter, the Committee will undertake time-bound closure proceedings alongside the Anglo-Leasing saga.

The final issue discussed with the Cabinet Secretary was the performance of Accounting Officers.

Aware that the Cabinet Secretary, National Treasury, is the appointing authority of all Accounting Officers, the Committee registered its displeasure for the poor performance by some Accounting Officers. Among the chief concerns expressed by the Committee were:-

(i) failure to respond to management letters from the Office of the Auditor General;

(ii) poor responses to audit queries;

(iii) late submissions of responses to the Auditor General;

(iv) numerous excuses to avoid appearance before the Committee; and

(v) failure to act on the recommendations of the Committee.

Members of the Committee demanded to know from the Cabinet Secretary the measures he will put in place to improve the performance of his officers.

The Committee was informed that the National Treasury would soon launch a new structure which places the internal audit function under the same directorate with the accounting services and the Integrated Financial Management Information System. The objective is to create synergy between these functions to strengthen internal controls during Budget execution. This will reposition and strengthen the internal audit function to address the weaknesses noted in Government entities.

Further, through Treasury circulars, Ministries were now required to prepare and submit annual procurement work-plans to guide them in implementation of activities during the financial year. This is to avoid incurring pending bills and have a chance to revise their budgetary requirements at the Supplementary Budget stage.

Regarding unsupported expenditures, excess expenditures and pending bills, the Cabinet Secretary told the Committee that the National Treasury had consistently reminded the Accounting Officers of their responsibilities with regard to their Votes. Specifically, the Accounting Officers are encouraged to institute prudent financial management in line with the Public Finance Management Act of 2012.

The Committee encouraged the Cabinet Secretary on the measures being put in place, but strongly implored him to strictly enforce Section 74(2) of the Public Finance Management Act of 2012, that empowers him, as the appointing authority, to discipline errant Accounting Officers, including revoking their appointment.

As a way forward, the Committee agreed with the National Treasury to jointly organise a retreat for all Accounting Officers and the office of the Auditor General aimed at enhancing everyone's performance to ensure the audit cycle runs smoothly and within the time scales set by Article 229 of the Constitution.

Hon. Speaker, in conclusion, the Committee registers its unreserved thanks to the Office of the Speaker and the Clerk of the National Assembly, the Auditor General and the entire Kenya National Audit Office (KENAO), the National Treasury and those Accounting Officers who dutifully honoured their obligations and made quality submissions before the Committee.

Special appreciation goes to the Clerks to the Committee who have had to go beyond the normal call of duty on numerous occasions. The commitment and devotion to duty of all those involved in this noble task made the work of the Committee and production of these Reports a success. We thank each one of them.

Before I now formally move this Motion, may I just reiterate a point I made at the beginning of this Motion, that the Public Accounts Committee (PAC) has, indeed, performed a miracle by clearing a backlog of five years of audited accounts in one financial year. The Committee has done this in a bid to make sure that we are timely, and operate within the audit cycle as established by Article 229 of the Constitution.

Hon. Speaker, should this House adopt these three Reports - I see no reason why it should not adopt them - we will clear every single audit report before this Committee from the Office of the Auditor General.

I want to use this platform to urge the Auditor-General to make haste and submit to the Public Accounts Committee, the audited accounts for Financial Year 2013/2014 by the end of December 2014. The backlog is now cleared and the only person stopping this Committee from making sure that we are up to date is the Auditor General. We urge him to submit to this Committee the latest report the soonest possible.

May I also point out that with the clearance of this backlog, and the commitment by the Committee, this will ensure that by the year 2015, we will have settled accounts up to Financial Year 2013/2014. The revenue sharing between the national Government and the county governments will now be calculated on a much higher base of the latest accounts approved by this House. This should be good news across the board especially for county governments.

On behalf of the Public Accounts Committee, I now wish to table the three Reports for the Financial Years 2010/2011, 2011/2012 and 2012/2013, and urge this House to adopt these Reports with the recommendations therein.

Hon. Speaker, I beg to move and now invite the Vice-Chair and distinguished member of the Committee, member for Runyenjes, hon. (Ms.) Mbarire, to second the Motion.

Hon. Speaker: Yes, hon. (Ms.) Mbarire.

Hon. (Ms.) Mbarire: Thank you, hon. Speaker. I rise to second this Motion. Before I proceed, may I reiterate the Chairman's words yesterday by congratulating hon. Members of this Committee for the hard work that they have undertaken to ensure that the backlog of about of five years is out of our way and we are up to date in terms of our accounts. We are not in any way going forward violating Article 229(4),(8) of the Constitution; we are not in any way, going

forward, going to be accused of being the reason why revenue sharing between the national and county governments is not up to date in terms of using the current audited accounts as required by Article 202(3) of the Constitution.

Hon. Speaker, let me also thank you immensely because we know, as a Committee, you have given us leeway. In recognition of this backlog, you allowed us to sit even on days that are not normally committee sitting days in order for us to deal with the backlog that was before us.

I will concentrate on the general observations as noted in the 2012/2013 Report, that in a way touch on the previous Reports of 2010/2011 and 2011/2012, so that I may finish what is before me. From the proceedings, evidence taken and subsequent deliberations, the Committee wishes to draw attention to the following general observations:-

One is the Government's post financial position as at 30th June, 2013. As at 30th June, 2013 the Government's financial position reflected overall net surplus of Kshs.496,366,817 compared to Kshs.1,159,431,088 posted in the previous year. Total issues from the Consolidated Fund for both the Recurrent and Development Expenditure in the year 2012/2013 amounted to Kshs.1,144,876,202,395 against the total receipts of Kshs.1,144,213,138,124 resulting in a deficit of Kshs.663,064,271 as at 30th June, 2013. However, when this is added to the Exchequer balance of Kshs.1,159,431,088 brought forward from 2011/2012, the noted overall net surplus is Kshs.496,366,817.

Two, we noted, as far as expenditure control is concerned, there was excess expenditure incurred during 2012/2013 without parliamentary approval that totalled to Kshs.38,495,253 compared to Kshs.7,048,222,156 recorded in the previous year. This excess expenditure of Kshs.38 million was incurred under four major Sub-votes, namely Witness Protection Agency, Commission for the Implementation of the Constitution, and under Development Expenditure, we had the Judicial Department and the Public Service Commission.

It is the Committee's considered position that expenditure without parliamentary approval constitutes a grave violation of the Constitution and must be severely punished and cease forthwith. The Committee recommends that stern action be taken by the appointing authority against Accounting Officers and Treasury officials responsible for this breach of the letter and spirit of the Constitution. The Director of Public Prosecutions (DPP) should also seriously consider prosecution. Further, the Cabinet Secretary, National Treasury, must promptly institute stringent measures to ensure fiscal discipline in the public sector.

The third observation was on pending bills. During the year ending 30th June, 2013 a number of Ministries and departments did not settle bills amounting to Kshs.43,634,365,991 comprising Kshs.12,198,920,189 and Kshs.31,435,445,802 under Recurrent and Development Votes, respectively. These pending bills were instead carried forward to 2013/2014. The Ministry of Roads topped the list with bills amounting to Kshs.21,324,630,000. It was followed by Ministry of Defence at Kshs.4,463,081,171 and the Independent Electoral and Boundaries Commission (IEBC) followed at Kshs.4,045,023,700.

Therefore the Committee noted that failure to settle bills in the year they fall distorts the financial statements for that year and adversely affects provisions for the subsequent year to which they are charged. Failure to settle bills in time has serious implications for suppliers and the economy in general and portrays the Government in bad light. Delayed Exchequer releases significantly contribute to pending bills and interfere with procurement plans of Ministries and departments.

Therefore, the Committee recommends that Accounting Officers should institute measures to ensure that Bills are always cleared within the financial year they fall under. The National Treasury should ensure timely Exchequer releases to Ministries and departments to enable them settle bills as they fall due. The Cabinet Secretary for National Treasury should prepare a status report on the work of the taskforce on pending bills together with a schedule of all pending bills and submit the same to the National Assembly by 30th June, 2015, failure to which he will be held accountable.

The fourth observation was that of the paradox of surplus funding. The Committee has noted that it has become a tradition for the Government to report of surplus funds at the end of financial years. For instance, during the year under review, that is 2012/2013, there was a reported surplus fund of Kshs.496,366,817. The Committee has taken time to keenly interrogate this position *vis-a-vis* the phenomenon of perennial pending bills, under-funding of projects and non-financing of projects. The Committee finds it supremely paradoxical that you would have a surplus fund while at the same time you are saddled with pending bills, under-funded projects and non-funded projects in the same financial year. Exactly, how would the Government have a surplus and a deficit at the same time?

If this paradox is the reality, it is true that surpluses exit while the Government continues to bear costly deficits. Then this raised serious questions on the Treasury's ability and capacity to manage the Budget.

Hon. Speaker, the other observation is the collection of Appropriations-in-Aid, which we found to be a big problem, in so far as the Development Vote is concerned. The actual total Appropriations-in-Aid realised in the year under review amounted to about Kshs161,103,373,463 against estimated receipts of Kshs246,324,860,619 resulting in a deficit of Kshs85,220,713,157. The deficiency represented approximately 35 per cent of the estimated collections and was mainly recorded under the Development Vote, where collections of Kshs91,266,520,041 were realised against the estimated Estimates receipts of Kshs159,291,712,053.

The Committee noted that failure by Ministries and Departments to comply with the conditions agreed with the development partners has been a major contributing factor. Development partners also contribute significantly to this problem by setting sometimes, impossible conditions including the insistence on retention of original accounting documents. It is, however, noteworthy that in a bid to address this challenge, the National Treasury has been developing the Kenya External Resources Policy, but the Committee is concerned that the process has taken too long and must now be concluded pronto.

The Committee, therefore, recommends the following:- All Accounting Officers in liaison with the National Treasury should develop an implementer programme of action to comprehensively address the under-expenditure and under- collection of Appropriations-In-Aid in their respective Ministries and Departments. The National Treasury should ensure that the Kenya External Resources Policy is submitted to the National Assembly for adoption, not later than 31st December, 2014, to substantively address all the issues related to funding by development partners. Accounting standards is also one of the other observations that we made. In the year under review, the Committee noted several accounting errors in Appropriations Accounts. We also had numerous cases of balances in Appropriations Accounts and those in trial balances and ledgers were not agreeing or tallying.

The Committee recommends that Accounting Officers in liaison with the National Treasury should take immediate action to ensure that Ministries or Departments adhere to the International Public Sector Accounting Standards (IPSAS) in sync with the Public Finance Management Act of 2012.

Finally, we had the issue of unsupported expenditure where in 2012/2013, a number of Ministries and Departments failed to avail documents in support of various expenditures totalling to Kshs33,922,820,719 appearing in their respective Appropriations Accounts. The Committee observed that failure to support expenditure was a serious violation of the Constitution, statutes and regulations. The Committee further noted that in many cases, supporting documents required for audit review were submitted way out of the audit cycle. The Committee recommends the following to the Accounting Officers:-

1. That they should institute strict measures to ensure that their Ministries and Departments have in place proper record keeping systems. They must ensure strict adherence to Section 68 of the PFM Act and they must be held personally responsible and be duly surcharged for all the unsupported expenditure.

Most of the issues that we dealt with were issues that should have been sorted at the time when management letters were made available by the Auditor-General to the Ministries. Most of them ignored those audit management letters and only came to deal with those issues before the Committee. That gives the Committee much more work to do than it is necessary.

Imprest control was also seen to be an issue. It reviewed balances which ought to have been recovered or accounted on or before 30th June, 2013, but were still outstanding as at the date, amounting to Kshs633,178,658. The Committee observed that the Government financial regulations and procedures on imprest as supplemented by the Treasury circulars spelt out guidelines for the management of imprest and faulted Accounting Officers for failing to enforce them leading to widespread malpractices. The Committee therefore, recommends that Accounting Officers take immediate action to ensure that all outstanding imprest within their jurisdictions are fully recovered by 30th June, 2014. Accounting Officers should institute measures to ensure that the Government financial regulations and procedures on imprest, including the requirement that imprest should be surrendered within 48 hours after completion of the assignment are strictly adhered to. Accounting Officers be held responsible for failure to enforce this law.

Finally, there was concern over the performance by some Accounting Officers. Some Accounting Officers, as I mentioned earlier, failed to respond to management letters from the office of the Auditor-General, had poor responses to audit queries, there were late submissions to the Auditor-General; numerous excuses to avoid or delay appearance before our Committee and failure to act on the recommendations of the PAC. Close to 60 per cent of the audit queries in this Report has been resolved by way of belated action by Accounting Officers upon being summoned by the PAC. This would most probably have never been audit queries if the Accounting Officers had sufficiently and promptly responded to the auditor's management letters. In most cases, the Accounting Officers act of queries when just about to appear before the PAC and when ordered by the Committee during sittings. Common issues include failure to provide documents at the time of audit; failure to provide footnotes; failure to do reconciliations and provide explanations for differences between sets of records.

In this regard, the Committee recommends that Accounting Officers should take the audit process seriously and ensure prompt action on the Auditor-General's management letters to

forestall unnecessary numerous audit queries. In future, the Committee will name and shame Accounting Officers who do not take the audit process seriously, especially those who fail to act on its directives and the Auditor-General's management letters. The PAC will hold them personally responsible with the attendance sanctions. Conversely, the Committee will duly recommend the best performers.

With those remarks, I beg to second.

(Question proposed)

Hon. Speaker: The Member for Suba.

Hon. Ng'ongo: Thank you, hon. Speaker. I would like to thank you for allowing me to be the third speaker to talk about these accounts.

Let me start by saying that the 2010 Constitution placed a very big responsibility on the National Assembly.

[The Speaker left the Chair]

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

Why do I say so?

Hon. Temporary Deputy Speaker, you realise that Article 229(4) (a) says:

“Within six months after the end of each financial year, the Auditor-General shall audit and report, in respect of the financial year, on-

(a) the accounts of the national and county governments.”

Hon. Temporary Deputy Speaker, it means that once we conclude the financial year by June, then by December the accounts should be audited by the Auditor-General and report laid before Parliament.

Hon. Temporary Deputy Speaker, Article 229(8) says:

“Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action.”

Hon. Temporary Deputy Speaker, what that means is that for example the financial year that ended in June this year, by March next year we should be done with the report and pass it in this House.

Hon. Temporary Deputy Speaker, when we were appointed to the Public Accounts Committee (PAC) by this House, we found that we had a backlog of five years. I think the PAC chaired by my able Secretary-General in the Orange Democratic Movement (ODM) party, hon. Ababu Namwamba and deputised by the gracious lady, hon. Cecily Mbarire, has worked tirelessly hard to ensure that we are up to date. As we speak, we have no backlog if this House will find it fit to pass these three Reports. That is not mean achievement and I think my Committee deserves to be commended.

Hon. Temporary Deputy Speaker, in the course of our work we noticed and realised that there is a lot of wastage in Government. A lot of money that is collected in terms of revenue in this country is equally wasted in questionable suspect expenditures. Even as we look out, because we just passed a Motion increasing the debt ceiling in this country, we should think

seriously that we could cut down on borrowing by prudently using the resources that we collect internally.

Hon. Temporary Deputy Speaker, I want to straightaway go to the body, details and meat of our Report because I know I do not have much time.

First, I want to start by looking at the audit queries of 2012/2013 which is the last financial year which we have considered. We must seriously handle the Ministry of State for Internal Security and Provincial Administration differently. This Ministry is hiding in security matters and confidentiality to fleece, rob and literally steal from this country. The officers in this Ministry literally steal from public coffers. Why do I say that?

Hon. Temporary Deputy Speaker, there has been public debate about confidential expenditure which a lot of times has been talked about, of Kshs15 billion and Kshs2.8 billion. Well, I want to admit that the figure that our Committee worked with from the Auditor-General was Kshs2.8 billion.

Hon. Temporary Deputy Speaker, the Constitution is very clear under Article 201 that there is need for openness, accountability and transparency in management of public finance; even the Public Finance Management Act speaks to the same. However, again there are Government regulations which allow some level of confidentiality in terms of security expenditure. The Government financial regulations and procedures say that any expenditure on services of a confidential nature, the purpose and particulars of which cannot be made public must be supported in the accounts by a certificate that the money has been paid.

Hon. Temporary Deputy Speaker, the fact that expenditure is confidential is not a blank cheque to the officers who are responsible to just apply public funds without any accountability. They are required to have a certificate to show that the money has been paid out or received.

We listened to the Accounting Officer responsible for this Ministry explaining to us some of the expenditures that were queried, but the explanations given were not convincing at all. There was no certificate to indicate that these amounts were spent properly. In fact, it goes ahead to say that a declaration by the Minister responsible for the department that he has satisfied himself that the money has been properly expended and has not been used to supplement the emoluments of any officer, is a requirement. Actually, a lot of the amounts that were spent in this Ministry were used to supplement the emoluments of these public officers.

Hon. Temporary Deputy Speaker, even though these regulations are important, the Act of Parliament overrides regulations. The Constitution even overrides Acts of Parliament.

Hon. Temporary Deputy Speaker, there were suspicious expenditures. I want to point out that according to Government regulations, you cannot withdraw more than Kshs700,000 in a day. However, looking at the records you realise that on a particular day like 26th February 2013 there were about five withdrawals. The first withdrawal was for Kshs20 million; the second for a different cheque was for Kshs20 million; the third one was for Kshs40 million; the fourth one was for Kshs30 million and the fifth one was for Kshs30 million. In a single day the Ministry of State for Internal Security and Provincial Administration withdrew Kshs130 million cash to spend on what? You can never tell.

Hon. Temporary Deputy Speaker, we must rein on this so-called confidential expenditure. A way must be found, otherwise we will continue collecting taxes from the people of Kenya and yet a few individuals get rich by misapplying the same.

Hon. Temporary Deputy Speaker, in fact if you allow me again, on 5th March 2013 just a day after the general elections, this Ministry withdrew Kshs300 million in cash. To do what?

You cannot explain. How on earth can a Ministry or a Department withdraw Kshs300 million? That is why this Committee is recommending appropriate disciplinary and prosecutorial action against the relevant Accounting Officers. Again I want to be very categorical; the Permanent Secretary responsible for this Ministry at this time, and I think that is none other than Mutea Iringo, must be held responsible and prosecuted. These people must be prosecuted. They cannot just misapply the taxes that Kenyans pay - all of us pay taxes. We are not enjoying paying taxes but we must do that to provide services and not to line up the pockets of a few individuals.

Hon. Temporary Deputy Speaker, again in the same Ministry, I want to go to the irregular procurement of residential houses and commercial units for police. This is a Ministry where some officers just decide on a particular day that they want to procure police units and then they give description. They even say that they want three bedroomed and two bedroomed houses in the ratio of 80 per cent to 20 per cent. How on earth would a genuine person who has property know that? How would he even anticipate that there will be a requirement for this number of three bedroomed houses and this number of two bedroomed houses? It is clear that this advert was tailor-made for a particular vendor.

Hon. Temporary Deputy Speaker, you realise that there was only one person who forwarded the bid and without shame, that one particular vendor provided a sealed tender. Now, the question is: If you are only one, why do you even put it in an envelope? Why do you not walk to the Ministry and hand in the quote? That is for that Ministry and a lot of irregular procurements are in it.

However, I want to talk about State House, if you allow me. State House paid up to 85 per cent of a contract sum for the construction of a workshop and a petrol station at State House, which was contracted for Kshs105 million. State House paid Kshs88 million by the time of audit. However, up to January this year the level of work was so low. You find payments were made in May 2012 and yet the work stalled in 2011. This is something that we cannot forgive. This is something that cannot be excused. The Accounting Officer of State House then must be held responsible.

Hon. Temporary Deputy Speaker, I want to talk about the Judiciary. Judiciary is another den of corruption and when we bring a comprehensive audit report on Judiciary, it will be a shock to this nation. This is one department of Government where the official residence of the Chief Justice has been in the public news for quite some time. The professional surveyors have estimated that, that House cannot cost more than Kshs180 million, yet the Judiciary paid Kshs310 million. Even the procurement methods used were faulty. Above all, the House is not even occupied as we speak. What a waste of Government expenditure!

I want to touch on the Independent Electoral and Boundaries Commission (IEBC) which some of us are saying that it should have been disbanded long ago. It is not playing politics, it is a fact. This is a den of corruption! You cannot conduct elections if the body itself is too corrupt. We will bring an independent report on IEBC.

Hon. Temporary Deputy Speaker, let me conclude by saying that this House owes the people of Kenya; it should stop doing reports and keeping them. If reports have been done and are approved, we expect the Ethics and Anti-corruption Commission, together with the Director of Public Prosecutions (DPP) to move with speed; especially on the Office of the President, and get the Accounting Officers who allowed this wasteful expenditure, to be prosecuted so that it serves as a lesson to others who may attempt to dip their fingers in public coffers.

With those remarks and because of time, I would like to support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well spoken. This is a very important Motion. We are adopting three reports of the Public Accounts Committee (PAC); the reports for 2010/2011, 2011/2012 and 2012/2013 financial years.

It is important that we are keen on this. This is really a very important Motion for this country. Let us hear from the Member of Parliament for Nambale Constituency; hon. Sakwa Bunyasi.

Hon. Bunyasi: Thank you, hon. Temporary Deputy Speaker. I rise to support this extremely important Motion that is before the House. This House has a major role to play in resource allocation and oversight of resource use. That is a function that was enhanced by the Constitution. The House plays this role through PAC; of course, it then comes before the Floor. As you all know, the House takes keen interest in the Budget and Appropriations Committee because it determines which way we are going to move. At the same time, I appeal to the House that we should take equally intense and passionate role in ensuring that the resources are, indeed, used as had been programmed and approved by the House.

Hon. Temporary Deputy Speaker, if we want to achieve the outcomes that we are seeking--- When we pass the estimates meant to finance priority programmes and projects to achieve certain levels of growth, we have to be sure that the funds are used well in those projects. They must be used in a manner that is consistent with the laws that govern the use of public funds. Therefore, it is an enviable role that the House has been given by the Constitution and it is extremely important.

Similarly, the role of oversight is sometimes painful. It is not always pleasant. It is not a role that you can play with in terms of the divisions that we see in the House; in terms of one side of the House or the other; majority or minority. If you are a person who cares about this country, or the president for example, who wants to achieve a certain mandate in five years or so, then you must be concerned about what happens in the use of funds. If you do not, then you are undermining the president you might be seeking to support and the very constitutional provisions that we swore to uphold.

Hon. Temporary Deputy Speaker, this has been a very onerous task, indeed. It has taken extremely long hours. I am glad that it has seen the light of the day, contrary to earlier views that the Committee was not working. The work of the PAC requires extreme due diligence and you cannot report work in progress. You have to get to the end to be able to report. To do this work effectively, the Kenya National Audit Office (KENAO) must be strengthened. This cannot be overstated. I hope that our colleagues in the Budget and Appropriations Committee and the Finance, Planning and Trade Committee and, indeed, the whole House will provide resources to KENAO effectively.

The Kenya National Audit Office will be looking at 47 counties in addition to its actual roles. This is an extremely important function which cannot be discharged unless KENAO is sufficiently strengthened. The idea of using the old style of; if they ask for a billion, you give them half a billion, does not work well with KENAO. In fact, even at the best of circumstances it still needs to outsource its functions. Therefore, they need to be adequately funded. We would have done even a better job if KENAO had been adequately given resources.

Hon. Temporary Deputy Speaker, one thing that I found completely unacceptable and was bordering on callousness; is the non-responsiveness of Accounting Officers. The responses that were given to queries; management letters, were given only a few weeks or few months before appearing before the PAC. Some appropriate sanctions must be found for officers who

disregard the KENAO management letters that would have made the work that we do easier. Perhaps, if they did that, these reports would not be as big as they are, they could be only a small fraction of what they are now. They would be focusing only on key issues such those that had been outlined by the Chair and the Vice-Chairman. This House would, indeed, deal only with critical and not mundane issues.

Some of the most disturbing aspects of it have already been stated. All over the world, debate or arguments of what is confidential and what is not has been going on. How to treat confidential information to the satisfaction of the taxpayer as presented in various laws and so on is a raging debate. It is illegitimate for someone to defend and say: "You are asking for too much, we cannot provide that." Even the agencies themselves are unable to ascertain the appropriateness of the use of funds. Even within their internal and confidential processes, we note that there is a major problem. I would urge the House to find a solution in which we use the confines of confidentiality, however defined. There is somebody somewhere who is vetted and accepted and who will be able to authenticate the use of those funds. Nobody is questioning the need to have such confidential expenditures. Every government has that, but no government will allow that to be a window in which cold air flows in unimpeded. I think that is the message that we must truly emphasize.

Furthermore, in areas where the Government has been taken to court because of certain transactions – they have become subject of judicial review - the issue of preparedness of the Government of Kenya is totally wanting. It would have been fair to say that cases that are lost seemingly, willfully or through negligence ought to be surcharged on somebody when the report has not gone far. I hope the agencies concerned will do some soul-searching so that they do not get named every year these reports come before the House. It is totally unacceptable that even in cases where the Government has won, they have not been followed to make sure that payments are made. That goes completely undone.

Secondly, even where they have judgments against the Government, delays in following up with Treasury have made the Government incur penalties and these are large sums of money. In a country where demands for social services are so high, we cannot afford these kinds of careless losses of funds.

Hon. Temporary Deputy Speaker, apart from those legacy cases like the Anglo Leasing and Ken-Ren, there were some spectacular cases like the procurement of the housing that has been adequately discussed by my colleagues. We also had a tough time in respect of the audit of the Constituencies Development Fund (CDF). In terms of length of paper, I think the CDF was 60 per cent of the documentation that we were looking at. In terms of pulling the whole thing together, the CDF took an inordinate amount of time. I hope that the request to resource the Kenya National Audit Office (KENAO) is done and generally considered so that they can look at the very many individual entities around constituencies that constitute the CDF funding.

For once, we should shift the true policy debate in terms of allocations in revenue sharing arrangements to show where it should lie. Even though this is going to be completed; even though we expect that by next year's Estimates they will be using the latest audited accounts which will be the latest audited accounts available, the issue of calculation of the share will be accurate in accordance with the Constitution. It should not, as has been alluded to in the past, negate continuing debate on its adequacy. That debate can continue. When I hear people getting disappointed and say that accounts have been rushed and that the issue of the Referendum is being undermined, I get surprised. In fact, it is now providing a firm basis for the public policy

debate about how much should be allocated to the counties and whether it is adequate. Those are completely different issues, but I am glad that in respect of the role of this House, as exercised through the Public Accounts Committee (PAC), that has been overcome.

We have talked a lot about expenditure; we also need to talk about revenue because it is part of what we receive in these Estimates. There is a huge variance between the revenue estimates as expected by the various Ministries and how they enter them into the Budget and the actual availability of resources. Part of that problem arises from the fact that donor funds, particularly multilateral funds and sometimes bilateral funds are not released in accordance with the schedule that the Government had anticipated. We have asked over and over and told a few officers to be more realistic in what they provide in their budgets, but I think it is a matter that needs to be looked at much more seriously because any time there is a shortfall in funding, it means that the projected expenditures in relation to how much growth we expect cannot be achieved. So, I think special care needs to be put on the revenue side as well to ensure that we get the resources---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is up. For your information, just remember we have ten minutes to contribute on this.

Hon. Gichigi: Hon. Temporary Deputy Speaker, I rise to also support this Motion. I wish to begin by thanking the Committee that has done this good job. In fact, we can only say that it is extraordinary performance on the part of a Committee in this House. We ask them to keep it up. We ask other Committees to follow suit.

I am happy that governors will have to keep quiet after we adopt these reports because every time they talk about the funding to the counties, they blame this House for delay in approving the audited accounts. Once we approve these accounts, we will have a realistic calculation of the percentage of the Government revenue that is going to the counties. Once we approve these accounts, we should forget the necessity of a referendum unless it is just a political gimmick and way to sustain the relevance of certain individuals. Immediately after we pass these accounts, we will not need to do that. Indeed, based on the current percentages, the revenues to the counties or the share to the counties could even double to more than Kshs400 billion. I, therefore, think that it is important that Members of this House act speedily to conclude this particular Motion.

Having gone through the executive summary that has been given by my colleagues--- Before I go into it, it is important for Committees to ensure that their reports are available to hon. members so that they can ably participate in debate. We have not seen the bigger report. We are actually acting on the executive summary. It is good and it is going to guide us but it is important for us also to have a look at the actual detailed report. I ask the Committee before we conclude this debate that it is availed.

Hon. Temporary Deputy Speaker, it is shocking to see how public officers have been looting from our Government. It is clear that at the tail end of the *nusu mkate* Government, there was a frenzy to loot public coffers, starting with the confidential expenditures. It is shocking. People were withdrawing Kshs30 million, Kshs150 million and Kshs300 million in a day and the Auditor-General and our PAC cannot tell where that money went. While we are not interested in what is called confidential information we must, for sure, know that that money did not go into the pocket of an individual or individuals; that indeed that money went to fund public projects for use by the public. It is very sad that there is that possibility. If this is what has been happening over the years, no wonder we have a huge Budget but we can show very little in terms

of development in this country. I think the intention of the Committee to name and shame those Accounting Officers in future is not even right, we should do it now. If we are talking of Kshs2.8 billion not being accounted for and the officers were given a chance to explain how that money was spent and they did not do it or they were unable to do it, those are people who properly belong to jail. We should not have a situation where such people are in an office still doing what they were doing last year and the other year; looting public coffers. I would strongly suggest that in addition to this Report, if necessary, we propose amendments to ensure that those people go to jail.

When we hear that the Judiciary is part of the looting clique, it shocks us because this is the last arm of the Government or body that we would expect to be involved in this. When the Report says that the Judiciary cannot account for over Kshs2 billion, where is this country going? Those are the people who are supposed to be judging others in this country. When we hear that a house that ought to have spent about Kshs150 million consumed Kshs300 million in terms of purchase price, that is double, this is just showing us that we can hardly trust anyone in this particular country. Citizens contribute taxes but the high offices end up squandering that money.

Hon. Temporary Deputy Speaker, when we are told that State House gave out a contract of over Kshs100 million for a petrol station, Kshs88 million has been given but there is nothing to show for it and nobody is in jail - neither the contractor nor the officers who paid that money without any services being rendered or any goods delivered - we need to be more serious. As a House, the Constitution gives us the oversight role. We need to insist on the Ethics and Anti-Corruption Commission (EACC) and the Director of Public Prosecutions (DPP), not only do we require heads to roll but we need people to be jailed for those malpractices.

It is also very sad as Members of Parliament that some of our constituencies are not able to account for money given as Constituencies Development Fund (CDF) and yet, this is the little money that Kenya has been seeing reaching *wananchi*. I am pleading with my colleagues to ensure that we have proper structures of expenditure in our constituencies. We should ensure that we rival any other accounting officers in terms of value for money in terms of expenditure.

As I conclude, I plead with the Jubilee Government officers; please, we have a Government that wants to deliver. Let us not copy what has happened in the past. Let us ensure that this country uses money that is supposed to go for that development. Otherwise, Vision 2030 is going to remain a pipe dream. We are banking on the billions to be spent on development to generate and grow the economy and, therefore, generate more income and earnings for this country. That money is actually going to lie in the pockets of individuals and the economy will never grow, if we are not careful. So, I thank the Committee, but the people who have been identified as thieves in this Report should be held accountable. Let them end up where they belong - in jail. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Member for Kipipiri. Let us have the hon. Member for Kesses, hon. James Kimaru.

Hon. J.K. Bett: Thank you. I also want to take this opportunity to thank you for giving me an opportunity to contribute on this important subject of tabling three consecutive Appropriations Accounts for the past three years. I am a happy man as a Member of this Committee. I want to prove my friends, like hon. Tonui who is Member of Parliament for Bomet Central, who at one time on the Floor of this House said that this is one Committee that is lazy, wrong. So, we want to dispel such statements for the fact that this is a Committee that has been able to table five Appropriations Accounts in a space of one year. I also want to commend the

Committee Members for their commitment, resilience and consistency in looking at the Appropriations Accounts for the past three years. Members have even denied themselves recess periods to take time and look at these accounts. I would like to say that we were able to do these accounts guided by the constitutional principles of public finance, other legislative principles like the Public Procurement and Disposal Act and we executed our role effectively, objectively and in accordance with the Standing Orders.

I would like to say that it was not easy. It was not a walk in the park. We had a raft of challenges when we were trying to do this work, considering that this was a newly constituted Committee. Most of the Members were new and the huge backlog was, in itself, a big problem.

The other problem was the preparedness of the Accounting Officers. Many Accounting Officers were ill prepared to present the responses for the audit queries. Certain Accounting Officers, looking at their annexure and appendices, would refer you to say Appendix 10, but when you refer to Appendix 10, it talks of a totally different thing, separate from the question that is being asked. This, in itself, delayed the process of looking at this.

The other biggest challenge that we realized was the capacity of the external auditor's office. They have a limitation in terms of auditors to audit the Government Ministries and departments. This one gives us a bigger worry as we are supposed now to audit the 47 counties. As we table the three audited accounts for the last three years and raise the threshold for division of revenue between the counties and national Government, this raises the bigger question as to whether the funds that will be devolved to the counties will be well taken care of. That is because, when you look at the Public Accounts Committees of the counties, they have no capacity and they may not be in a position even to play oversight role. I think this is a question that we really need to look at because we may subject the huge funding that we devolve to the counties to a lot of risk and misuse as we intend to spur economic development.

I want to touch on other major highlights like the CDF. I would like to say that in the 2012/2013 Financial Year, if you looked at the audit queries that emanated from CDF, they were so huge. However, I want to say that the audit office was unable to look at the serious issues on this. The small problems that we faced were due to the fact that there were no expenditure returns. People did not take time to go and get the expenditure returns. That is why they said that CDF was not well audited. I would like to say that even as we deliberated in our committees, we realized that if there is one single fund that has spurred economic development in this country, it is CDF. When you walk around this country, almost every classroom, cattle dip and laboratory is from CDF. I want to take this opportunity on the Floor of this House to commend Members of this Parliament for being able to utilize the CDF in the most prudent manner that has spurred economic development in this country.

Even as we argue as to whether or not the CDF should remain, I want to use this platform to say that the CDF should be doubled so that, instead, of being 2.5 per cent of the GDP, it should be increased to 5 or 10 per cent because of what it has done.

The other highlight that came to our attention is the component of pending bills. We realized that pending bills continue to be the most dominant and persistent audit query across all the three financial years. We realized that the major cause of pending bills was delayed exchequer. Ministries and departments continue to commit the Government by way of Local Purchase Orders (LPOs) or Local Supply Orders (LSOs) and, at the end of the financial year, exchequers are not released from Treasury. So, they spill over to the next financial year as pending bills. Funds for the subsequent financial year are used to settle the pending bills. We

have recommended that Treasury should be able to release funds appropriately so that we meet all the pending bills. My attention, together with that of the Committee members, was also drawn to some old historical audit issues like KenRen, the fertilizer plant that was to be built back in 1970. The Committee has recommended a way of concluding that audit query, so that it does not appear year after year. It has been an old audit query. We have spent a lot of money and the Committee has put in place measures to ensure that, that audit query is dealt with so that it does not feature in subsequent financial years.

On Anglo leasing, the Committee also intends to bring this to an end, so that we do not have a repeat. There is also the issue of police housing. I take this with great exception. As a member of the Committee, I would like to say that the mode of procurement that was used in procuring police housing was not direct procurement. Going through the records, you will realize that the mode of procurement was open tender and only a single bidder was able to qualify for the housing project.

With regard to value for money, within the same prefix of police housing, there are members of the public who bought the same houses at similar prices. What that tells you is that the process, methodology of procurement and the value for money for the same police housing was not achieved.

Thank you for giving me this opportunity to put my voice on this.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well spoken. The hon. Member for Balambala Constituency, hon. Aden, the Floor is yours.

Hon. Aden: Thank you very much for giving me the opportunity to contribute to this very important Motion.

From the outset, I support the adoption of this Report. Let me begin by profoundly congratulating the Committee for a job well done. They have made history by ensuring that this House is up to date as required in terms of ensuring that the audited books of accounts by the Government have been reviewed and brought before the Floor of this House, so that we can do what we are doing today; that is, to debate and adopt the reports so that they can form the basis of future financial planning. This is also very important because for the last two years, now that we have passed and appropriated funds between counties and national Government, this House was blamed for using outdated audited books of accounts as approved by this House in terms of appropriating. For that reason, we were said to have been part of the problem of counties not getting adequate funding. With what has happened now, I am very impressed and proud to hear the Chairman challenging the Auditor-General to ensure that he brings the other 2013/2014 audited accounts at the soonest time possible before the end of December, so that they can do justice to them. This is something worth mentioning. I believe the appropriations we are going to do in the coming year are going to indicate the records of the most recent books. The process of planning for next year's Budget is already underway in the Government. It is now undertaking public hearings to ensure that it prepares the budget policy statements which will form the basis of this House appropriating funds in the future. I am, therefore, happy about this development.

Parliament has a role to oversee the national Government to ensure prudent financial management. This Report has shed light on a number of issues worth mentioning. Many of my colleagues have highlighted a number of issues. I want to briefly say that the Accounting Officers of the Government must live up to the reality of the wishes of many Kenyans, which is a corruption-free Kenya. It is saddening to see that certain financing officers in the Ministry of Interior and Coordination of National Government and other departments mentioned, have faced

no action. Action must be taken against those officers who have been mentioned in this audit Report. Otherwise, what we are doing will be an effort in futility. That is because these reports have been published and the Auditor-General has put the records straight. Accounting Officers in certain departments of Government have not been able to account for huge amounts of money worth Kshs2.8 Billion. In terms of revenue collection, you will be very surprised to see how much our economy is leaking. It should be a priority to use such important reports as the basis to ensure we close those leakages. We need to hold those Accounting Officers to account and be responsible for any loss of public funds that has occurred within their jurisdictions.

We need to strengthen and build capacity in the Office of the Auditor-General. More than ever, they are overwhelmed by work. They now have to audit not only the national Government but in addition, all the 47 county governments. We need to ensure the Auditor-General has adequate resources and manpower to work fairly fast so that Kenyans can know how their money is being spent. The money that is being accounted and talked about today is easy to point out and say: This is just Government money; that Kshs2.8 billion was lost and vehicles worth Kshs460 million were tendered for but were not delivered. That money was gotten from the taxpayers who had to sacrifice a lot. The Kenyan taxpayer is making available resources so that our Government and economy can move and function as it is required. Unfortunately, it is very disheartening to see that the same monies which were earned in those difficulties are not being accounted for well or are being misappropriated. The excess expenditures within the different Ministries, as these reports have detailed, are also an issue that needs to be looked at. We need to be very prudent and that is what the Constitution envisages. We need to be prudent in the manner in which money is spent. When you see a high ranking institution like State House being mentioned in this Report, as one of the institutions that are now being pointed fingers at in terms of losing certain amounts of money for projects that were started but not completed, it is very sad. Over 80 or 90 per cent of such projects were paid for. Some of these issues are, indeed, what the Kenyan taxpayer wishes to see a solution to.

Much has been said by my colleagues. I commend the Committee for the good work. I think we are doing justice as required. I believe by passing this Report, we will have done our bit by ensuring that the next appropriations will be done on the most recently available records of this Government.

I thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Well spoken. Hon. Members, I must appreciate the quality of your debate. Hon. Member for Kipkelion West, hon. Jackson Rop, the Floor is yours. Are you in the House?

Hon. Rop: Thank you very much, hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Motion.

On the outset, I want to support the Motion and say that, as members of Public Accounts Committee (PAC) where I also sit; we had a lot of challenges in coming up with these reports. As the Chair of PAC put it, it is historical for the first time in the record of this House to have three consecutive financial years' reports being tabled in the House. For sure, it has taken us time. We are almost becoming obsolete in our constituencies because most of our time has been used in coming up with these reports.

I want to say that our brothers and sisters at the county level will soon be laughing because we were struggling as a Committee to meet the constitutional requirements of Articles 202 and 203 on equitable revenue sharing between the national Government and the county

governments. For sure, once these reports have been adopted by this House, come the next financial year, the allocation that will go to the counties will be slightly higher than what we have seen in the recent past.

Hon. Temporary Deputy Speaker, I want to say that we had several issues that came before us. I am happy that the Office of the Auditor-General is really working round the clock. I want to join my colleagues, especially hon. Sakwa, in helping to boost the department of the Kenya National Audit Office (KENAO) in terms of financing and staffing. That is because as we sit now, that office is auditing not only the national Government, but also the county governments. You can see the enormous task that is lying before them. So, there is need for that office to be boosted in terms of finances so that they can engage more qualified accountants to do the auditing.

The essence of auditing is to confirm whether or not public funds were applied according to the law and that is a very big responsibility. We, as PAC, rely majorly on the reports that are generated by the Auditor-General. So, that office should be empowered.

The issues that came before us majorly were the non-responses by the Accounting Officers to the management letters. When you see the reports that were tabled before us, we were even unable to carry them because they are so huge. That was because there were several issues that could have been cleared by the Accounting Officers with the auditors during the audit cycle. We found out that those officers take their time until when they are about to appear before the Committee. That is when they will now rush to respond to audit queries, leading to several unsatisfactory answers even to the auditors.

Issues that were raised include lack of prudent financial management by the Ministries or the Accounting Officers and inappropriate record keeping by the accountants and yet, most Government accountants are qualified. The issue of record keeping is being queried by the Auditor-General; it is very unfortunate. We are recommending that all accountants should adhere to the International Public Sector Accounting Standards (IPSAS) so that we can have proper recording and reporting of accounts. Issues of unsupported expenditures and un-vouched expenditure - which is an expenditure that does not have a payment voucher - you expect an auditor to make a decision on that payment. We are urging the Accounting Officers to be very keen on the way Government expenditure is being incurred.

Hon. Temporary Deputy Speaker, we also noted that most Ministries have a cross-cutting issue of pending bills that are running into billions of shillings every financial year. That will curtail the performance of that Ministry in the subsequent year because it has to be charged to the next Budget. These are the issues that we are encouraging the Accounting Officers to really adhere to in their budgets so that they do not spread their expenditure beyond that particular financial year.

Imprests have been an issue in every other Ministry. People are taking money as if they have taken loans and they are unable to account for the same. We are not going to encourage that as PAC. We want the Accounting Officers to use money for the intended purpose.

The confidential expenditure that we queried for the first time has been running all through. Confidential expenditure has been there since time immemorial. For sure, no Head of State can rule without money, but what we are saying is that let us have officers who have been vetted, both auditors and those handling those expenditure, so that when they are doing the auditing, we can easily access those reports or records. I know that we cannot stop confidential expenditure.

Hon. Temporary Deputy Speaker, issues of revenue collection and under-collection of Appropriations-in-Aid are really rampant in most Ministries. This was as a result of donor partners failing to submit the accounting records to the Ministries on time or even failure to submit them. We have made a recommendation in our Report that the Ministry of Finance should come up with an external policy that will come to cure this problem that we have been facing.

It is worth noting that Article 226 (5) is telling us what all those who are handling public funds are expected to do. I want to read that section. We have been quoting it every other time An Accounting officers appear before us. Article 226(5) of the Constitution states:-

“If the holder of a public office, including a political office directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.”

So, we are saying that even in these recommendations that we have made, those officers who are responsible for the misuse of Government funds will be held responsible because the law is very clear. We have been telling the Accounting Officers that, including all of us who are managing Government funds.

I want to echo the comments made by hon. Bett on the Constituencies Development Fund (CDF). Apparently, CDF issues were very petty, like un-supported bursaries. You have paid bursaries but the acknowledgement has not been received from the universities---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over hon. Rop. Very well spoken.

I have a point of information, hon. Members. I have been informed by the hon. Member for Kipipiri that copies of these Reports are available. A few of you must have seen hon. Nyikal carrying a very big one. This is the size of the copies. You can see the kind of work that has been done by the Committee. This is just one year and we are talking about the three years. Hon. Members, we also have the Reports online in our parliamentary website.

Let us get the contribution from the hon. Member for Suna East, hon. Junet Nuh.

Hon. Nuh: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Report.

I would like to thank the Committee, which I am a member of, for doing a wonderful job, taking their time and making sure that the backlog that they inherited from the previous Parliament is completed. This is a big achievement for us to have done the accounts for 2010/2011, 2011/2012 and 2012/2013. This is a great achievement for this Parliament because come next year, we will be current and everything will be fine.

As a member of this Committee, it is clear that Accounting Officers are never happy with our oversight. They do not like to be called to account for public money that they have been given. Most of the time, they appear before the Committee when they are not ready and even without the relevant documents. To make matters worse, they appear when they have not replied to the management letters that are written to them by the Auditor-General. They come thinking that this is just a routine job where you appear before the Committee, talk and the Committee will let you go.

Being a member of the Committee, I can attest that it is very serious with its work. Many of the times, the Committee is reminding the Accounting Officers of their duty, work and telling them what is expected of them by Kenyans. This tells you that the Accounting Officers have not taken seriously the work of oversight that is being done by this House through PAC.

One of the biggest diseases that are facing this country is corruption. There is a lot of pilferage and misuse of public funds. You will get to know that when the audited accounts and financial accounts of Government Ministries are presented to the National Assembly. There is a lot of misuse of public funds and resources without any due consideration that, that money belongs to Kenyans, which includes the Accounting Officers.

I will go to some of the reports that have been presented by the Committee. If you look at the former Ministry of Provincial Administration and Internal Security, this is the Ministry that you can describe as a den of corruption in the Government. I remember one time His Excellency the President admitting that his office had problems and he was going to sweep it clean. If you look at the Report of 2010/2011, there is the issue of purchase of vehicles at a cost of Kshs460 million. That issue had appeared in the reports of the previous years, of 2008/2009 and 2009/2010, where the Treasury paid the amount of Kshs460,161,822 for 159 units of vehicles which were never delivered. That means that the people of this Republic lost almost half a billion shillings on goods that were paid for and were never delivered.

The Accounting Officers that time are known and some of them are still working in the Government. The then Accounting Officer for that Ministry was one Francis Kimemia, who is still sitting pretty as the Secretary to the Cabinet of the Government of this country. He should be told to tell Kenyans what happened to that money. He should be held to account. He is alive; he is not dead. He should be judged while he is alive.

If you go to the subsequent 2012/2013 Report, there is a loss of Kshs2,853,300,000, which cannot be accounted for. If you look at the Report, which was done properly by the Committee, which is a good job by the Committee, which I also sit in, some of this money was withdrawn in cash. I do not know of a time when Government funds have been withdrawn in cash. Nowadays, even ordinary Kenyans use credit cards and other forms of payment. They never withdraw cash because of insecurity for the ordinary Kenyans. It is surprising to see Government funds being withdrawn in cash to the tune of Kshs2.8 billion.

What is even more amazing about that transaction is the timing. It was done in February and April, a time when you can recall, was a transition time when this country was preparing for an election. You know that the Government that was in place at that time was a lame-duck Government. It was a Government that was waiting for another Government to come in, so that it could hand over power. You have these huge transactions in a period like that time; February, March and April, and you hide under the guise of security because you do not need to tell Kenyans what you want to spend this money for. In one day, you go to the bank and withdraw public funds four times without explaining what you intend to use it for. If that is not corruption, then I need to be told what corruption means. The then Accounting Officer is well known. He is sitting pretty in the Government right now in the name of Mutea Iringo. He is the Principal Secretary in the Ministry of Interior and Coordination of National Government. These are people who are alive. They can be asked to tell Kenyans how that money was spent.

This is the scenario that this country has been suffering from since Independence. Action should be taken. There is no need of investigation. Many reports have been taken to the Ethics and Anti-Corruption Commission and the Criminal Investigation Department (CID), but nothing has come out of it. This is a clear indication. These are records from the Kenya National Audit Office. You do not need any more verification. The Committee has done its report; it is now the mandate of the Director of Public Prosecutions to take action and recover the money from those

suspects. I may call them “suspects” because they are not yet guilty of any offence until they are proven by a court of law.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is an intervention from the Member for Kiambu. What is your point of order?

Hon. Njomo: On a point of order, hon. Temporary Deputy Speaker. I was wondering whether it is in order for hon. Junet, who is also a member of PAC, to insinuate that the Accounting Officers were never called to the Committee to explain? He knows very well that the current Principal Secretary in the Ministry of Defence and the former Principal Secretary were called to the Committee and they provided explanation on why they had to make those withdrawals at those particular times.

Is it in order for the Member to mislead the House? He knows very well that the Principal Secretaries explained that the security situation during an election and long public holidays like Christmas and New Year, require extra funding to make sure that there is security in the area. Is he in order?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Njomo. Hon. Junet, do you want to address this?

Hon. Nuh: Hon. Temporary Deputy Speaker, I think my colleague has not read the Report. If the officers had explained the issues as required, they would not have appeared in this Report. They would have been cleared. However, he is saying that, that was election time. That does not give you powers and authority, in any Constitution or law, to misuse public funds. You must follow the law, whether it is election time or non-election time in spending public funds. Having said that - and I know he is contented - the other issue is State House, where 85 per cent of money was paid to a contractor who never did any job.

The third one is the Judiciary. These are the custodians of law in this country. However, when you look at their accounts and the way they were spending money in the last three years, you may think it is a market place. There were no rules and regulations in that place. You would think it is *Ukulima* Market where you can pick anything you want and pay the way you want. I do not know whether my time is up.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Well spoken, but your time is up. Please, plan your time. I know it is quite an interesting Motion for this country.

Hon. Chanzu: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to support the adoption of the three reports.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, if there is nothing out of order, let us allow the hon. Members to debate. You have the reports. We are debating what is in the books and what is in the website.

Hon. Chanzu: Thank you, Temporary Deputy Speaker. I want to support the adoption of the three reports of the Public Accounts Committee (PAC). I also want to congratulate the Committee for having worked on the backlog. Like it has been said, time and again, when the reports are not on time, it means we are dealing with information that is not up to date. That does not help when we are planning and making projections that we want to make. So, I congratulate the Committee for having worked tirelessly to come up with the reports of the three financial years. When it takes a long time to look at the reports and there is backlog, it means you are

dealing with postmortem. So, it becomes very difficult. Even if you find something wrong, sometimes you are just following. It is like following a horse that has bolted. It is good that the reports are up to date. The reason we voted these monies as Parliament is to ensure that citizens get value for money but now, when you hear about the misuse and misappropriations, it is absurd.

I know there is the element of performance contracting in the Government, but we are running after a number of things. There is the issue of whether there is going to be timely spending of the money and whether all the money is going to be spent. There are too many targets that are being followed. Sometimes, you find that the money has been spent but has not been spent properly. For example, the money we allocate for projects like roads, I think we are not getting adequate feedback on the utilization of the money. The only thing that we end up getting an update on is that the money has been spent. But, sometimes, when you go and check, you find that the work has not been done properly. These are some of the recommendations that need to come out very clearly on the utilization of the funds. Let us, at least, have mechanism of getting feedback. It can only be done that way. It can only be useful if it is on time. That is why I think having reports that are up to date is a very important element.

We have heard several times about the issue of wastage. Wastage is through corruption, misuse, wrong procurement procedures and substandard works or getting contractors who are not competent enough to do the jobs. It is only through these kinds of reports that we can be able to get highlights on where the weaknesses are so that we can remedy as we go along. We have talked about the county governments. It is true that because the records were not up to date, the county governments have complained that they are not getting adequate funds. But what I have been wondering is that the Constitution stipulates that they get a minimum of 15 per cent. The Constitution never talked specifically about 45 per cent or 50 per cent, but a minimum of 15 per cent. That means that they could get anything above 15 per cent. The only problem we have been having in the counties - particularly in my county of Vihiga County - is that they got a total of Kshs3 billion, but you cannot see on the ground what the money has done. Even if we say that they spent two-thirds on salaries and travel, if you look at a third of Kshs1 billion and compare with the Constituencies Development Fund (CDF) we have been getting in the five constituencies in Vihiga County, which is about Kshs60million each, that is about Kshs300 million, you can see what the CDF has done but you cannot see what a billion has done in the county. So, I think there are issues that we need to address as we talk about giving counties more money. That is because the money is taxpayers' money. They deserve to be given the money, but we must have adequate control which can enable us get value for money. It is very sad that the old *mamas* and the poor people work to get Kshs100 per day. They purchase items in which they pay Value Added Tax (VAT). That is the money that comes and then we share it out to get services, but you find that, that is not happening.

In fact, I have seen some places where governors are using the money going to the counties as handouts. They call stakeholders' meetings every week and in every location, they carry Kshs1 million which is distributed to the people. That is not what devolution was all about. As we talk about increasing the money, we should also have measures in place. The role of hon. Members here is to oversee the national revenue that goes out there. So, they have a role to play to ensure that money is put into proper use. Now, at least, we have standards and something to compare with. We can compare what CDF has done since 2003 with what is happening.

The other thing that needs to be resolved clearly is the issue of roads. I know there are circulars that have been issued but on the ground, there is still a problem. You find the way the work is being procured and the way the contractors are being employed, the governors just give directions that so and so should be given a job. There are no proper procurement procedures and there is a lot of wastage. I think that is going to increase the amount of wastage we have seen, if we do not arrest the situation. There is surrendering of imprest which is in law. In fact, there are regulations which govern the time when imprest should be surrendered. I do not know why it becomes a problem that Accounting Officers do not take care that imprests are surrendered on time. If an imprest takes more than 48 hours before it is surrendered, then it converts itself into a loan which then becomes irregular because it was not obtained as a loan. I think these are some of the recommendations from the reports which will help us to get these Accounting Officers to be responsible enough when it comes to--- Unfortunately, some of them are also culprits. There are several of them who do not surrender money they take for travel and it turns into an imprest. The most important thing is that we must ensure that Kenyans get value for money as taxpayers.

Yesterday, we were voting to increase the indebtedness of the country and yet there is a lot of money that is being wasted. That should not be the case. Whatever we get must be put into proper use. We were only doing that because there are capital projects that we must do. In future, we must weigh the situation and see that what we have is put to proper use before we think of borrowing outside.

Thank you, hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. You support. Hon. (Prof.) Nyikal

Hon. (Prof.) Nyikal: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. First of all---

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, just be patient. We have ten requests and we still have time. You will participate.

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, I must start by applauding the Public Accounts Committee (PAC) for the work they have done. They have brought us to the current status so that when we are doing the Division of Revenue Bill, we will be using the most current audited report. I think that is going to improve the amount of funds that we will give to the counties in the current constitutional arrangement.

May I also congratulate the Committee for, at least, making effort that we have the summaries. We should make it a procedure of the House that if you have a very big report, then executive summaries are produced and distributed to hon. Members so that they can look at highlights and make meaningful discussion. I have been a Permanent Secretary and an Accounting Officer. When I see these years, I think my hand must have passed somewhere there. I must say that in a way, I feel somehow vindicated in some things. I have said in the past that there is so much money that we have in the Government, that if we, as a country, use it as we use our own individual money and not call it *pesa ya Serikali*, we could provide free education in this country. We can provide free healthcare. I know that sounds like a big statement but the leakage that we have, and this has come out here, is what is retarding the development of this

country and making citizens of this country suffer by denying them the services that they would otherwise have.

On this issue of confidential expenditure, even when I was in the Government, I really had issues with it. I always felt that however confidential it is, there must be a way of trying to verify what the money was used for. I am happy today because hon. Ng'ongo has said that there are certificates that the Cabinet Secretary should sign to verify that the expenditure actually took place. We should strengthen that. We are human beings. To say that circumstances are these, that people can use money without being questioned, it cannot work. As a House, all these regulations or laws are made and we should look at this area of confidential expenditure. We should relook at the laws and find a way of making people account for them while maintaining the security that the country needs. I know now that there is a certain fixed amount of money that a Ministry can withdraw in cash in a day. This was clearly exceeded in this case, which eventually totaled up to Kshs2 billion. I have been saying here a number of times that Kshs1 billion is a lot of money. If it serves the country, that is okay. But if the explanation is not adequate as it appears here, then we need to do something about it. More importantly, the officer who seems to have been singled out and was named is still in service. It is not even the senior officer that we are talking about, but even the accountant who seemed to have been involved is still in the Ministry and efforts to transfer that officer have failed. That, in itself, the fact that you cannot transfer an officer who was involved in a thing like that, raises a lot of questions as to the validity of whatever explanation is being given. We cannot go on as a country like that.

We are told about 300 houses that were bought at the same rate. There is something in Government that we always must realize, when you are doing bulk purchase, you cannot purchase at the same rate. Somebody who is buying 300 houses at ago cannot be asked to pay exactly the same amount as one person who is buying a house with all the procedures being repeated. But I know again these are situations where you find people saying *pesa ya Serikali*. We must realize that our people need these monies, our country needs them and our sick people in hospitals need them. That is something we should look at.

If we talk of a stalled project that had 80 per cent of the construction money paid, there are procedures. I cannot understand why the Committee did not bring out what the problem was, and who is liable because there are clear procedures of how you pay for projects. At every stage, you get a certificate and then you pay. At the next stage, you get a certificate and you pay. How do you get to pay up to 80 per cent even before the work starts? We would have expected the people involved to be named and taken to court. The court may find that they were innocent but to leave it at that, that there is no explanation, really we cannot do that. Remember in other countries - I have said this before - there is a certain level of corruption that if you are found guilty, you are executed. We may start thinking in that direction.

On the issue of Anglo Leasing, it comes up again and again. I was surprised to see that there are issues that are pending; there are payments that, perhaps, should be coming towards the Anglo Leasing issue. Not long ago, we approved some payment because we lost a case. We wanted to do the Sovereign Bond and we were told that, that had sorted out the matter. Once again, the issue is still coming up. I have heard of KenRen matter from the time I was a medical student. This is still going on and Kenyans are still paying. I think we are really not serious at all.

Hon. Temporary Deputy Speaker, many things have been said but let me say something about the Integrated Financial Management Information Systems (IFMIS). It is important, as the Committee recommended, that all accountants and officers are conversant with IFMIS. IFMIS is

an important tool and I accept the Committee's recommendation. However, we must make sure, particularly at the counties, that officers are conversant with this. Apart from delaying processes, it can also be a major source of loss if officers cannot operate the system properly. It is a good system but I am more worried now when it is being introduced at the counties. So, we really must go ahead and do something about it.

On the issue of E-payment, I want to say something about it. Again, this is a progress that, as a country, we must get involved in. We must undertake and do E-payment but there is a problem with E-payment in our system. Currently, the E-payments are done through the Central Bank of Kenya (CBK) or whatever branch it is but the suppliers are at a risk because once the E-payment has been done, they cannot follow through because they do not get any paper evidence. In the counties, for example, where most of the small businessmen may not have computer systems, it is virtually impossible. They go to the counties and they are told that their money is already in the bank or it is at the CBK. From the CBK, it goes to the suppliers' bank. Many of the suppliers cannot get to the CBK and confirm that their money has been paid through E-payment. So, the movement between the paying points to the CBK and from the CBK to the supplier provides a loophole where suppliers can be defrauded a lot. It is very important that we look at that.

Let me say something about the Appropriations-in-Aid (A-in-A). I think the Committee picked it right. There are two issues about A-in-A that we must look at. In cases where departments are raising funds---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. The time is controlled, but you have spoken very well. I must appreciate that. Hon. Members, let us plan our ten minutes. I can see the interest that the Members have on this, which is very important for this country. The Member for Saku, hon. Rasso! He is not in the Chamber, but his card is logged in. Then we will go to the Member for Ijara Constituency, hon. Ibrahim Abass.

Hon. Abass: Thank you, hon. Temporary Deputy Speaker. Allow me to join my colleagues in commending the PAC for doing what they have done in terms of producing three Reports for the last three financial years. This comes in the light of the fact that this Committee and its Chair has been, for some time, a punching bag in this House and outside regarding its work. I hope that the production of these three reports, which has never been done before, vindicates the Committee and its Chair that they are very serious and up to the task.

Let me start by saying that in the course of taking evidence, being a Member of this Committee, we realized that some Accounting Officers were on top of their game as far as the responses they were bringing to the Committee were concerned. There are some Accounting Officers, whom I would possibly call zero in terms of the responses that they brought to the Committee. They brought "cut and paste" kind of responses, which were made a decade ago. Therefore, I support one of the recommendations of the Committee, which is that in future, PAC will commend the Accounting Officers who do their work very well and will shame those deemed not to be performing. This will not be done in a haphazard manner. I am sure the Committee will come up with a criterion to do this. Therefore, I urge the Members of this House that if an Accounting Officer comes from your county or region and is shamed by this Committee, please, do not say that PAC is going after your person. It will just be a matter of performance.

Finally, let me go to the issue of the excess expenditure. Essentially, excess expenditure implies the Authority to Incur Expenditure without Parliamentary approval. Currently, the

Budget making process is vested in this House through its Budget and Appropriations Committee. Therefore, if any Accounting Officer, out of his own volition will exceed the limits given by the National Assembly, the Committee considers that to constitute a grave violation of the Constitution and recommends that such an Accounting Officer must be severely punished. I hope the Office of the Director of Public Prosecutions, which is now independent, will go straight for the cases where the Committee has recommended for direct prosecution. He will not refer these kinds of cases for further investigation. In black and white cases, the Committee recommended direct prosecution. I hope the DPP will take action on that.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well spoken. Let me get the voice of hon. Anna Nyokabi from Kiambu.

Hon. (Ms.) Gathecha: Thank you, hon. Temporary Deputy Speaker for the opportunity to contribute to this Motion. I rise to support the Report by the PAC and to congratulate the Committee as well for the good work that they have done. They found a backlog and have managed to work extremely hard to ensure that we have updated budget Reports.

This is timely because it will finally put an end to all the noise that has been going in the country with regard to *pesa mashinani*. The fact that this has been domiciled in the Opposition Members' docket, hopefully, it will cool down the temperatures in terms of requesting for *pesa mashinani*. We will finally be working, as a Government, on up to date accounts. The Committee finally got round to its mandate to ensure that finally, Kenyans get the money that they require to meet the Budget allocation or the percentage that is supposed to go towards devolution. This will put an end to the noise that some of our colleagues have been making over the weekends.

This particular Report, as large as it is, enables anybody to sit down and set up a Budget. They will be able to work with figures that are current, known and figures that we can draw accurate reports from. If we look at the five years' backlog that the Committee dealt with, it means that nobody expected any transparency simply because there was nothing to work on. They had to wait for the reports to be presented. Now that we have the Reports, we can take a look even into the counties and see the funds that have been devolved to the counties. We will be able to look at the reports properly and see how the national Government has allocated funds to be used for the development of this country.

If we take a look at the expenditures and the promises that the Jubilee Government has given, with this, we will not only deliver, but we will also provide accountability and transparency which are some of the key objectives of this Government. One of the main objectives of this Government is to ensure that wastage of funds is arrested and we can fully account for the taxpayers' money. Those funds should be used directly for development and benefits of all Kenyans.

When we take a look at the area of finance, I am sure the challenges that this Committee has had, which we have heard, have been tremendous and daunting. We need to ensure that capacity is seriously built to ensure that the reports that we get are timely and clear, so that we, as the national Government, will stand up and say that this is what was allocated, this is what was budgeted and this is what the Government has spent. Anybody who has misappropriated funds and those who have been delivering "air" in the name of getting contracts should be dealt with. We will clean up that and provide opportunities to the youth and the women of this country who apply for tenders. We will take care of the backlog and the serious issues that have been there, of people not being paid for three or five years or their assets being sold off simply because funds have run out. This report gives us a clear direction as to what exactly has taken

place with the funds and who exactly is to be held accountable and where the funds have been spent.

So, I thank the Committee. I support.

Hon. Njomo: Thank you hon. Temporary Deputy Speaker, for this opportunity to contribute to this Motion. There are three parties to this Report, namely the Public Accounts Committee, a committee of this House; the Accounting Officers and the Auditor General.

I will first start by commending the Public Accounts Committee for a job well done. They have done what has not been done before. This is not the first time; this is the second bunch of reports that have been tabled by the Public Accounts Committee. On the outset, it clears all the backlog of the audited accounts that had not been done before.

I must commend the Committee because they burnt the midnight oil. There were bad words said about the Committee, like being lazy, because people did not understand what was going on. However, finally this job has been done well and the Reports are in the hands of this House. I know the House will find them to be good.

The other party is the Accounting Officers, who were called by the Public Accounts Committee. They came to their Committee meetings to defend their accounts. The new Constitution gives very clear timelines which should now be followed for each of the three parties. It is worth noting that the Constitution gives all the Accounting Officers the months of July, August and September to finish up with their books of accounts so that the Auditor General can clear with the Audit during the months of October, November and December before submitting the Report to the Public Accounts Committee, which will have January, February and March to clear with the accounts.

Henceforth, I do not think we will have any backlog because the Constitution protects us from creating such backlog. We know that some of these delays and backlog was caused by many Accounting Officers not responding to management letters they were given by the Auditor General. This creates a lot of work for the Public Accounts Committee, which at times does what the Auditor General is supposed to do; to audit. There was a breakdown in communication between the Office of the Auditor General and the Accounting Officers.

Measures should be taken so that all the Accounting Officers account for monies within the required time, respond to management letters and act on them. That will make the work of the Public Accounts Committee easier and will take a shorter time.

The other issue is the one of IFMIS. Treasury must improve the IFMIS system so that it is able to provide all the parameters that are required for a good audit process. A point in question is that after the end of the government financial year, the IFMIS system switches off for about a month or it is not able to effect all the services for that period. Therefore, the Accounting Officers are not able to get funds from IFMIS and they are not even able to account for the monies they have used through IFMIS. Also it causes panic-buying and panic-procurement towards the end of the year so that the Accounting Officers will not have any surplus funds in their accounts, which they will not be able to use after the IFMIS is unable to provide the services. My advice to the Accounting Officers is to plan well so that they spend all the monies they have within the year to avoid panic-purchasing towards the end of the year.

The other party to this Report is the Auditor General. The Auditor General's work has been expanded greatly because it has to cover all the 47 counties. They have to audit all the Constituencies Development Fund expenditure. This is an enormous amount of work. It would only be fair to ask that the Auditor General be provided with enough staff and budget so that he

can be able to do his work effectively. He can even outsource because the work in his hands is enormous. The Auditor General must know that he is working as an independent institution that should be free from any political maneuvers.

Hon. Temporary Deputy Speaker, you remember the Auditor General came to the Floor of this House and announced that over Kshs.500 billion had been misappropriated by civil servants, only knowing too well that the money had not been accounted for. One of the problems is what I mentioned about, the IFMIS not been available for a month after the audit, and the other issue is that some of the management letters had not been responded to.

After going through the accounts, we did not see where this Kshs.500 billion the Auditor General was talking about was. There was no misappropriation of such kind. I must advise the Auditor General to tone down his language because it will demoralize those civil servants and those Accounting Officers who are doing their work effectively. When he comes with his report to the Floor of this House, let him give us a professional report that is free of expressions that cannot be founded in law or in accounts and which cannot be backed by any facts.

There was an issue about procurement of police houses. That was one of the issues we investigated. I am one of the hon. Members who visited the site where police officers had procured the houses. I must say, judging from what we found, there was value for Government's money. Some of the houses had already been sold and the Government got those houses at the same rate that the other people had got. To us, that was value for money. In fact, the question that lingered on our minds at that time was the kind of housing that our police officers are getting. In that same area, we got some three police officers with their families sharing one house. We found other officers who are married sharing a two bed roomed house; a sitting room had two police officers with their wives and children. It is a terrible way of life. The Government must invest and invest heavily in housing police officers. When we look at value for money, we must also think about the need. Our police officers have to be housed. They have to be equipped and I think that this must be done.

The Report mentions that this was done in a single sourcing method. I remember very well that there was pre-qualification process after which the tendering was done. To us, that was not single sourcing. That was a tendering system and may be due to the rush that was there to provide housing, may be that is why it was seen like it was a single sourcing type of procurement. But to me, it was overboard.

Going to Constituencies Development Fund, it has done enormous work for our country. I must commend hon. Members of Parliament in the previous Parliament for what they did. I challenge our county government; if they allow devolved funds to be used in a similar manner, we are going to have serious development in our country and that is the truth of the matter.

Finally, there is the issue of the petrol station in State House. It was claimed that 85 per cent was paid for a job that was not done. The job was done, but a new Government came in and decided they did not want to have a petrol station; they wanted to have an office block. So, the petrol station was converted into an office block. What has been alluded to is not the correct position; that the work was paid for when it was not done.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Hon. Members, we have six requests. I can assure you that we have time to debate this today and even tomorrow. These are serious Committee Reports that the country needs to listen to. On my list, we have the Member for Bomet Central and then, if time allows, we will have the Member for South Mugirango, the Member for Kisumu County, hon. Nyamunga followed by nominated

Member, hon. Wangamati, hon. Mwadime for Mwatate and hon. Susan Chebet. Hon. Ronald Tonui!

Hon. Tonui: Thank you, hon. Temporary Deputy Speaker, for this opportunity to contribute to this Motion.

From the outset, I want to apologise to the PAC for having referred to them previously as being lazy for having not delivered this report to the House previously. I apologised then. This is because I was waiting for this report. They have proved that they are working very hard and have delivered three reports at once for three financial years. We must commend them for the hard work that they have put in to bring these reports.

From the executive brief, they have done a good work, but there is a lot of looting in the Government. Our people are suffering from poverty because our resources are being misused and misappropriated. These looters need to be tackled well. They should be taken to where they belong, namely, jails and not anywhere else for looting the resources of this country. I am happy that we will be basing the allocation to the counties on the latest audited accounts for 2012/2013 once we approve this. However, that might not necessarily increase the funds going to the counties. The decision on how funds will be allocated will be based on costing of functions. The counties should come up with the cost of their functions and the national Government should also come up with the cost of its functions, so that it can guide us in making decision in terms of how much money needs to be devolved.

Currently, there is the Commission on Revenue Allocation (CRA), which provides some guidelines, which is simply a “cut and paste” on what goes on in the Ministry of Devolution and Planning. This may not be very helpful. The counties and the national Government should come up with the actual figures for us to use when making this critical decision on the division of revenue.

I am saddened by what is coming out here, that even our Judiciary is rotten. There is a lot of looting in an institution such as the Judiciary, which we rely on to provide justice. If it is one of those institutions which are being accused of harbouring looters, then this country is not headed in the right direction. The Judiciary should be one of those institutions which work perfectly without any audit queries. No looting should be taking place in such institutions.

I am saddened also by the Ministry of State for Provincial Administration and Internal Security previously. I think that was its title before. It was not able to account for huge sums of money up to the tune of Kshs2.8 billion. I think the Accounting Officer who is the current Principal Secretary needs to be prosecuted over the issue. He also needs to be dropped from that position. Retaining people who are not accounting for funds beats logic. We cannot understand why they still retain their positions even with the Auditor-General’s Report.

From the same Ministry, we can see that they are using lots of cash on a daily basis up to the tune of Kshs30 million. I wonder what is paid through cash on daily basis to the tune of Kshs30 million. I believe the Government should be dealing with Electronic Funds Transfer (EFT) or cheques but to be using cash money on a daily basis to the tune of Kshs30 million, I believe there is something which is suspicious within this Ministry, which needs to be investigated.

I am happy that the Constituencies Development Fund (CDF) Report by the Auditor-General is quite good. These are funds which are helping our people. They are the most transparent funds on the ground. I can see from the Executive brief by the Chair that only three constituencies had some audit queries. There were Mutito, Tigania East and Chepalungu.

Chepalungu happens to lie within my county and the previous Member of Parliament of that constituency during that time is my current Governor. This Report recommends that;

“The Accounting Officer should take disciplinary action against the CDFC and the Fund Manager for their actions as pointed out by the Auditor General.”

This is a situation where I understand that some projects were funded but they do not even exist on the ground and action needs to be taken on this. I know some of these officers are being misused but the real culprits are not being captured in the Report. I believe that is the same thing which is happening in my county, where we are talking of bank overdrafts and looting which is still going on and which I believe is being perpetrated by the same person.

There is the issue of poor performance in the State Law Office where they are losing cases. I believe it is due to collusion between the lawyers in that department, litigants and the others in order for them to benefit. The idea that they are not defending the Government quite well in court occasioning the Government to be losing funds is something to worry about. This needs to be addressed and those non-performers should be retired from that department and even be surcharged for the funds which have been misappropriated.

I can also see from this Report that we have a very huge expenditure which is unsupported, up to the tune of Kshs33 million. When we talk of unsupported expenditure, it means that there is money which has gone out of the Government without receipts. Certainly, when you pay for something, you must get a receipt. The fact that there is no receipt for this amount shows that it was looted. It did not go anywhere else because I cannot understand how a real accountant can part with money without a receipt. So, this needs to be acted on. Those culprits need to be followed.

Also, there is this expenditure which various institutions incurred without the approval of Parliament. I can see some like the Judiciary exceeded their allocation. They spent beyond the allocation which was approved by Parliament. This is a House which does the allocation and must be respected. The money which is spent should not be outside the allocation approved by Parliament.

Another institution which I can see from this Report is the Commission for the Implementation of the Constitution (CIOC) which is headed by one, Nyachae. He is normally very loud mouthed. I thought he was so perfect in this Commission but it looks like he is also acting illegally when he is spending public funds. I believe this also needs to be followed up.

Those are some of the major issues which are in this Report. The Independent Electoral and Boundaries Commission (IEBC) is also captured and I believe it is related to the “chicken” issue. I believe this also needs to be addressed so that we have an IEBC which has integrity and is respected. Those who may have been involved in this “chicken” saga need to be taken care of by the right institution. Otherwise, the Government needs to follow up on this Report. The Director of Public Prosecutions (DPP) needs to come in to prosecute some of these offenders and looters so that the public can have confidence in the Government, that there is no looting of their funds by those who have been appointed to take care of resources. This is because if we have looters in our Government then---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Hon. Members, the requests by hon. (Ms.) Nyamunga, Member for Kisumu County, hon. (Ms.) Chebet, Member for Elgeyo/Marakwet County and the other hon. Members will not be taken today. They will have an opportunity in the next sitting to contribute to this very important Motion.

Hon. Members, you should also note that these reports must be adopted before the House goes on recess.

ADJOURNMENT

Order, hon. Members! The time being 6.30 p.m., this House stands adjourned until Thursday 11th December, 2014 at 9.30 a.m. Thank you all.

The House rose at 6.30 p.m.