

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 5th October, 2016

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

CORRIGENDUM TO THE MESSAGE ON NOMINATION OF JUSTICE
DAVID KENANI MARAGA

(Hon. Kipyegon laughed loudly)

Hon. Speaker: It is not possible to laugh like that in the Chamber. The Member may assume that he is in a constituency called Emurua Dikirr.

Hon. Members, this Communication is by way of a corrigendum to the Message on the nomination of Justice David Kenani Maraga as Chief Justice of the Republic of Kenya.

The Communication is to correct the timelines contained in my Message delivered yesterday regarding the nomination of Justice David Kenani Maraga as Chief Justice of the Republic of Kenya. You will recall that I inferred that the seven-day notification period that ought to be given to the public for submission of memoranda should begin today and end on Tuesday, 11th October 2016.

I have since scrutinised the timelines provided in Section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011 as read together with the provisions of Article 259(5)(a) of the Constitution of Kenya regarding calculation of time which states, and I quote, that:-

“(5) In calculating time between two events for any purpose under this Constitution, if the time is expressed—

(a) as days, the day on which the first event occurs shall be excluded, and the day by which the last event may occur shall be included;”

Hon. Members, it is thus apparent that there needs to be an alignment between when notification was made to the public and when the Justice and Legal Affairs Committee can proceed to vet the nominee. The publication is the first event. I, therefore wish to clarify that the seven-day period starts counting from tomorrow as today, the date of publication, is excluded. Tomorrow, Thursday, 6th October 2016 is the start and ends on Wednesday, 12th October 2016. The Committee therefore, ought to make the necessary adjustments and proceed to conduct the vetting of the nominee on Thursday, 13th October 2016 and prepare a report for tabling in the House. Thereafter, the House should expedite the approval process.

It is possible for the Committee to do what they must do and bring a report on that same day, in the afternoon, for the House to consider.

I thank you.

MESSAGE

REFERRAL OF PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL AND ENERGY BILL

Hon. Speaker: Hon. Members, this is Message No.5 of 2016. It is a referral by His Excellency the President of the Petroleum (Exploration, Development and Production) Bill, 2015 and the Energy Bill, 2015.

Hon. Members, you may recall that on 25th August 2016, the House passed the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015) and the Energy Bill (National Assembly Bill No.50 of 2015). They were sponsored by the Leader of the Majority Party, Hon. Aden Duale.

Accordingly, I presented the two Bills to His Excellency the President for assent in accordance with the provisions of the Constitution and of our Standing Orders. However, His Excellency the President, by way of a Memoranda dated 13th September 2016, has since returned those Bills to Parliament for reconsideration pursuant to the provisions of Article 115(1)(b) of the Constitution.

Hon. Members, on the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015), His Excellency the President has expressed reservations to Clauses 51, 58 and 85 of the Bill, relating to the ratification of production sharing contracts and functions and objects of the Agency. His Excellency the President has recommended amendments to that effect.

On the Energy Bill (National Assembly Bill No.50 of 2015), the President has expressed reservations to Clauses 55, 69 and 194 of the Bill. He has also recommended amendments to those clauses.

Hon. Members, the two Bills concern county governments and the Memoranda will, therefore, require consideration by both Houses. As you may be aware, this will be the second time that Parliament will be reconsidering the President's reservations on Bills concerning county governments, the first being that of the reconsideration of the Public Procurement and Asset Disposal Bill (National Assembly Bill No.40 of 2014) and the Public Audit Bill (National Assembly Bill No.38 of 2014) in 2015, whereby, the two Houses considered them.

I hasten to remind the House that on 16th June 2015, I did make a Communication guiding the House on the manner of considering President's reservations on a Bill and amendments thereto, on Bills that require passage by both Houses in which I suspended the operation of Standing Order No.155, as it clearly contradicts the provisions of Article 115 of the Constitution.

In this regard, Hon. Members, the purpose of this Message is two-fold, as follows:-

- i) to notify the House that I have received the President's reservations to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015), the Energy Bill (National Assembly Bill No.50 of 2015); and,
- ii) to notify the House that I will be reaching out to the Speaker of the Senate so that we can consult and agree on the most appropriate procedure, including the

timelines, within which Parliament is to reconsider the two Bills within the requirements of Article 115 of the Constitution.

In the meantime, I direct the Clerk to circulate the reservations of His Excellency the President to all Members, so that they can familiarise themselves with the contents therein.

Thank you, Hon. Members. Member for Embakasi West.

PETITION

IRREGULAR ALLOCATION OF LR NO.11379/3

Hon. Theuri: Thank you, Hon. Speaker. This is a public Petition of Mowlem regarding alleged irregular allocation of land LR No.11379/3.

I, the undersigned, on behalf of residents and squatters of Mowlem Ward, Embakasi West Constituency, draw the attention of the House to the following:-

- i) THAT, Land Reference Number 11379/3 is situated in Mowlem Ward, Embakasi West Constituency;
- ii) THAT, the Mowlem squatters have resided on this land since the year 1990;
- iii) THAT, in the year 2016, the National Land Commission allocated the said land to a group referred to as Kiambu Dandora Group;
- iv) THAT, several other individuals and groups claim ownership of the said land and have title deeds to this particular land;
- v) THAT, in the recent past, the Petitioners have lost their properties due to conflicting orders issued by the National Land Commission (NLC) and courts;
- vi) Further THAT, residents have witnessed police harassment and brutality occasioned by some land grabbers that, efforts to resolve this matter with the relevant Government agencies have been futile; and,
- vii) THAT, the matter presented in this Petition is not pending before any tribunal or court of law.

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

- i) Recommends immediate investigations into the alleged irregular allocation and determine the validity of the current allocations and ensure corrective action is taken.
- ii) Ensures that the Petitioners' plight is addressed.
- iii) Makes any other order or direction that it deems fit in the circumstances of the matter.

Your Petitioners will forever pray. Thank you.

Hon. Speaker: Hon. Iringo, do you want to make a comment on this Petition?

Hon. Kubai Iringo: Yes, Hon. Speaker. Thank you. I support the Petition from my colleague. Land issues are becoming very emotive in this country today. I brought a similar Petition in this House which is yet to be finalised where a section of land in my constituency has been hived off and taken back to the Meru National Park yet people have been living there for many years. However, somebody in the lands office purports that the land belongs to the Meru National Park.

Similarly, as my colleague has said, some people have been evicted because somebody wants to acquire that land to develop because he knows somebody at the land's office or because he has money. This impunity is becoming very rampant in this country. It should be checked before it goes out of hand.

I support the Petition.

Hon. Speaker: Member for Chuka/Igambang'ombe.

Hon. Njuki: Thank you, Hon. Speaker for giving me the opportunity to comment on this Petition on land grabbing. I do not know whether it is because we were colonised by Britain and we had white settlers who had made land look very valuable in this country.

The issue of land in this country has become very emotive as my friend has put it. People are even willing to kill each other just because of land yet they do not value these other things very much. There is a small category of Kenyans who hunt for vacant land. They have an appetite for land that is idle. They sometimes think it is not owned by anyone. They seem to suffer from a disease we may call *grabbiosis* because they grab everything where we may have a weakling on site or people who are not interested. This has caused serious problems. As long as we live in Kenya, every Kenyan has a right to have a place to lay their hand on. You cannot build on space, you need land.

The Petition by the Mowlem Ward people noting that they settled there in 1960 and the person who came to develop the land arrived in 1997, I urge the Departmental Committee on Lands that when they will be looking at this Petition, to look at the existing law and what it says about the occupancy for a number of years. How many years are you allowed to be declared the owner of land after occupying it? Unless we change it, the law is there.

Therefore, let this not be an issue of the rich oppressing the poor who cannot access justice. I believe that even though these residents have a right to go to court, the Committee will do justice in ensuring that this land is returned to the people of Mowlem Ward in Embakasi West Constituency.

Thank you, Hon. Speaker for giving me the opportunity.

Hon. Speaker: Member for Westlands.

Hon. Wetangula: Thank you, Hon. Speaker. I would also like to comment on this Petition. Land grabbing especially in Nairobi, where it is prime, has become so rampant that the National Land Commission should come up with a proper way to control the bad manners from some members of the public who have an appetite for any open land. Any land set aside for public utility is now being grabbed left, right, and centre. The Nairobi County Government is not doing anything about it. We would like to appeal to the NLC to come up strongly and stop these bad manners. We support any way of controlling people encroaching on public land. Schools, hospitals and other public utilities' parcels of land are being taken away. We would like to see some of these parcels of land returned to the public, so that the public can make good use of it.

I support the Petition.

Hon. Speaker: Let us have Hon. Francis Waititu.

Hon. Francis Waititu: Thank you, Hon. Speaker for giving me this chance to support the Petition. Land-grabbing has become the trend in this country. Hearing that Petition, I compare it to land-grabbing happening in Central Province. In Juja Constituency, several cases have been forwarded to the new Deputy County Commissioner (DCC) in Juja. Some leases were granted in Nairobi and people are taking advantage of these leases to grab land. The population of our country is increasing and if we do not safeguard our public utilities, we will be in trouble in the near future.

I support the Petition and urge the Government to come up with a Bill that will provide harsh punishment to land-grabbers.

Hon. Speaker: Let us have the Member for Kamukunji.

Hon. Abdi: Thank you, Hon. Speaker for giving me this opportunity. I stand to support the Petition.

Land grabbing is a pandemic in our country. It really needs to be addressed urgently and courageously by the leadership and the legal system of this country. I speak as the Member for Kamukunji, an area which suffers land grabbing a lot. When I became a Member of Parliament, one of the things that shocked me most was the fact that every little space for public utilities had been illegally taken away by private developers and land speculators. This land is later transferred into illegal land titles that can be speculated to the highest bidders. This includes areas for toilets, schools, markets and hospitals to the point that our city is becoming a concrete jungle with no green space. It is becoming an unliveable city apart from the fact that it creates a lot of disparity of very rich people who have grabbed land, acquired resources illegally and have become wealthy dishonestly.

The general public is suffering. That is why we have a lot of neighbourhoods that have informal sector sharks and cannot be developed anymore. Proper land which could be used to expand the city by building decent and affordable housing has been taken away by some rich guy who has corrupted the system. This is unacceptable. We need to take action now and ensure that land meant for public utilities that has been grabbed is returned to the public. Such spaces can be used for the betterment of our community to build schools, clinics and recreational spaces. A city is not just pieces of buildings. A city has to have other things. Unless we take action, our city will not be a liveable and enjoyable city like other cities in the world because of this disease. This disease is in the county government and the land offices. It must be addressed quickly. I, therefore, welcome Hon. Theuri's Petition to address this particular issue as quickly as possible.

Hon. Speaker: Finally, let us have the Member for Kibra.

Hon. Okoth: Thank you, Hon. Speaker. I also want to thank Hon. Theuri for bringing this Petition. Land grabbing in Nairobi is a disaster. Another Petition came here recently which you referred to the Departmental Committee on Administration and National Security. Land-grabbing has turned life in the community upside down. In many estates like Salama, Karanja Road, Fort Jesus and Ayany, you cannot find a playing ground. The grabbing ranges from private business people to even institutions like churches. Places where we could have built local dispensaries and clinics are all gone. This Petition must be looked into very carefully, so that we can have open spaces again. We can even come up with a procedure to reclaim them and build local police stations and other things that benefit the community.

Lastly is on the issue of land for schools including Government public schools. Two years ago, the Cabinet Secretary for Education was Prof. Kaimenyi and now we have Dr. Matiang'i. We were promised, and the President uttered himself on this, that all public schools, especially in Nairobi, would get title deeds for their land. It is almost two years since that pledge and promise was made. I have nine public primary schools in Kibra and none of them have title deeds. The procedure is taking too long, which leaves these schools at risk. When powerful people come across them and they know how to play the system, they take advantage of the weak school committees, school parent-teacher associations (PTAs) and the head-teachers, who are easily intimidated, to take over the schools and make the land part of their properties.

This is a timely Petition and I thank Hon. Theuri for bringing it.

Hon. Speaker: Member for Imenti North, you appear agitated about this Petition.

Hon. Dawood: Thank you, Hon. Speaker. I want to congratulate the Mover of the Petition. It is well-known that private individuals grab public property, but sometimes it is State actors like the Kenya Forest Service (KFS) who grab property from my people in Kithoka. I

wonder where to take up the issue. There was a boundary, but after 50 years, they want to move the boundary into people's farms. We have another problem where Tharaka Nithi County is trying to grab land from Meru County. We need to sort that issue as well.

I support the Motion. We will talk to the Departmental Committee on Lands as well.

Hon. Speaker: Let us move to the next Petition. The Member for Manyatta is not present. The Petition is dropped. He can move it next week.

(Petition by Hon. J.M. Nyaga deferred)

Before we move to the next Order, let me recognise the presence in our midst in the Speaker's Gallery of students from:-

- (1) Kenya High School from Dagoretti North Constituency, Nairobi County;
- (2) Riverbank PEFA Primary School from Starehe Constituency, Nairobi County; and,
- (3) St. Anne's Girls Day and Boarding Primary School from Makadara Constituency, Nairobi County.

They are all welcome to observe proceedings in the National Assembly.

Let us move to the next Order.

(Hon. Njuki raised his hand)

Somebody is purporting to be on a point of order. You do not raise hands. Is it because there are students and pupils here? Let us have the Member for Chuka/Igambang'ombe.

Hon. Njuki: Hon. Speaker, I was worried that you did not listen to what the Member for Meru said. When a Member rises on a point of order and claims a county is grabbing land from another county, that can very easily start tribal clashes. It is not in order

Hon. Speaker: There is nothing out of order.

Hon. Njuki: He said that Tharaka Nithi County is grabbing land from Meru County. That is not a person. It is a community.

Hon. Speaker: Hon. Muthomi Njuki, first of all, there is no Member for Meru County. The Member is from Imenti North Constituency in Meru County. The Member for Meru County as a whole is called Hon. Florence Kajuju. I do not think she looks like the Member for Imenti North. There is nothing out of order for you to make a statement like that. Should you want to challenge him, you can go to the relevant offices. You discuss anything under the sun while in this Chamber. Just look at Article 95(2) of the Constitution.

Let us have the Leader of the Majority Party.

PAPERS LAID

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

Reports and Regulations adopted by the Assembly at the First Meeting of the Fifth Session of the Third Assembly.

The Insurance Industry Annual Reports 2015 from the Insurance Regulatory Authority.

The Annual Report and Financial Statements of the Jomo Kenyatta University of Agriculture and Technology (JKUAT) for the year that ended 30th June 2015.

The Audited Accounts of the Postal Corporation of Kenya.

The Reports of the Auditor-General and the Financial Statements for the year ended 30th June 2015 and the Certificates therein in respect of the following institutions:-

- (i) Garissa University;
- (ii) Kenya Industrial and Research Development Institute;
- (iii) Constituencies Development Fund, Bobasi Constituency;
- (iv) Bondo Constituency; and,
- (v) Awendo Constituency.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Dawood.

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

The Reports of the Departmental Committee on Finance, Planning and Trade on its consideration of the following Bills:-

- (i) The Public Private Partnership (Amendment) Bill, 2016.
- (ii) The Privatisation (Amendment) Bill, 2016.
- (iii) The Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2016.
- (iv) The Competition (Amendment) Bill, 2016.
- (v) The Insurance (Amendment) Bill, 2016.

Thank you, Hon. Speaker

Hon. Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE COUNTY ASSEMBLIES POWERS AND PRIVILEGES BILL

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, we will deal with the County Assemblies Powers and Privileges Bill (Senate Bill No.14 of 2014) very quickly because I have noticed that there are no amendments proposed.

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27,
28, 29, 30, 31, 32, 33, 34, 35, 36, 37,
38 and 39 agreed to)*

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Mover.

Hon. Chepkong'a: Hon. Temporary Deputy Speaker, I beg to move that the Committee doth report to the House its consideration of the County Assemblies Powers and Privileges Bill (Senate Bill No.14 of 2014) and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE COUNTY ASSEMBLIES POWERS AND PRIVILEGES BILL

Hon. Cheboi: Hon. Speaker, I beg to report that a Committee of the whole House has considered the County Assemblies Powers and Privileges Bill (Senate Bill No.14 of 2014) and approved the same without amendments.

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

I would like to request the Leader of the Majority Party to second the Motion for agreement.

Hon. A.B. Duale: I second.

(Question proposed)

(Question put and agreed to)

Hon. Chepkong'a: Hon. Speaker, I beg to move that the County Assemblies Powers and Privileges Bill (Senate Bill No.14 of 2014) be now read a Third Time.

This is a very important Bill. As you know, county assemblies have not had any legislation to protect them from liabilities unlike this House. So, this Bill will go a long way in ensuring that county assemblies are protected. However, we hope that they will not use this Bill to keep fighting in the House like what we saw in Nairobi and Nyeri counties. Members of the County Assemblies (MCAs) should be disciplined. They should be people of decency and they should not abuse the privileges that have been conferred to them by both the Senate and the National Assembly. They should be a replica of this House. People should not fight physical fights. We should use verbal fights. That is the only thing that the Constitution allows. These methods of people expressing their disagreements using their muscles to solve differences and conflicts in society are archaic.

So, we are appealing and pleading with the MCAs that they should use the powers that have been conferred to them under this Bill. The good thing is that this Bill also provides for discipline for those who misuse these privileges. It also protects them from being sued unnecessarily by fictitious litigants while they are contributing in the House. So, we are providing an environment where MCAs can express themselves freely. As you rightly spoke to my good friend from Igambang'ombe, Members can express themselves in the manner in which they deem fit without being penalised. So, we hope that MCAs will use this to ensure that democracy is developed in this country.

I request the Leader of the Majority Party to second.

Hon. Speaker: Leader of the Majority Party.

Hon. A.B. Duale: Thank you, Hon. Speaker. As I second, the County Assemblies Powers and Privileges Bill 2014 is coming four years after the devolved system came into place. This is a replica of the powers, privileges and immunities that we enjoy in the National Assembly. They are now being taken to county assemblies. This Bill is trying to give effect to Article 193(3) of the Constitution to provide for powers, privileges and immunities of county assemblies and their committees.

Hon. Speaker, you saw what happened at the Nairobi County Assembly. I am a resident of Nairobi. I might not be a voter in Nairobi, but I am a stakeholder in the County Assembly of Nairobi and in the County Government of Nairobi. I have gone through all the parliamentary systems across the world and I have never seen a place where a member comes to an assembly to give notice of an impeachment Motion and somebody wants to kill him. It is very sad. Then, there is another group that is saying: "You come from our party. So, you cannot move an impeachment Motion against one of our own."

We saw in this House a very famous Member of Parliament called Hon. Alfred Keter, who ran away with all types of impeachment Motions against our own Government, the Jubilee Administration. We are telling the Orange Democratic Movement (ODM) to learn from us. If there are issues against the Governor of Nairobi, you cannot gag your own member. It is good for people to discuss the substance.

One time this week, I thought I am a member of the County Assembly of Nairobi and I looked for that Motion. Of the many things that member, whether he is from ODM, Jubilee, FORD(K) or the Wiper Democratic Movement, is bringing is that when Evans Kidero took over as the governor, the debt level was Kshs12 billion and today it is Kshs42 billion. This is something the citizens of this county should be concerned about.

This is a very good Bill and I am sure after it is assented to, county assemblies will enjoy the privileges that we enjoy within the precincts of the county assemblies and in their committees. I think they are really shaming the legislative integrity and decorum. The Ethics and Anti-Corruption Authority must intervene. There are standards that are supposed to be set in the Constitution on the demeanour, stature and how you behave as a leader in this country. They must be upheld. How do you uphold them?

When the MCA for Viwandani was reading the notice, just the way you give me and many other Members here a chance to give Notices of Motions, the moment he removed his paper, I saw a man coming from the other side telling him that he would not read it. That is unacceptable. The best thing the members who want to support Kidero can do is to wait for the substance. There was an impeachment Motion against Anne Waiguru and against Jacob Kaimenyi here, which was discussed very well. The Constitution even anticipates that a Member can bring an impeachment Motion against the President. There was also an impeachment Motion

against you, Hon. Speaker, sitting there and we debated it here. What is so special about Evans Kidero? Why do you want to kill a Kenyan MCA from your own party? That shows the level of intolerance. Now that they have shown violence everywhere in the streets about the Independent Electoral and Boundaries Commission (IEBC), they want to export violence to county assemblies.

We had the same thing here with Members who were blowing *firimbi*. The *firimbi* guys are not here. These are good Members of Parliament from the other side. I do not see any of the *firimbi* guys here. I hope this law will be respected and the sanctity of the precincts of Parliament will be respected. You should not come with crude weapons and *firimbi* to Parliament. If you want to sort out people politically, wait for the ballot. The ballot is decided by the people of Kenya.

I hope today we have done a good thing that is going to give immunity, powers and privileges to our colleagues at the devolved legislative assemblies.

I second.

(Question proposed)

Hon. Speaker: I saw some Members either pointing at me or raising their fingers. Hon. Nyikal, I saw you raising two hands.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker. I only have two hands and so, I cannot raise more.

The passage of this Bill is extremely important in the process of devolution. It is unthinkable that three years down the line, we have county assemblies operating without any legislation on privileges. Anybody can walk into those county assemblies, arrest any of them and take them to court. I do not think we would have anything to say.

What is important about this is to look at how we are dealing with devolution. The fact that this has come late is an indication of many other areas where we have not looked at the issue of devolution seriously. One area of concern to me is the division between the national Government and the county governments in so far as the national Government is in charge of standards and policies while the county governments are in charge of implementation. There is a gap. County governments take it that the national Government cannot go down and check whether policies and standards that are set are adhered to.

Hon. Speaker many times it has been said that if the national Government tries to do that they are interfering. In my view, they are not. We must find a way for the national Government to check whether policies and standards are being adhered to. That is neither supervision nor interference; it is just one of the ways that can be used. The Leader of the Majority Party dwelt, to a large extent, on politics. I do not think what he discussed was related to this. I think they were related more to Standing Orders than powers and privileges. Despite the fact that he is very well informed, he likes to lace very important discussions with side politics that normally make the discussions not very fruitful. Be that as it may be, it is important that we have passed this Bill today.

Hon. Speaker: Let us have the Hon. Member for Rongo.

Hon. Anyango: Thank you, Hon. Speaker for this opportunity. I wish to make a comment over the passage of this Bill.

Honestly, this should be treated as a re-dedication of the House to the powers and privileges and Standing Orders that govern our conduct in this place. We are passing it for

application at the county assembly levels. We should not forget that we are the national leadership and if we continue to blow whistles, punch each other, attack each other, provoke innocent parties unnecessarily, be sourly in our comments like the Leader for the Majority Party normally does, you can be sure we are going to be copied down at the county assemblies. I wish to remind the House that up to now our political economy is consumption-driven.

Hon. Speaker: Without interrupting you Hon. Dalmas Otieno, I want to request the Leader of the Minority Party to just hold on a little while because as you know we need to put the Question and we need certain thresholds.

Hon. Anyango: Thank you, Hon. Speaker. I was saying that by and large, our political economy is still consumption-driven and that is evident out of the fact that we fight so passionately. From my experience I know we fight over food; we never fight over production. Both production and consumption are two sides of the same coin. The emphasis in this country is on consumption and that is why even party leadership would rather we are all sycophants and loyalists without challenging anything. Why is that the case? It is because the fight is for consumption and not for production to promote this economy. If we pass these orders, both the powers and privileges and of course the Standing Orders that come with it, we should be recommitting ourselves that we should work towards changing the dominant attitude of the leadership of the whole country away from too much consumption drive to more production even if they are two sides of the same coin.

The practice of that kind of leadership has to come from this House and it must be based on what we say and do in the Chamber and outside as the national leaders in our political economy. Unfortunately we are far away. We are continuing with business as usual - Tomorrow we will still fight here, another day we will still fight in the streets, beat up people in the church and forget that the younger generation is learning from us.

If we are going to make money for nothing and try to protect it here in the House, they will copy us and we are leading the country in the wrong direction. It is not time for debate on this matter. We need to proceed to the Third Reading.

Thank you, Hon. Speaker for the opportunity.

Hon. Speaker: Hon. Members, this is not the time for debate. You have already debated this Motion. I wish to put the Question and I have confirmed that we have the requisite quorum for me to do this.

(Question put and agreed to)

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

Hon. Speaker: Next Order

BILLS

Second Readings

THE PUBLIC FUNDRAISING APPEALS BILL

(Hon. Chepkong'a on 1.9.2016)

(Resumption of Debate interrupted on 4.10.2016)

Hon. Speaker: Hon. Members, there was nobody who had a balance of time. I want to observe that there has been more than sufficient contribution to this Bill. Leader of the Majority Party, what is your point of order? Hon. Shebesh.

Hon. (Ms.) Shebesh: Hon. Speaker, I rise under the Standing Order No.95. Would it be in order to ask the Mover to reply?

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

Hon. Speaker: Hon. Chepkong'a.

Hon. Chepkong'a: Thank you, Hon. Speaker. I do not know what beef Hon. Gumbo has with this Bill. He is my very good friend. I do not know why he is opposing a very good Bill. I would like to take this opportunity to thank all the Members who contributed. This is a very important Bill that was sponsored by the Senate and it has come to us rightly so. If we pass this Bill, it will regulate a number of activities dealing with fundraising and this will replace the Public Collections Act, which was first introduced into this House during the colonial times. As you know, we passed the Constitution in 2010 and so, we need to put in place laws that reflect that new constitutional dispensation.

We are proposing a raft of amendments with respect to this law to ensure that we align it with the Constitution. As you know, Members who contributed expressed the fact that some clauses of the Bill are obnoxious and unacceptable. So, we will be proposing amendments to this Bill.

I beg to move.

Hon. Speaker: Order, Members!

(Question put and negatived)

(Applause)

Hon. Speaker: Well, Members, like I informed you yesterday, the net result of negating the Bill means that the Bill will have to go to mediation. I think it is a good thing because it helps the two Houses to come up with an agreeable version of the Bill.

Next Order!

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

Hon. A.B. Duale: Hon. Speaker, I beg to move that the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.58 of 2015) be now read a Second Time.

Hon. Speaker, from the outset, let me clarify that I have written to your office after further consultations with the Executive. I have withdrawn the clauses touching on the Industrial Training Act and the National Hospital Insurance Fund (NHIF) Act of 1998. I am ready to continue with the other sections of this Bill.

I would also like to notify the House that I have proposed amendments to the Industrial Training Act, based on the letter I have written to you. As this is contained in the Statute Law, it was after consultation with colleagues, including the Deputy Leader---

(Loud consultations)

Hon. Speaker: Order, Members! The four Members at the corner there, please, consult in low tones. The four ladies, your voices are making it impossible for us to concentrate. Consult in low tones.

Hon. A.B. Duale: Hon. Speaker, there is a lot of caucusing going on amongst the female Members of this House. I do not know what is happening. Maybe they are regrouping on the gender principal law, which is very good because we want to bring back the progressive Bill. They call it “women for women”.

The provisions on the Industrial Training Act and the NHIF Act are the two sections that were withdrawn after wide consultations. We are still consulting with the stakeholders in this regard. I want to remove those sections.

Hon. Speaker: Hon. Members, it is absolutely important that everybody notes that those two proposals have been withdrawn formerly. A letter was written to me, withdrawing the proposals to amend the Industrial Training Act and the NHIF Act. In making contributions either today or the day after, please, do not spend your time criticising those proposals. Treat them as if they are not there. Concentrate on the other portions of the Bill without giving attention to those two proposed amendments. They have been withdrawn. Please, take note so that we can save man hours. I am not so sure that there is provision for women hours, but we will save valuable time.

Hon. A.B. Duale: Thank you, Hon. Speaker, for that timely communication.

This Bill is in keeping with the practice of making minor amendments which do not warrant the publication of a separate Bill. We have tried to consolidate all the minor amendments into one Bill called the Statute Law (Miscellaneous Amendments) Bill.

This Bill has stayed with us for a long period of time considering that its First Reading was done in 2015. It concerns county governments and, therefore, it will ultimately go to the Senate. The provisions in this Bill were part of the Statute Law (Miscellaneous Amendments) Bill No.57 of 2015, but it was published as Bill No.2 because it was thought, in consultation with the legal experts, that it should be considered separately as the matters therein touch on the Senate.

The Bill contains amendments to the Copyright Act No.12 of 2001. It proposes to amend the Copyright Act of 2001 to provide for a more formal structured compensation for our performers, producers of sound recording and for private copying of works in line with international norms and practice.

I personally do not listen to music because of the teachings of Islam. I do not practice liberal Islam. I practice strict Islam. I am sure that what this amendment means is that performers and producers must be paid well and their compensation must be structured formally and cater for that industry.

The second amendment that this Bill anticipates is on the Kenya Institute of Curriculum Development (KICD) Act No.4 of 2013. The Bill seeks to amend the KICD Act to provide for some members of the board to be appointed by the Cabinet Secretary (CS) and remove the procedure of appointment set out in the First Schedule to that Act.

The KICD is very important because that is where education curriculum is developed. The curricula for the various subjects and the books that are used for teaching are developed there. This is a serious board under the Ministry of Education, Science and Technology. As it is now, the CS does not have any powers with regard appointment of the board. This amendment provides for some members of the board to be appointed by the CS, in consultation with key stakeholders who have a leeway in the development of curricula.

The Bill further in that section seeks to amend the Act to provide for the resignation of the chairperson of the board and replacement by the CS. There is a vacuum in the Act. Today, if the chair of the board decides to resign, there is no provision for replacement by the CS because all chairpersons are appointed by the President in consultation with the CS.

The third and final important amendment is to the Kenya Law Reform Commission (KLRC) Act No.19 of 2013. The Bill seeks to amend the KLRC Act to harmonise the provisions of the membership of that Commission. That is why I said the Statute Law (Miscellaneous Amendments) Bill mainly deals with minor amendments that do not necessitate publication of separate Bills. Again, the amendment to the KLRC Act is about how to deal with the composition of the Commission.

Hon. Speaker, with those few remarks, I beg to move and ask the Chair of the Departmental Committee on Justice and Legal Affairs, who will have the privilege, together with the Members of his Committee, to vet the next Chief Justice (CJ), to second.

Hon. Speaker: Hon. Chepkong'a.

Hon. Chepkong'a: Thank you, Hon. Speaker. I rise to second this important Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.58 of 2015). This Bill was a spin-off of the Statute Law (Miscellaneous Amendments) Bill that we passed last year. This was to ensure that we removed the provisions or clauses that do not touch on the counties, but touch on the national Government. They were domiciled in the Statute Law (Miscellaneous Amendments Bill) that we passed last year.

This one is a Statute Law (Miscellaneous Amendments) Bill that touches on the county governments and, therefore, it will be going to the Senate after we pass it. As rightly mentioned by the Leader of the Majority Party, this Bill seeks to amend certain sections of the principal legislations that are minor in nature and do not necessarily require publication of separate Bills with respect to the particular principal legislations.

Hon. Speaker, the proposal to amend the Copyright Act of 2001 is seeking to ensure that performers and producers of sound recordings are remunerated properly. Our artists have been exploited and their talents used without proper remuneration. This is to ensure that these artists are encouraged to continue to produce, record and produce music that is in consonance with the times we are in. As we know, this is an industry that is well developed in the First World, where people make a lot of money using their talents. We have seen many artists being very successful. They have enriched themselves for the benefit of society. They have also used that money to assist the less fortunate in the society. Although our artists produce many songs and perform, they are not well remunerated. They are below the international standards. This legislation will, therefore, ensure that we are at par with the international standards.

We know that some women capture these artists to enrich themselves. One example is a very famous lady by the name Kim Kardashian who recently lost US\$10million in Paris. She has been getting married to artists who are very rich. In the process, she has become very rich. She gets married for about two months, divorces and shares the property of these artists. Some artists have been taken advantage of by some people globally.

The second one is the amendment of the Kenya Institute of Curriculum Development Act of 2013. This is to provide for resignation of the chairperson. The law did not provide for resignation. It just provided for amendment. It meant that the chairperson could not resign under any circumstances, but now we are seeking to amend this Act to ensure that the chairperson is given an opportunity to resign if he so wishes, so that like in other legislations, somebody is not forced to serve when they do not want.

The Bill seeks to amend the Kenya Law Reform Commission Act of 2013 to realign it to the devolution structure. At the moment, they are providing services to the devolved governments, but the devolved governments are not involved in the appointment of the members of the Board of the KKRC. We have amendments. We have looked at this Bill as the Departmental Committee on Justice and Legal Affairs and we will be proposing amendments to the amendment that has been proposed by the KLRC. We met the KLRC commissioners and we discussed this, but we have our own reservations. The Bill proposes to give power to the Cabinet Secretary (CS) responsible for Justice who we know at the moment is the Attorney- General, to nominate or appoint two persons of the opposite gender to the board. We also note that in the sub-clause, the Attorney- General is also given power to nominate other two persons. Therefore, he will be nominating about four persons. That is very unfair. So, we will be making amendments to realign this to fairness and reasonableness. We will be proposing an amendment to give power to the CS for the time being, responsible for Justice, who is the Attorney- General, to nominate two persons and not four. Otherwise, he will stuff all his nominees into this board. He will have an unfair advantage over all the others.

We agree with the other appointments by the Director of Public Prosecutions (DPP), and one person to be nominated as a judge of the Court of Appeal. We are not sure about that. We will also be proposing an amendment on it. We do not want a judge of the Court of Appeal to sit in a board like this. They should send a representative from the Judicial Service Commission. It cannot be a judge of the Court of Appeal going to sit in a board to discuss matters of drafting of legislations. We will be proposing an amendment to that.

With those remarks, I second.

(Hon. A.B. Duale and Hon. Keynan consulted loudly)

Hon. Speaker: Order, Leader of the Majority Party and the Member for Eldas! Member for Eldas, take a seat. I know you have problems sitting for long.

(Laughter)

I know the Member for Eldas chairs a Committee and he can sit for many hours.

(Question proposed)

Hon. Speaker: Member for Seme.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker. I rise not to support, but to raise a caution. As you have guided before and as this Amendment Bill starts, Amendment Bills make minor amendments and do not substantially change laws. They are not big enough to warrant a new Bill. The trend that I am seeing is that these Amendment Bills sometimes appear like they are

making very minor changes. If you look seriously, many of them are changing the constitution of boards. Once the constitution of a board is changed, the whole Act is affected by representation.

I will not go further than raising that caution because I have seen even in this Amendment Bill most of the amendments are seeking to change the constitution of boards. Some are giving more powers to the CS, some are removing specified organisations like the Central Organisation of Trade Unions (COTU) and the Federation of Kenya Employers (FKE). I am happy that two were removed. I had looked in detail at the two that were removed and they were actually substantial. In future, I will propose that a way be found, perhaps through the Speaker's Office, to scrutinise what Committees have agreed are minor amendments. In my view, miscellaneous amendments serve purposes bigger than they are made to look like, particularly if the Members do not read them carefully. Then major changes are made in law by what looks like minor miscellaneous amendments.

I just wanted to throw that caution for my colleagues to look into carefully. I will look at it carefully so that when we come to the second stage, there are certain amendments that we may reject through amendment of amendments.

Thank you.

Hon. Speaker: Member for Emurua Dikirr. The next one on line is the Member for Kathiani.

Hon. Mbui: Thank you, Hon. Speaker for this opportunity to give an opinion on this Statute Law (Miscellaneous Amendments) (No.2) Bill, (National Assembly No.58 of 2015). The idea behind these miscellaneous amendments of the Statute Laws is basically to come up with minor amendments. My understanding of minor amendments is basic issues like grammatical errors, correction in language and spelling mistakes. However, we have noted in this House that many laws are changed through miscellaneous amendments. My colleague has also alluded to that fact. So, it is important that we go through this carefully.

I want to begin with the amendment to the Copyright Act, 2001, where there is a provision for a more structured compensation for music producers and performers whose music is stolen by other people. It is a fact that piracy is an issue of concern to our artists. It is an issue that we need to look at very keenly because if we allow it to thrive, then we kill the industry and our artists' spirits. It is important to ensure that piracy is put to a stop. Piracy is a crime. It is theft. We need to ensure that the punishment that is meted for such kind of crime is deserving of the criminals that do it. If the structured compensation provides enough leeway for the producers and performers to get compensated adequately, then it is definitely a good thing.

On the issue of copyright, I have noted that there are so many bodies that are dealing with piracy in Kenya. In fact, it is when you get into the hotel industry that you get to know that there are people who deal with that. There are about five bodies. Each of them is always constantly asking to be paid an annual amount for the operations of their offices. It is important that, as we deal with this, we also need to agree on who can deal with issues of copyright so that not every Tom, Dick and Harry gets involved and tries to collect money from the same.

On the issue of the Kenya Institute of Curriculum Development Act, I think this amendment makes a lot of sense to me because this is purely an academic issue. Obviously, it falls directly under the management of the Ministry of Education, Science and Technology. Therefore, allowing the CS some powers to appoint members of this board is in order, as long as, of course, the number of people appointed by the CS is not excessive and does not reach that point where they have controlling interest over the Institute. It is important that the CS be

allowed that leeway. I understand that, currently, he does not have any powers. That is unfortunate because that falls directly under his docket.

I have noticed that within the education industry, we have a problem. There are teachers who report to the Teachers Service Commission (TSC), and then we have Ministry officials who report to the CS. Many a times you wonder: What is it that a sub-county education officer is supposed to do and yet, there is also a sub-county staffing officer for the TSC? Those are some of the areas that we need to look at. I support that the CS be given some powers to deal with those issues.

The last amendment is to the Kenya Law Reform Commission Act. It is the only one that I would like to oppose. That is because I had the privilege of speaking to some of the people concerned and they raised the concern that the Chair of the Departmental Committee on Justice and Legal Affairs has noticed that we are giving too much authority to the Attorney-General. He is going to end up nominating quite a number of members to that Commission, which obviously means that he will have controlling interests. It means he will take complete control of the board. It is important that we look at this carefully. I am happy that the Chair has proposed that he will bring some amendments so that we can pass this in totality.

With those few remarks, Hon. Speaker, I thank you for the opportunity.

Hon. Speaker: The Member for Nakuru Town East. He is absent and not desiring to be present.

The Member for Rarieda, you have the Floor.

Hon. (Eng.) Gumbo: Hon. Speaker, I thank you for giving me the opportunity to contribute to this Bill. Allow me to start by echoing the views of my colleagues who have spoken before me. The idea of Statute Law (Miscellaneous Amendments) Bills, as I understand it – in fact, even if you look at the Memorandum of Objects and Reasons – is supposed to make minor amendments. The Memorandum of Objects and Reasons starts by saying that the Statute Law (Miscellaneous Amendments) Bill, 2015 is in keeping with the practice of making minor amendments which do not merit the publication of a separate Bill. That object is good. But, unfortunately, over the years, we have used the avenue of Statute Law (Miscellaneous Amendments) Bill to bring what I would call mischief into law-making. I am not sure that where you are changing, for example, the composition of a board, is a minor amendment. That is because boards are the policy-making organs and they provide oversight for our institutions in this country, and where you are completely reorganising a board, that cannot be a miscellaneous amendment.

I am happy to the extent that we are addressing the issue of copyright in this country. I am one person who has spoken on the Floor of this House and said that if we were to have strong copyright laws in Kenya, the talents that our people continue showing day-in, day-out would be converted into wealth not just for themselves, but for the whole country.

I looked at the career of the late Benson Wanjau or *Ojwang' Hatari* spanning several decades. I am told he did his trade for close to 40 years. It is a pity that such a talented man, at the time of his death, could not even afford a medical bill in a public hospital. This speaks to the structural weaknesses that we, as a country, have failed to address, particularly with regard to rewarding what I would call natural talent. I look at the performances of some of our artists and no one can convince me that the talents that we see in the *Mama Kayais* of this world; the talents that we see in the late *Ojwang' Hataris* of this world are much more superior than the talents that we pay a lot of money to get from people like Bill Cosby. So, this is an issue that we have to address. That is natural talent as opposed to acquired talent. It is something that is God-given,

and not many of us are that endowed. I think it is something that must find a way to convert itself into wealth, not just for the individuals, but for the whole country.

I would want to believe that what we need to do is not to amend the Copyright Act of 2001 piecemeal and in the manner that we are doing here, but to address it wholesome so that our artists--- Today, some very young people in this country are extremely talented artists. No one says that when you are young and talented, you cannot make money that can find its way back into the economy.

I am of the view that while this is a good attempt, anything which is good can be made better. Perhaps, the way to do it is to propose comprehensive amendments to the Copyright Act. I will try to propose amendments in my own way, in collaboration with some of my colleagues who think the same way, so that our artists do not become a case of endless lamentations; our artists do not become cases that we try to recognise more when they die in abject poverty when the opportunity was there to use their God-given talent to make wealth for themselves and for the country.

I have looked at the proposed amendment to the Kenya Law Reform Commission Act. I have serious reservations about this amendment. We have seen many cases in the past where amendments are made to either target or inhibit the growth of particular individuals. Structurally, I think that the latitude that is being given to the AG not just in this law, but in several other laws is something that this House needs to speak to. I have been watching, for example, the role being played by the AG in the process of giving us a new Chief Justice (CJ) in his capacity as a member of the Judicial Service Commission (JSC). I have also been watching the role that he is playing again in his capacity as the member of the Judicial Service Commission (JSC) in helping us to get a Deputy Chief Justice. I suppose that role will be taken to the search for replacements in the Supreme Court. I have asked myself what happens if there is a dispute concerning that process and the Government has to seek legal advice. How will the Attorney-General (AG) then, provide advice? Of course, I know it is a constitutional provision but, I think we have had enough time to look at the structural weaknesses in our Constitution.

Hon. Speaker, while I do not intend to be irrelevant, I wish to just go back a little to the law which we have just passed on the county assembly powers and privileges. I think that, too, was an opportunity for us to look at the structural weaknesses in this Constitution so that we can address them. The Constitution will not be of any use if it does not adequately, meaningfully and relevantly address the problems that affect this country. When Article 195 gives the Members of County Assemblies (MCAs) powers to summon anybody, then it gives them the powers of the High Court. Are we really not stretching it? Are we not extending the jurisdiction of the county assembly to play a national role? As I had said, I do not intend to be irrelevant. I just want to say that those kinds of amendments, as this opportunity has provided, is important. We are giving some offices in this country too much latitude. Those latitudes, in themselves, can provide conflicts which can be avoided. I also tend to think the proposed board in the council here is far too heavy in terms of representation of members from the Government.

Despite the fact that I do not agree with this proposed amendment being brought in through a miscellaneous amendment, I think that proposed amendment needs further amendment so that the issue of law reform does not become what it is - dominated largely by appointees from the Government. More particularly, we need to reduce the role of the Office of the Attorney-General in appointing members of the board.

Like I said, those are minor pieces of legislations which are meant to address minor issues. I think we should stick to that spirit because the moment we try to sneak in some things--

- I do not in any way intend to say that there is some mischief intended to be sneaked into those miscellaneous amendments, but the moment we try to use laws to address problems that in some ways only look at the positions of individuals is not right. I think law-making should be a process that ensures that this country moves forward in one way or another. Like they say, let us also learn with the opportunity that the almighty God, the universe and the providences have given us. Let us also learn to be good leaders. I saw somewhere that the difference between good and bad leaders can, in words, be defined as follows: Those leaders who think about the next election are bad leaders while those who think about the next generation are good leaders. We have an opportunity to demonstrate that we are good leaders by making laws that address the problems of this generation and the generation to come, and not problems that look at issues that are personal in nature.

With those remarks, I want to say that I will be looking at the proposed amendments to the Kenya Law Reform Commission (KLRC).

Hon. Speaker: Member for Kiharu Constituency.

Hon. Kang'ata: Thank you, Hon. Speaker, for giving me this opportunity to contribute to this Bill. There are several Bills which have been proposed for amendment under this law.

In respect to the first law, the Industrial Training Act, Chapter 237 of the Laws of Kenya, this is a very good idea to the extent that the Bill seeks to amend that law to empower the Cabinet Secretary (CS) to nominate a member of the most representative federation of employers' organisations.

Hon. Speaker: Now, this is the problem of Members not being present. That was withdrawn when the Bill was being moved. The proposed amendments to the Industrial Training Act as well as the National Hospital Insurance Fund Act have been withdrawn and it was announced when the Bill was being moved. So, do not make any reference to it because it is of no use. It was withdrawn. Those two were withdrawn; the one you have just referred to as well as the proposal on the National Hospital Insurance Fund (NHIF).

Indeed, for any other Member who is arriving late, do not make any reference to those two in your contribution because they have been withdrawn formally.

Hon. Kang'ata: Thank you, Hon. Speaker. I apologise.

On the one in respect to the Copyright Act, 2001, I am not so certain as to whether the Memorandum of Objects and Reasons will be achieved by the proposal. I say that because when you look at the Memorandum of Objects and Reasons, the objective of amending this law is to provide a structured compensation to performers and producers of the sound recordings. When you look at the actual proposal, it provides to insert the words "and the compensation shall be collected by the board and distributed to the respective copyright collecting society". My understanding of the proposal is that it is essentially adding more powers to the board. Therefore, it will be the board that will be collecting the compensation and then distributing to the respective copyright collecting society. I am not so certain as to how that is helping to make the so-called payments structured. Essentially, we should be asking ourselves whether it is desirable on our part, as Members of Parliament, to add more powers to the board.

I am very doubtful as to whether a Government entity is more efficient in collecting compensation on behalf of members. Instead of empowering the board, we should have empowered the so-called respective copyright collecting societies. I say that because, one, there will be an issue of efficiency and corruption. We all know how Government agencies have a problem in collecting money on behalf of or from the public. The board which will now be collecting that compensation is not the actual owner of that money. The money belongs to the

artists who have a collecting society. Instead of giving that mandate to the Government - that is the board - we should empower the actual organisation comprised of the artists to do that collection. That will ensure, in my opinion, efficiency. People with vested interest in that money are going to do the work as opposed to entrusting that crucial role to the Government. Again, we all know the problems with the Government. There is corruption and mismanagement of our parastatals. We all know the copyright board is essentially a parastatal.

I am cautious in supporting this idea. I foresee a situation where money is collected, but it is not forwarded to the artists. Therefore, I am very reluctant to support this proposal.

We all know the importance of intellectual property and copyright in this country. It is not well enforced. It is not even well registered. There are so many people doing music out there in rural and peri-urban areas, but they are unable to access the board. I know the board is situated here in Nairobi. It is not well devolved. It is not well decentralised. Therefore, for an artist who is based in North Eastern, for instance, to directly come and seek compensation from this board located here in Nairobi, I think that will be quite unfair. To me, the best case scenario would be to allow the artists, through their own collecting agency, to do the collection or the compensation.

The second proposal is the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No. 58 of 2015). It is the one in respect of the Kenya Law Reform Commission. The proposal, according to this Bill, is to have a commission that shall consist of: "One member being an advocate of status of senior counsel nominated by the Law Society of Kenya and one member being an advocate of the status of senior counsel and with the relevant experience in devolution laws nominated by the Council of Governors."

I have a problem with those two clauses. Why? The operative words in those paragraphs is the "the status of senior counsel". To me, this is discriminative to young advocates, young lawyers or even academicians who may not have that status of a senior counsel, but who can serve in the Kenya Law Reform Commission competently notwithstanding the lack of that status. The status of "senior counsel" is a legal term. We have a law which sets out how an advocate can be conferred that status. When you look at the procedure provided for under that law, you will see that only very old lawyers can benefit by being granted that status or people who have served as chairmen of the Law Society of Kenya. The point is that this is a very restricted title. Therefore, when you provide for it, you may miss out very crucial skills which may be employed in the Kenya Law Reform Commission. You may find that, for example, a professor of law who is not a senior counsel but who is very competent cannot serve in the Kenya Law Reform Commission.

To the best of my knowledge, that Commission conducts research. It is a research institution technically. It looks at various laws and updates them and comes up with research and, therefore, proceeds to advise Government on reforming various laws. Therefore, the idea of senior counsel ought not to be used as a criterion for appointment into this Commission. I wish they would have provided a criterion that is quite academic in nature, for instance, a person who has a Master's degree in law. Such a criterion may make some sense, but this one where you provide that you must be a senior counsel does not. This is purely academic. It does not rhyme with the objectives and functions of the Kenya Law Reform Commission.

However, I have no problem with those other clauses that are provided for in this law, that the chairperson be appointed by the President. I have no problem with that. It is a very good idea. I also have no problem with sub-clause (b) which provides that two members of the

opposite gender be appointed by the Cabinet Secretary (CS) responsible for matters relating to justice. I also have no problem with that.

With that, I support some proposals contained in the Kenya Law Reform Commission Act, but I reserve my support in respect to the proposal concerning the Copyright Act, 2001, No.12, as provided for under this Bill. Thank you.

Hon. Speaker: Member for Bondo.

Hon. Ogolla: Thank you, Hon. Speaker. If you look at the proposed amendments to a number of legislations that are here, you realise that apart from the Copyright Act, all the others including the ones we have withdrawn, deal with constituting membership of boards or appointments. That leaves the Copyright Act as the substantial matter in those proposed amendments.

One of the sad things that we have in this country is talents going down the drain because of “copy-cutting”. One does very well, is creative or innovative and comes up with artwork in a good manner but, in a week or two, the whole thing comes to the streets with totally different people. We are talking of people who burn CDs and those who do home-taping. At the end of the day, the initial or original talent that has to benefit from some of those artworks is put aside. So, that is why the proposal for compensation and paying performers in a proper manner, in my view, is very useful and instrumental, particularly this time round.

The only thing that needs to have gone with it is enforcement. How then do we enforce? This is an administrative bit but it is very critical. We protect talent and performers but, at what level do we have their artwork protected? If performers do certain things and the following day all their work is in CDs in *matatus* and homes through home-taping, then there is a big problem in terms of enforcement. The whole idea of good compensation and payment for producers or performers is not going to be meaningful if some of those laws are not going to be enforced.

The Kenya Law Reform Commission issue has taken really long. It has been hot in the last two years where there was a proposal of doing away with some of the commissioners. The Attorney-General was uncomfortable with some of the nominees or some of the people who were representing certain nominating agencies that were serving as commissioners in the Kenya Law Reform Commission. At that level, it was very vibrant and going to take this country back. Where we are at the moment, the proposals are still a problem in terms of the role of the Attorney-General, as has been mentioned. So, it is important that this is looked at afresh and a serious amendment needs to be proposed when we get to that stage.

The other thing is the transition of the bodies we are talking about. This was a fundamental issue when we were looking at the Kenya Law Reform Commission at that particular time. There was a chance that some of the commissioners, if at all we did not look at what stage and for how long we were to respect what the laws currently require--- We need to be careful on how to transit from the old arrangement to the new one. This, therefore, means that we have to look at all the areas we are proposing changes in the composition and reconstitution of boards, including the Kenya Institute of Curriculum Development.

On this, I want to mention two things. Curriculum informs the objectives of education. There is a very serious lamentation in this country on the kind of education arrangements we have. What is it that we want to achieve with our education? We have seen that the old way of looking at education as a means of getting white collar jobs is no longer the issue. We need education that is really oriented to the market. The people who have been looking at the curriculum have been slow in taking this into consideration. Constantly, everybody talks about reviewing the education system. Everybody wants the system to be reviewed. In my view, this is

the time when we are reconstituting the curriculum boards to be careful to look at our history and look for people who can make this country move forward. That is where I have a problem when we place some of those responsibilities with the CSs. At one time, we have very good, responsible and smart CSs, but they are never permanent in those positions. Next time, we have a different CS and the whole thing changes. That is exactly where the problem is when we give space to CSs for purposes of nominating some of those people. For example, the CS in charge of education is doing very well. Next time, we could have one who looks at things in a completely different way. That is exactly what will happen when we look at those things. That kind of a Cabinet Secretary (CS) who looks at those things in a different way will come up with totally different people who look at things in a very different manner. That is exactly why, in as much as our curriculum is supposed to be the basis of the standards of education in this country, things are not the same and are not looked at similarly at all the time.

This extends largely also to universities. I can give a good example of a study that was done at one time and I was involved in it. We looked at those who are training to be secondary school teachers at Kenyatta and Moi universities. We compared the units and course outlines of Kenyatta University in relation to those of Moi University or Egerton University and realised that, we are churning out very different people. Teachers from universities or education training institutes should be able to teach new things such as the Constitution and human rights in schools. But when you look at the curriculum or course units of some of the universities, you realise that those things are totally different. Some do not include some of those fundamental units that they will teach at secondary schools.

In as much as the Kenya Institute of Curriculum Development (KICD) hardly involves universities, the Commission for Higher Education (CHE) really needs to look into this matter so that those people our universities are churning out will teach certain subjects in certain schools. That way, we will have certain standards that will make sense to the whole country. We should not have a teacher from Egerton University who cannot teach issues to do with the Constitution, while another one from Kenyatta University can do that very well teaching in the same school. They may even be in different schools but the kinds of exams that they are doing are the same. Those are the areas that really need to be looked into as we go through this Statute Laws (Miscellaneous Amendments) Bill.

The strength of this Bill lies in the changes that we are proposing to the Copyright Act.

Hon. Speaker: Let us have the Member for Mukurweini.

Hon. Kabando wa Kabando: Thank you very much, Hon. Speaker, for giving me this opportunity to support the Statute Law (Miscellaneous Amendments) Bill that was moved by the Leader of the Majority Party.

Before I do so, I want to dedicate my brief remarks to the students and teachers from 70 primary schools in Mukurweini, who are sufficiently represented here by the Class Eight 2016 pupils from my constituency, and have the privilege of being in this House at a time when the substantive Speaker, Hon. Justin Muturi, is presiding.

Everywhere we go, to public events or institutions, whether organised or *ad hoc*, we come across young people and even underage children who compose certain artistic productions in music, poetry and other sorts of drama. In all those instances, we witness the capacities of the creative arts that are present across the society and, more particularly, in institutions of learning. In primary schools in the villages in my constituency, everywhere you go, you will come across a girl or a boy who has, in his or her own, produced a certain piece of music or poem which, if facilitated, would result into a national or even international talent of competitive value. But the

tragedy and misfortune of our times is that those who are in the music industry and who are producing music and productions that entertain us in all our lifestyles, lead very desolate and frustrated lives because their productions are not equal to the income they get.

I was very gratified about 24 hours ago, when His Excellency the President, Hon. Uhuru Kenyatta, made a pronouncement that the bytes that are used, even on our telephones, should be compensated sufficiently in order to enable the talented individuals who creatively produce get compensation that will stabilise their income.

The other implication is that it is going to create competitiveness in the sense that those who participate in this extra-curricular investment will see this as a noble enterprise that will enable them to get an income that is reliable and get stable savings that will enable them to live lives that honour the profession. This Act is being amended in this Bill to provide for structured compensation of performers and producers of sound recordings for private copying of works in line with international norms and practices to simply get Kenya to where it belongs.

We are known and famed internationally because of our capabilities in athletics, music, art and information technology (IT). In this continent, we are leading in banking and our universities are doing very well. Making it possible for young people to obtain fame, not because of how many albums they produce and how they shine during national schools music festivals, but getting them registered because of the solid investment that they have obtained through those productions will get this country to broaden its income base. That is about wealth creation and celebrating what deserves to be celebrated in a way that is institutional, reliable and predictable. Therefore, this amendment is long overdue and very much welcome.

The second amendment is on the Kenya Institute of Curriculum Development Act (No.4 of 2013). Majority of us appreciate the work that is being done by the Cabinet Secretary, our friend, Dr. Fred Matiang'i, in reforming the education sector. Definitely, those who are conservative or those who are beneficiaries of the *status quo* will see the efforts by the CS as a way of upsetting the current arrangement of things. To have a CS with the courage, brilliance and determination to change the way things are done in the infrastructural development in terms of financial accountabilities; and ensuring that the children and the youth of Kenya in elementary education, high school education and tertiary education get what they deserve by sealing all the loopholes that have benefited a few corrupt institutions and individuals in the way of examinations that are not well protected; would necessitate an effort to develop the Kenya Institute of Curriculum Development in a manner that would enable the CS to have direct influence. Whatever other processes and procedures we put in place to have curriculum development structured and reformed, it is the CS who comes to Parliament to answer questions on what is happening in our institutions.

We also should, in the same vein, enable the CS to have a more powerful role to play in the institutions and parastatals that fall under him. Therefore, this is very timely. It comes with the spirit of the Jubilee regime to make the necessary changes that will make education investment the very foundation that will put or retain Kenya at the international peak, where it is celebrated globally and recognised domestically. It will be facilitated by the man or the lady who is bestowed with the responsibility to do that.

I support the Statute Law (Miscellaneous Amendments) (No.2) Bill with happiness because the 2017 Class Eight Kenya Certificate of Primary Education (KCPE) pupils are present to witness their Member contributing on an issue that is likely to benefit their growth.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Westlands.

Hon. Wetangula: Thank you, Hon. Speaker. I wish to make a few comments on this Bill. There is an amendment on the Copyright Act. In this country, the people who put in a lot of efforts in the creativity industry do not benefit much. Piracy thrives in the sector. Kenyans who work very hard to make livelihoods from that industry end up living in abject poverty. This amendment will streamline how the copyright benefits can reach them. In this digital era, most of the young people do not understand how they are supposed to benefit from their efforts. In countries like Congo, no one buys pirated music. In our country, pirated music is all over in the streets. This is a good amendment that will streamline the music industry. It will help young Kenyans to benefit from their efforts.

I would also like to talk about the Kenya Law Reform Commission (KLRC) Act. There is a proposed amendment on the appointment of senior counsels. This amendment is not good. It should be open, especially on the requirement for the Council of Governors (CoGs) to appoint a senior counsel. I do not understand how that is going to help. There might be mischief in that provision. The Chief Justice should be given a free hand to appoint whoever meets the requirements. We should carefully look at that amendment before we pass the Bill. This amendment should be dropped because it does not make any sense.

I support the Bill.

Hon. Speaker: Hon. Members, there being no other Member desiring to contribute, I now call upon the Mover to reply. Hon. (Ms.) Naomi Shaban, proceed.

Hon. (Dr.) Shaban: Thank you, Hon. Speaker. I beg to reply. I want to take this opportunity to thank all the Members for their contributions. I would also like to emphasise the importance of those amendments because they are going to make sure that the Executive works as per their constitutional mandate.

The Cabinet Secretary (CS) for Health did not have a major role to play, considering that the National Hospital Insurance Fund (NHIF) Act of 1988 did not foresee the coming in of a new Constitution. It also did not allow the CS to make appointments to the board so that people can carry out their work as per the decisions and policies of Government.

This Bill comes in at a time when this is required to harmonise the universal medical coverage. This is to make sure the Jubilee Administration's policies and, more so, the Kenya Government policies, are aligned together. That will make sure that the mandate of the NHIF is carried out as per the new Government policy.

The KLRC Act of 2013 also had a few issues as far as the membership of the Commission is concerned. This Bill will go a long way in making sure that more work is done. It will also make it easier for the Attorney-General, the Law Society of Kenya (LSK) and members of the legal fraternity outside and within Government to make their contribution to ensure that the KLRC works easily and better. The amendments are also meant to make KLRC achieve its mandate.

With those few remarks, I beg to move.

Hon. Speaker: Hon. Members, for obvious reasons, we will not put the Question.

The Chairman and the Vice-Chairlady of the Departmental Committee on Labour and Social Welfare are not in the House to move Order Nos.11 and 12. They are now given the last chance to be available in the House to move those two Reports. They have assumed a tendency of not being in the House to transact the business that they have a responsibility on. One should tell Hon. David Were and Hon. (Ms.) Tiyah Galgallo that they have been given the last chance to move those two Motions. Order Nos.11 and 12 are set aside for now.

MOTIONS

APPROVAL OF SESSIONAL PAPER ON THE NATIONAL CHILDREN POLICY

THAT, this House adopts Sessional Paper No.6 of 2014 on the National Children Policy, laid on the Table of the House on Tuesday, August 25, 2015.

(Motion deferred)

APPROVAL OF SESSIONAL PAPER ON THE NATIONAL POLICY ON
ELIMINATION OF CHILD LABOUR

THAT, this House adopts Sessional Paper No.1 of 2015 on the National Policy on Elimination of Child Labour, laid on the Table of the House on Wednesday, August 19, 2015.

(Motion deferred)

Next Order!

ADOPTION OF THE TWENTIETH PIC REPORT

Hon. Ichung'wah: Hon. Speaker, I beg to move the following Motion:-

THAT, this House adopts the Twentieth Report of the Public Investments Committee on the Accounts of State Corporations, laid on the Table of the House on Thursday 30th December 2015.

Hon. Speaker, from the Report that was tabled in the House, Members will realise that the Committee has gone through many things over the last few months to cover a total of 64 State corporations. We examined their audited financial statements as were tabled in the House.

In examining and scrutinising the audited financial statements of all those State corporations, our primary approach was to elicit background information as to why each of them had issues that had been raised by the Auditor-General in his financial audit reports. Throughout our engagement with the various State corporations, we did examine each of the State corporations' accounts, invited witnesses from the State corporations and other players within and outside those corporations. We have come up with numerous observations and recommendations as contained in the entire Report. It is a huge Report that is covering each of the State corporations on issues that were raised by the Auditor-General. We have engaged with many witnesses in this regard.

The Committee has endeavoured to see to it that all our engagements are in line with all set Government regulations like the Public Procurement and Asset Disposal regulations of this country, the International Public Sector Accounting Standards and International Financial Reporting Standards relevant for commercial State corporations. To a large extent, the Committee has been guided by the mandate and strategic objectives of each of those State corporations or rather what each of those State corporations is expected to achieve for this country at the time they were established.

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

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

I will enumerate a few of the general observations and recommendations as per the findings on the audited financial statements of the 64 State corporations. Just like we had reported in our 19th Report, which we tabled, debated and adopted by this House sometimes this year and towards the end of last year, the Committee observed that very many State corporations still continue to operate under a very weak financial position. They operate under very strict financial constraints largely occasioned by mismanagement and imprudent commercial practices within their operations.

An example is the Horticultural Development Authority (HCDA), which is now a directorate under the new AFFA Act. In the Financial Year 2004/2005, they had a deficit of Kshs129 million, which brings the total cumulative deficit to a negative of close to Kshs1 billion - about Kshs763 million as at the end of June 2005. That is not the only corporation that is suffering from that sort of position. Those who come from pastoralist areas will bear me witness. A State corporation like the Kenya Meat Commission (KMC) is in a very precarious financial situation and continues to rely on old machinery to produce beef products. It has a very huge workforce of close to 1,165 people against a recommended staff establishment of about 300 people. Therefore, when we observe that those dire financial constraints are largely as a result of mismanagement and imprudent commercial decisions and practices, one wonders why a State corporation that would ideally operate with a lean staff of 300 people has to employ to the tune of about 1,200 people. That is four times the required number.

Therefore, we have made certain recommendations to try and rectify that situation of very weak financial positions of many of those State corporations. One of the things that the Committee has recommended is that the State corporations that continue to perform non-strategic national functions and continue to rely on the Exchequer for financial support should be disbanded and their functions transferred to the relevant national Government departments or county governments, in line with the Fourth Schedule of the Constitution. We say this cognisant of the fact that there are a number of State corporations that are carrying out mandates that are of a devolved function by nature. Others are carrying mandates that could be better handled at the national Government level directly from the ministries without necessitating allocations from the Exchequer to particular State corporations.

The second thing we have recommended is that the Inter-governmental Relations Committee that took over from where the Transition Authority left, liaises with the National Treasury and the Inspector of State Corporations to ensure that State corporations that are performing devolved functions, as I mentioned, are restructured and devolved in line with the Forth Schedule of the Constitution and allow the county governments to carry out those functions at the county level. The National Treasury should fast-track the restructuring and privatisation of poorly performing commercial State corporations such as KMC, which I have given as an example, so as to address its future commercial viability and the required financial and management resources.

The other observation and area of concern that the Committee noted - as we interacted with all those 64 State corporations - was over-reliance on the Exchequer for continued financial support. We did realise that many of our State corporations, especially those in the education

sector like our public universities, still rely heavily on the Exchequer to finance their operations. Even a school like the Kenya School of Monetary Studies that initially operated under a grant from the Central Bank of Kenya (CBK), as it is, is still heavily reliant on those grants both from the Exchequer and from CBK. One wonders why universities that are admitting thousands of our children and charging them very high fees are not able to operate profitably and even be a source of revenue to the Exchequer. Instead, they are relying on the Exchequer for financial support whereas we have seen the proliferation of private universities, some of which charge lower fees than the public universities for their parallel programmes. You are aware that almost all our public universities have campuses in this town and other major towns that are offering parallel degree programmes. They charge higher fees than the private universities that operate profitably.

Therefore, there is no need to belabour the point that all those things are as a result of imprudent commercial decisions and poor management. We have recommended as a Committee that the National Treasury puts in strategies for the independent financial sustainability of the Kenya School of Monetary Studies and its continued financial existence as the preferred monetary institute for the region. A legal framework should be put in place to delink it from direct financial support by the CBK and its mandate widened.

Hon Temporary Deputy Speaker, you realise that this is a school that offers very specific courses in the banking and financial services sector. It is the only school of its kind almost in the entire East and Central African region. Therefore, if it was well aligned and managed, it can profitably operate within the region and in this country and give revenue to the Exchequer.

Two, we have recommended that the Ministry of Education, Science and Technology and the National Treasury develop a sustainable financial mechanism for our public universities, as I said, to avoid the over-reliance of the public universities on the Exchequer. Our third recommendation says that public universities should stop solely depending on student-based revenue sources. They should diversify the revenue base by exploring strategic partnerships and co-operation and linkages, especially with the private sector, that will ensure that the knowledge and innovations generated by the universities contribute towards income generation by the universities and also to utilise the resources they have. Many of our public universities, for instance, the University of Nairobi, that is right in our Central Business District (CBD), has resources and land that they can utilise commercially---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Is your time over?

Hon. Ichung'wah: Sorry for that. It is the microphone that went off. Those public universities have resources like land. Again, many have land outside our CBD and in other cities across the country that they can utilise by partnering with private sector players, earn revenues and, therefore, diversify from the over-reliance on fees from their students.

I am generally mentioning the things that we have observed almost across the entire spectrum of 64 corporations. The third observation that the Committee observed across the board is non-remittance of statutory deductions. It is sad that statutory deductions such as National Social Security Fund (NSSF), National Hospital Insurance Fund (NHIF), SACCO deductions and even Pay as you Earn (PAYE), which are monies deducted directly from employees, are never remitted to the Exchequer, Treasury and the Kenya Revenue Authority (KRA). SACCOs are suffering because they cannot advance loans to their members and yet, members have contributed money to them. Many of those State corporations, as a result of their financial constraints, just do deductions on paper and never remit the monies I have talked about.

We have made very telling recommendations and one of the things we have proposed--- This is money that has already been deducted from an employee's salary. Some of the employees are retiring and others are falling sick. They cannot, therefore, access health services because their NHIF cards are not updated. Those who retire cannot access their pension dues from NSSF because their contributions were not remitted. Therefore, the Committee has recommended that all State corporations should settle all statutory deductions in a timely manner as provided for in the relevant legislation and financial regulations to avoid contravention of the law and incurring fines and penalties. When they fail to remit PAYE that attracts penalties from KRA, the Office of the Inspector General of State Corporations should ensure that all pending statutory deductions with various State corporations are settled within three months after the adoption of this Report by this House and a status report on the same be tabled to the National Assembly not later than six months after the adoption of this Report.

Hon. Temporary Deputy Speaker, we did this to safeguard public interest. I am sure many Members in this House will support this move because they are the people who deal with many of those unfortunate staffers who are forced to go without support from NHIF simply because their dues have not been remitted. Those people flock our constituency offices seeking medical assistance. If only the State corporations had remitted this money--- That is why we have put timelines as to when all the State corporations that have deducted statutory deductions from their employees must remit that money to KRA, NSSF, NHIF or the SACCOs.

Thirdly, we recommend that all Accounting Officers of State corporations should ensure that their respective State corporations' budget is rationalized and expenditure maintained within the approved budgets to ensure that they meet their obligations in settling statutory deductions.

The fourth issue is on land and buildings. Across the board, in almost all those State corporations, there were very many issues about State corporations holding land that they cannot prove ownership because they lack title documents to prove ownership. Some of those State corporations are losing land. A case in point is the Kenya School of Law (KSL). In particular, I am talking about a very prime property that lies in Nairobi along Bishop Road. This was KSL Principal's house. The land upon which that house originally stood was allocated in 1997 to a company called M/s Rockville Limited who later transferred the same property to Standard Assurance in 2002 for a consideration of Kshs50 million. The Standard Assurance Company in return took up a loan of about Kshs10 million from Diamond Trust against that title. That is public land because it belongs to KSL. We have recommended that the Cabinet Secretary (CS) for Land, Housing and Urban Development and the Chairman of the National Land Commission put caveats on all State parcels of land belonging to State corporations that are in private hands.

What is happening is that land belonging to State corporations is allocated to private individuals who then, like this particular case of the KSL, move on to secure loans from banks. We have recommended that the CS for Land, Housing and Urban Development should within six months of adoption of this Report compile and submit to the National Assembly, a status report of all parcels of land held by various State corporations across the country as a first step towards taking stock of land assets held by the Government.

The Judiciary should also consider prioritising cases involving illegal acquisition of public land with the view of quickly resolving such cases and having the land restored back to the public. You realise that many State corporations are in court with people who have been allocated and acquired public land that belongs to State corporations and those cases are all held up in court undecided. It is our prayer as a Committee and as a House that the new Chief Justice will move with speed to expedite all this land-related cases.

Lastly, the Chief Executive Officers or Accounting Officers whose State corporations' land and buildings have been illegally disposed of should liaise with the Office of the Attorney General and the National Land Commission with a view to ensuring that all those titles are revoked and land reverted to the State corporations.

The fifth general observation is on expenditures across the board. In almost all those State corporations, expenditures go beyond the budget. This is a very easy thing because State corporations operate within budgets set out and approved by their parent ministries and this House by extension. Some go to the extent of spending beyond those expenditures then later seek *post facto* approvals. Some take long to obtain that from their parent ministries or from the National Treasury. We have, therefore, recommended that CEOs of State corporations that have spent beyond their approved budgets should obtain, within three months of the adoption of this Report, *post facto* approval of their revised budgets from boards, parent ministries and the National Treasury if their expenditures were necessitated by factors beyond their control. We must emphasize that it must only be as a result of factors beyond the control of the boards of the State corporations. This is because some of the expenditures are those that are truly avoidable. What we have recommended are those expenditures that the CEOs are not able to get a *post facto* budget approval from the National Treasury and their parent ministries. The Ethics and Anti-Corruption Commission (EACC) should move within six months and initiate investigations after the adoption of this Report with a view to prosecute and surcharge the concerned officers in accordance with the law because the law is quiet clear on how you should spend money in State corporations.

The sixth general observation is irregular payment of board sitting allowances. The law is very clear on this matter. The Committee observed that many State corporations still continue to violate Section 10(1) of the State Corporations Act Cap. 466 of the Laws of this country. This law restricts payment of sitting allowances for attendance of meetings to the Chairman and members of a board other than the CEO. I will give the example of Horticultural Crops Development Authority (HCDA), which is now a directorate under Agriculture, Fisheries and Food Authority (AFFA). It paid a total of Kshs421, 220 to non-board members in attendance as sitting allowance during board committee meetings.

In our recommendations there are no two ways about this. If you pay people who are not allowed by law to be paid sitting allowances--- It is a case of strangers walking into this House and claiming an allowance. It is like clerks of the National Assembly who sit with us in this House and are on full time employment claiming to be paid sitting allowances the same way Members of Parliament (MP) are allowed by law to earn. That does not happen here, I was just giving that as an example. We have proposed that the Inspector General of State Corporations should within one month of adoption of this Report start the process of recovering all the irregularly paid sitting allowances from concerned officers because most of them are Government employees on full time employment. He should then remit the same to the respective State corporations.

A status report on this recovery should be submitted to the National Assembly every quarter until the entire irregularly paid board sitting allowances are fully recovered and settled. The CS, National Treasury should within three months on adoption of this Report compile and submit to the National Assembly a comprehensive status report on irregular payment of sitting allowance to Government officers. All Chief Executive Officers and secretaries to boards of State Corporations must, at all times, ensure that Section 10(1) of the State Corporations Act is

fully complied with to ensure that they are not paying people who should not be earning allowances.

The seventh general observation is on the breach of procurement laws and this cuts across all the boards. We have observed that several State corporations continue to violate the provisions of the procurement law and regulations in their procurement of goods and services. For instance, the Auditor-General could not confirm the propriety of the total expenditure of a sum of Kshs16.5 million on the procurement of goods and services for the year ended 30th June 2011 by the Kenya Medical Laboratory Technologists and Technicians Board. Further, the Board engaged, through direct procurement, the services of an auctioneer, tax and legal firms and incurred an expenditure of about Kshs395,000, Kshs600,000 and Kshs130,000, respectively. This is just one example of how the law is being contravened by many CEOs in State corporations and their boards.

The Committee again recommends that the National Treasury and the Public Service Commission (PSC) should ensure that qualified and competent personnel are seconded to strategic departments such as finance, procurement and human resource during the inception of any new Government entity. We include this recommendation because some CEOs have claimed that they got incompetent officers who were seconded from ministries when the State corporations were set up. That is why we recommend that the Government and the PSC should ensure that the thousands of our young people who are well educated are employed in the Public Service and not necessarily to second staff from ministries who may not have been trained in the specific areas of finance, procurement and human resource issues.

Further, we recommend that the Ethics and Anti-Corruption Commission (EACC) should, within a month of the adoption of this Report, initiate investigations of the officers of any State corporation who have been mentioned in this Report as having violated the procurement laws and regulations. The Report is available for anybody who may need it. I believe the EACC will, and must, move with speed within a month to get hold of it. In fact, the moment this Report was tabled in this House, it became a public document. The Report was tabled many months ago. Therefore, there is no reason why the EACC should wait for its adoption. Those are cases of outright contravention of the law. The EACC should just get hold of the Report, go through it and identify those who have contravened any procurement law or regulations and charge them in accordance with the law.

In line with Section 115 of the Public Procurement and Disposal Act of 2005, the Director-General of the Public Procurement and Oversight Authority (PPOA) should debar for a period of not less than three years any individual or company and its directors and associates that have been found to have colluded with officials of State corporations to violate the Public Procurement and Disposal Act 2005 and its regulations. This will go a long way to discourage private sector players from engaging in corrupt activities or encouraging public officers to flout procurement laws to the benefit of private sector business people.

Again, in line with Section 125 of the same Act, the Director-General of PPOA should, on a quarterly basis, publish in, at least, two widely circulated national newspapers, the names of companies, individuals and directors barred from doing business with any national Government or county government entity. Again, as we said, we put this recommendation in a great way to discourage such corrupt tendencies within the private sector. Those people are debarred from doing business not just with Government and State corporations, but even at the county government level. We have realized that many people who get debarred from conducting

business with State corporations or the national Government devolve their corruption to the county governments.

The eighth general observation is on unqualified audit opinions. The Committee commends State corporations which obtain well deserved and unqualified opinion from the Auditor-General. I beg your indulgence, Chair, to mention a few of the State corporations that have unqualified audit reports from the Auditor-General. This means that throughout the audit period that we were covering, many of those State corporations did not have audit queries in their audited financial reports. They include the Retirement Benefits Authority (RBA), the Information and Communication Technology Authority, the SACCO Societies Regulatory Authority (SASRA) and the Unclaimed Financial Assets Authority (UFAA). The latter is relatively new, but they have started very well. We pray that they continue that way.

Other State corporations that have unqualified audit opinion include the Micro and Small Enterprise Authority (MSEA), the State Corporations Appeal Tribunal (SCAT), which also received an unqualified audit opinion in 2008/2009 and 2012/2013 Financial Years despite having a pending audit query on over-payment to board members in 2001, 2002, 2007 and 2008. This is a matter of concern because we previously noted similar cases as captured in our 18th and 19th Reports. We have the case of the National Social Security Fund (NSSF) where they have a qualified audit opinion in one year and unqualified audit opinion in the other. This is a concern we raised with the Auditor-General in a meeting held under the chairmanship of the Speaker with the Big Nine, including the Auditor-General's Office and the Attorney-General's Office, and other players together with our colleagues in the Public Accounts Committee (PAC).

The Committee is equally concerned with the application of Section 39 of the Public Audit Act, 2003 by the Auditor-General to outsource the audit of strategic Governments entities to private auditors. The Committee has observed that this practice is more rampant in the energy sector State corporations like the Geothermal Development Company (GDC), the Kenya Electricity Transmission Company (KETRACO), the Kenya Electricity Generating Company (KenGen) Limited, as well as in the financial services sector. The Office of the Auditor-General, which is funded by the Exchequer or allocated monies by this House to conduct audits, outsources the same audits to private sector players. Some of the contracted audit firms have questionable track records in terms of the way they conduct their audits. Some of them have had issues in the private sector. I wonder whether such firms can perform in the public sector.

The ninth observation is delay in availing documents to the Auditor-General. This is quite rampant. It becomes a problem to the Auditor-General when State corporations fail to avail documents to auditors as they conduct audits or, by the time they draw up their management letters. It is only when the respective management teams appear before PIC or PAC to respond to audit queries that they avail the documents to the auditors. We want to encourage the management teams of the various State corporations to avail documents to the auditor during the audit. That is one way of avoiding audit queries. It saves time not just for the Auditor-General's Office, but also for Parliament. In many instances, we scrutinise things which the auditors could have cleared in the course of the audit. State corporations need not come to Parliament to respond to audit queries.

The tenth general observation is on delay on appointment of board members. Again, we are cognizant of the fact that CEOs of State corporations do not appoint their own boards. In fact, the CEOs are hired by the boards. We have observed that very many State corporations, especially in the last three years, had to operate without boards. Very many decisions could not be made because the affected State corporations did not have boards to make them. In our

recommendations, we have encouraged the ministries and State corporations, where they have their chairman appointed by His Excellency the President, to always move with speed to ensure that they, at all times, operate efficiently and effectively by having full boards in place or, at least, by having adequate quorums to convene board meetings.

We recommend that boards of the various State corporations should ensure that an officer does not act in a position for longer than the period stipulated in the Public Service Code of Conduct.

Because of the problem of not having boards, you will find that when a Chief Executive Officer's three-year contract has expired, a new CEO is appointed in an acting capacity. They cannot hire a substantive CEO because there is no Board of Directors. That is why we are recommending that nobody should act in such a position longer than the stipulated duration in the Public Service Code of Regulations.

Secondly, all the boards of State corporations should develop and implement a human capital management and succession strategy to ensure continuity, enhance accountability, efficiency and effectiveness in the management of State affairs.

Thirdly, the relevant appointing authorities should ensure that all vacancies in the boards of various State corporations, for instance, Kenya Revenue Authority (KRA) and Central Bank of Kenya (CBK) are filled in the shortest time possible. The tenure of board members should also be staggered to avoid a situation where the term of board members expires at the same time. That is why I was mentioning the board members for the respective parastatals.

I am glad to note that for the CBK, there has been a move to appoint a board. We are also recommending that the appointing authorities, be it the Cabinet Secretaries or His Excellency the President ensure that they stagger the nominees that they appoint to these boards. They should not appoint all of them on the same date so that their terms expire at the same time. They should stagger them about one year apart so that there is always quorum.

The eleventh general observation is on outstanding imprests. I am trying to be very quick and summarise. Members will note many issues to do with outstanding imprest from many State corporations. That is money given out not just to the CEOs, but also to staff members in the State corporations. That is money you are given to spend probably on a trip somewhere and account for it later on. Many never remit the receipts on how they have spent the money. Some of these things are synonymous with the same State corporations.

The Horticultural Crops Development Authority (HCDA) is perfect example. This corporation gave out an imprest of about Kshs4 million to operationalise the Nairobi Horticultural Centre in the 1992/1993 Financial Year. I was in Form Two that year. To date, this imprest has not been accounted for and the recoverability is still doubtful.

Hon. Wamunyinyi: Which year?

Hon. Ichung'wah: Hon. Temporary Deputy Speaker, I have heard Hon. Wamunyinyi ask which year I was in Form Two.

Hon. Ichung'wah: Hon. Temporary Deputy Speaker, I was a Form Two student in 1992 but I am now charged with the responsibility of overseeing that State corporation in the National Assembly. This is money that was given out as imprest. You can imagine what Hon. Wafula Wamunyinyi was doing when I was a Form Two student. He was probably a Member of Parliament or an Ambassador in Mogadishu.

We recommend that this matter be taken more seriously than it has been in the past. We have made recommendations that CEOs or Accounting Officers should, within three months of

adoption of this Report, put in place measures to write off long outstanding imprests whose recoverability is doubtful. That will require board approval so that the provision is not abused.

Secondly, the Ethics and Anti-Corruption Commission (EACC) investigates the then Accounting Officers for failure to recover imprests from staff within the timeframes stipulated in the financial regulations and the policy guiding imprest disbursement in any of these State corporations.

Thirdly, the CEOs must immediately take necessary steps to ensure that all the outstanding imprests within their jurisdictions are fully recovered. In cases where the CEO is not able to recover the imprests within six months from the due date, they be surcharged the full amount that is due.

Fourthly, the CS for the National Treasury should undertake, within three months after adoption of this Report, a review of the imprest system in State corporations to determine its efficacy. The report should also determine the future applicability of the imprest system in State corporations and propose viable alternatives with value for money.

The twelfth general observation is on irregular allocation of museum land to private developers. The National Museums of Kenya is one of the State corporations among the 64 that I have mentioned that we have looked at. The Committee observed with a lot of concern the rampant grabbing and irregular allocation of public land to private individuals particularly the National Museums of Kenya which has lost a lot of land including gazzeted national heritage sites such as the Fort Jesus and the Hyrax Hill prehistoric site.

The Committee had a statement of the financial position of the National Museums of Kenya as at 30th June, 2014 that reflected an amount of Kshs1.5 billion relating to the value of land that has been lost to private developers who are grabbers of public land.

However, emerging evidence indicates that several parcels of the National Museums of Kenya land of undetermined value have been encroached and allocated to the third parties. One of them is the proposed Eldoret Museum.

The proposed museum was allotted a parcel of land vide PDP No.Eldoret 17/91/91 on 1st August, 1991 and a letter of allotment issued on September, 1995. However, information available indicates that the land was allocated to an undisclosed third party in 1995 and subsequently subdivided into 12 plots.

The management of the National Museums of Kenya raised the issue with the Commissioner of Lands way back in 2001 vide a letter referenced AD8/106.8. No response has been received and no action has been taken by the relevant Government agencies to protect this land. This is just but an example.

The same applies to the land in Kitale which belongings to the National Museums of Kenya. I have mentioned the Hyrax Hill prehistoric site. The Kabarnet Museum is another classic example. If you go to the page that covers the National Museums of Kenya, you will find that the Report enumerates all these.

The Committee, therefore, recommended that the Accounting Officer should take the audit process more seriously and honour parliamentary invitations to enable our Committee and Public Accounts Committee (PAC), for issues to do with ministries, to gather information that will effectively facilitate its mandate. We have also recommended that the Director of Public Prosecutions (DPP) and the Director of Criminal Investigation (DCI) should consider the proposal to second its officers to parliamentary committees during special inquiries and examination of accounts to facilitate quick action especially in cases of fraud. This will also assist these offices to produce factual reports that will inform the judicial process.

Hon. Temporary Deputy Speaker, if you remember the Report that we adopted here on the National Youth Enterprise Fund, you will realise that investigation officers from the DCI's Office and the EACC had been on this case. The file was marked "under investigations" for almost a year. It took our Committee less than four months to investigate, delve into the matter of the loss of about Kshs180 million from the Youth Enterprise Fund. We concluded the investigation and tabled a Report in this House. It took about three months for the Report to be debated and adopted by this House. The DCI and the EACC arrested and charged those officers in court after we set timelines in the Report. I must thank them for charging them. However, we are saying that they do not have to wait until Parliament moves in for them to do their work. Parliament is open and our meetings are open. We are inviting them.

We have engaged with the offices of the DPP and the DCI to second officers, just like the Inspectorate of State Corporations and the Auditor-General's Office has officers seconded to the Public Investments Committee (PIC) and PAC. The DCI, the DPP and the EACC can also second their officers to these committees. They can use our meetings to gather evidence so that those contravening the law and those engaging in outright fraud can be arrested from here and taken to court. I hope that with time they will do this.

The appointing authorities of the respective CEOs and boards of State corporations should fast-track the appointment processes to enable the corporations to run effectively. This should be in adherence to the Mwongozo Code of governance for State corporations. That touches on the appointment of boards and their chairmen.

Our general recommendation is that the National Treasury should regularly publish and submit to Parliament an annual National Treasury memorandum on the status of the implementation of the recommendations from both the PIC and the PAC Reports and other relevant parliamentary committees showing the progress made. It should also ensure compliance by Government agencies to its circulars and take necessary action for non-compliance, particularly on regulations from the National Treasury. Many of these regulations are gazetted. I will give you an example of outright contravention of such regulations.

There are regulations on financial investment of surplus funds that were issued way back in 1992 – as I mentioned I was only in Form Two – by the then Permanent Secretary in the Ministry of Finance, Mr. Koinange. The regulations were on how State corporations should invest surplus funds that they are holding.

You will be shocked that two or three of the banks under receivership in this country, particularly Imperial Bank, Dubai Bank and Chase Bank have gone under with billions of taxpayers' money in fixed deposits. This is the case and yet these are private banks

I will give you an example of the Kenya Ports Authority (KPA) that had a deposit of Kshs3 billion. While our students in the villages cannot access loans to go to school, the Higher Education Loans Board (HELB) had the audacity to deposit almost Kshs300 million in Chase Bank. That money is withheld there and yet students are suffering and are unable to access college education.

There are regulations, as I mentioned, that were put in place in 1992 to the effect that any State corporation or agency that has surplus funds should not invest in deposits in commercial banks, but should invest such funds in Government securities. This, again, is flouted with impunity by CEOs of State corporations. That is why we recommend that the National Treasury takes this matter seriously.

Lastly, we have recommended that the representatives of parent ministries in State corporations should be held accountable for any mismanagement that needed their advice. Again,

this is not in vain. The Youth Enterprise Development Fund was a classic example where we had representatives from the National Treasury, representatives of the Principal Secretary (PS) for Devolution in the Board of the YEDF. All the evils that were being perpetuated by the board and the management of that Fund were in full glare of these State officers. That is why we are saying that when you sit as a State officer in a board of a State corporation, you are there to oversee its operations on behalf of your CS and PS. That is why we are also saying that since the PS will not sit in all these boards - whether you are a PS or an officer seconded to a board - if there is misappropriation of funds, mismanagement and governance issues, you be held personally liable. That will ensure that Government officers act with a lot of diligence.

As I conclude, I want to appreciate all the 27 members of PIC who have worked diligently over the last many months - at times sitting through lunch break and at times having to sacrifice recess, when we should be with our constituents, to go through the financial statements of these State corporations. I appreciate also the skills of many of our members - those accountants and engineers who sit in this Committee - who have given us their invaluable support in guiding the Committee.

On behalf of the Committee, I also want to record our appreciation of the Offices of the Speaker and the Clerk of the National Assembly for facilitation in the fulfilment of the mandate of this Committee.

The Committee is also grateful to all the witnesses, Government officials and agencies that adduced evidence before it. Further, the Committee is grateful to the staff of the Office of the Auditor-General, the Inspectorate of State Corporations and the National Treasury for the services they rendered. We appreciate that because many of these offices have seconded officers who sit with us throughout these meetings.

With those remarks, I beg to move. Allow me to call upon Hon. Cornelly Serem to second the Motion.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Well done. The Member for Aldai Constituency, you have the Floor.

Hon. Serem: Thank you, Hon. Temporary Deputy Speaker. I rise to second this Motion. The Report before this House touches on our investment as a country. If this Report is adopted and implemented, we will see effective, transparent and accountable institutions in this country. Let me highlight a few challenges that this Report touches on.

One, most of the institutions lack accountability in terms of the imprests that senior officers sign for. The second is overdependence on the Exchequer. Most of the institutions in this country depend too much on what the Exchequer releases to them for their effective running. The high turnover of CEOs is worrying, especially at institutions of high value. If you look at the National Social Security Fund (NSSF) for the last 10 years, you will find that the CEOs hardly stay for a year. It is something that, as a country, we should look into. If you look at the funding, you will also realise that there is a major problem in terms of the funds released to these institutions. Almost every year, these institutions receive a quarter or half of the funds allocated to them. We urge the National Treasury to make sure that the funds are released to these institutions so that they can implement their projects.

The other observation is on the issue of corruption. The most emotive issue is land. Most of the prime pieces of land in this country, especially in big cities, will disappear immediately, and the people involved in most cases are former employees or employees in the system. In that observation, as a Committee, we felt that we should come up with some recommendation. We

recommend that the boards of various State corporations should ensure that an officer does not act in a position longer than the stipulated period in the Public Service Code of Regulations. We have seen some CEOs wanting to stay longer than the term they are supposed to stay in office.

As earlier mentioned by the Mover, all the boards of State corporations should develop and implement a human capital management and succession strategy to ensure there is continuity, enhanced accountability and efficient and effective management of State corporations. In most cases, we see some institutions lack very efficient officers. Some senior officers cannot articulate what you expect them to when they appear before committees.

Finally, as raised by the Mover earlier on, there are State corporations that do not even have board members, like what we observed in 2013.

(Hon. Aburi crossed the Floor without bowing to the Chair)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order! The Member who has just walked in, can you do the necessary? You cannot cross from one side of the Floor to the other without bowing. Just do the necessary.

(Hon. Aburi went to the Bar and bowed to the Chair)

Hon. Serem: Hon. Temporary Deputy Speaker, the Executive should do the necessary to make sure that the boards have effective members so that all the budgets are approved in time. In our observation or recommendation, we found that the relevant appointing authorities, should appoint effective board members and ensure all vacancies in the boards of various State corporations are filled up in the shortest time possible. The tenure of the board members should be staggered to avoid a situation where the term of office of all board members expires at the same time. There are cases where an institution has about 10 board members whose term of office expires at the same time. We have seen this in the last two years and it takes a year or two without replacements. This is the case and yet there are very many Kenyans---

(Hon. Abdinoor crossed the Floor without bowing to the Chair)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order! There is another Member. Hon. Members, I need to read you the Standing Orders. If you have to cross from one side to the other, you know you have to go back, bow at the Bar and cross to the other side. *Mheshimiwa nitafurahi ukifuata maagizo.*

(Hon. Abdinoor went to the Bar and bowed to the Chair)

Hon. Serem: Hon. Temporary Deputy Speaker, with those few remarks, I beg to second.

(Several Members stood up in their places)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, we are in our third or fourth year in this Parliament.

(Question proposed)

The first one is the Member for Funyula, Hon. Paul Otuma.

Hon. (Dr.) Nyongesa: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this important Report.

I have to start by saying that I support this Report. As a Member of the PIC, I know that maybe it is not procedural for me to talk, but as a representative of the people of Funyula, I am privileged to contribute to this Report. I want us to think carefully why the Government and the people of Kenya decided that we needed quasi-government agencies to try and improve efficiency and effectiveness in terms of service delivery to Kenyans.

If we look at most of these State corporations, we will find that they are like investment arms of the Government on behalf of the people of Kenya. We would expect them to live up to the expectation of why they were set up and why they were separated from the mainstream ministries. However, it is quite alarming when we look at the audited reports that many of these financial institutions in general are wanting in terms of service delivery and effectiveness.

If you look at most of them, instead of being---

(Hon. Aburi consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Tigania East, you are out of order! You cannot rise and make noise in the House. You are actually out of order! You have just walked in a minute ago.

An Hon. Member: Throw him out!

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): No! I am not going to throw him out. You cannot dictate what I am going to do to him. The Member for Tigania East, you have just walked in. You are out of order! I do not want to mention your name. Be orderly please.

Hon. (Dr.) Nyongesa: Hon. Temporary Deputy Speaker, he should know that this is not a *miraa* market. This is an honourable House. He should know where *miraa* markets are to make that kind of noise.

On finances, instead of these institutions being revenue earners for the Government, majority of them---

Hon. Aburi: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Allow me to pronounce myself that the Member for Tigania East is out of order. You have just entered the Chamber. From where I sit, as the Speaker, there is nothing out of order unless you were watching the proceedings from outside. We can only adopt what we are seeing in the House. So, there is nothing out of order.

Hon. (Dr.) Nyongesa: Thank you, Hon. Temporary Deputy Speaker, for that. Most of these institutions were started so that they could generate revenue and ensure prudent use of public resources. Unfortunately, we have seen what has happened to even the Kenya Meat Commission (KMC) which was responsible for establishing the Meat Commission of Botswana. The Meat Commission of Botswana is today one of the largest industries in that country. It is contributing greatly to employment, exporting meat and live livestock to Arab countries and other parts of the world while the KMC which even recommended and seconded staff to Botswana is not doing well. The KMC is in a very sorry state. The machines are old and obsolete. Most of them are just good for scraping. Technology has changed and the KMC is heavily in debt.

We wonder when we visit these places. If you are investing in some assets, you would say: "I am in a weak financial position but my asset portfolio is strong." In this case, you have an institution whose asset portfolio is weak and its financial position is also weak. We wonder why we should not hold some individuals culpable or accountable. These institutions were working, had livestock holding grounds and livestock corridors that were being used to bring in livestock. The grounds have disappeared. They were like safety nets during drought. These were very good intentions. If you visit pastoral communities, you will note that their economy has collapsed because of this mismanagement of the KMC.

Over-reliance on the Exchequer where you are supposed to contribute money and then get money from it is a state of affair that cannot continue. The other day, some of us had high hope, especially when the Jubilee Government was talking about re-organising State corporations to make them effective and efficient. Unfortunately, four years down the line, we are going to another election yet we have not seen anything tangible in terms of reforms in those institutions. Even basic things like board members are not there. We have some Acting CEOs who have questionable qualifications.

If you look at learning institutions, technical institutions and universities which we expect to be the cradle of how things should be done efficiently and how systems should run - because this is where most of us are being trained - you will find that they are failing. We were being trained in these institutions. We do not understand when we hear that the Technical University of Kenya has financial problems and yet universities mushrooming all over are doing very well. Some of the private universities are located on top of bars but they are doing very well. If you look at their financial position, you will find that they are doing very well and yet public institutions like the Technical University of Kenya are insolvent. You wonder why. Is it deliberate? We expect the Vice-Chancellors in those institutions and the lecturers who are teaching us economics and financial management to be the ones providing that kind of knowhow in terms of running those institutions.

Again, as you can see in this Report, some of the insolvent institutions are in the sugarcane sector like Nzoia Sugar Company. We visited it and found some machines which were imported have never been operated. Almost 20 to 30 years down the line, those machines are in containers just rotting. Today, we hear some of those machines are being used as spare parts or being sold as scrap metal. This is the case and yet the Kenyan taxpayer is expected to pay. It is a debt to many of those sugarcane companies. The sector is dying because of mismanagement. We are being told we cannot compete within the Common Market for Eastern and Southern Africa (COMESA) and yet no action is being taken. That is the most alarming thing.

Hon. Temporary Deputy Speaker, we have heard that even basic things like remittances of statutory deductions are not made. We were baffled when the Budget was read in this House and we were told that Pay As You Earn (PAYE) is going down and yet we are told that more jobs are being created. Some of us were taken aback that the PAYE which is a statutory deduction is dropping not just marginally but significantly. We have come to learn that some of these institutions are not remitting statutory deductions. This is the case and yet the law is there and no officer has been held accountable. We cannot run a country like this. These are the institutions that should be efficient and effective but they are not.

One of the major achievements of the Kibaki Administration in the National Rainbow Coalition (NARC) Government was to come up with a policy that we do not want pending bills; that the Government should be run through a budget process and the Budget should be based on programmes. Today, we see institutions that are supposed to be effective and implementing the

best practices that we know, going beyond their budgets or spending money on things which are not within their budgets. Some of the parastatals have been doing that. Some of them even overspend and create pending bills which are avenues for corruption. That is how this country was almost brought to its knees; where contractors would come and make claims because things were never planned and yet money was used.

The Public Procurement and Disposal Act of 2005 which streamlined public procurement has been flouted with impunity. This Parliament and its committees have spent a lot of public money going out there to benchmark. When we come back with the best practices, they are not implemented. The Auditor-General's Office must become part of this Parliament. Its budget must be part of this Parliament because most of the reports we consume from the Auditor-General are what facilitates our work. So, if the Auditor-General's work is still going to be hampered by being lumped together either with the ministry or the National Treasury, we are not going to achieve much. This is because the best practices in countries where we have benchmarked are that the Auditor-General must be part and parcel of Parliament so that the watchdog committees can work effectively.

We have also said that agencies prosecuting or investigating corruption must sit in some of our committees so that they pick up some of the reports and work on them within the stipulated timeframe.

Hon. Temporary Deputy Speaker, thank you very much for being patient with me. With those few remarks, I support the Report.

The Temporary Deputy Speaker (Ms.) Mbalu: The Hon. Member has not been talking a lot. Sure, he has now landed.

Let us have the Member representing the people of Isiolo North, Hon. Joseph Lomwa.

Hon. Lomwa: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to add my voice to this Report. The Committee observes that the KMC had a huge workforce as a result of inefficient use of machinery.

(Technical hitch)

The Temporary Deputy Speaker (Ms.) Mbalu: Give him the microphone.

Hon. Lomwa: Hon. Temporary Deputy Speaker, for a long time, the KMC used old machines which could have contributed a lot to the huge workforce as expressed in the Report. The intended workforce, if proper machines were to be utilised by KMC, was to be about 300 compared to the present over 1,000 employees.

(Technical hitch)

The Temporary Deputy Speaker (Ms.) Mbalu: Give him the microphone. The microphone is on. Just speak.

Hon. Lomwa: Hon. Temporary Deputy Speaker, the huge workforce was engaged due to the state of the machines. For that workload to be done by the workforce, a huge investment on the use of machines would have been required.

I concur with the Committee's recommendations that the functions in some of these State corporations should be transferred to county governments in line with the Fourth Schedule.

The KMC, according to me and what has been observed there, is about mismanagement rather than its commercial viability. Government institutions will run smoothly with proper utilisation of the allocated resources.

A significant number of regulatory and commercial State corporations continue to depend on the National Treasury. This is very true because huge Government investments have, over time, gone to Recurrent Expenditure. This is mostly in the payment of salaries and allowances to staff. We need value for money in most of these institutions. There is overreliance on the Exchequer. I support the Committee's observations and recommendations.

The non-remittance of statutory deductions is an issue to do with leadership. Leadership of State corporations show lack of seriousness and commitment on the side of the people entrusted with such responsibility. I doubt whether the Government indicates the cost of penalties in the allocations it makes. The negligence we have seen in such institutions even when they delay the remittances, indicates that it is carried out over time. I expect punitive measures to be put in place by the Committee on the inefficiency it has observed in the management of these institutions. This will bring to an end mismanagement of State corporations.

I like the Ministry of Education, Science and Technology's requirement on land; that public institutions must have proper registration documents to deter or prevent any land speculators from grabbing institutional land. I expect the same to be done in these State corporations so that we can protect public land from land grabbers.

With those few remarks and observations, I support this Report.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Chief Whip of the Minority Party, Mhe. Mwadeghu.

Hon. Mwadeghu: Asante, Mhe. Naibu Spika wa Muda, kwa kunipatia nafasi hii ili nami nitoe mchango wangu kwa kuunga mkono Ripoti hii ya Mashirika ya Serikali ambayo imetolewa na Kamati ya Uwekezaji. Ripoti hii imeangazia mambo kadha wa kadha kuhusu mashirika ya Serikali. Inafafanua kwa uwazi changamoto ambazo mashirika haya yanapitia.

Nitaanza na hali hafifu ya uwajibikaji kwa kitengo cha hesabu za fedha. Uhasibu ni kitu muhimu katika shirika lolote, utendaji kazi wowote ama kampuni yoyote. Inaweza kubainisha waziwazi kama shirika hilo ama kampuni hiyo linaendesha kazi zake kulingana na wajibu wake. Katika mashirika haya yote ambayo yalikuja mbele ya Kamati ya Uwekezaji, ilibainika wazi kuwa mengi yao yalishindwa kabisa kuweka bayana hesabu zao za fedha. Iliyonesha kuwa hapo ndipo kuna njia ambazo zimetafutwa na maafisa wakuu za kupoteza na kuiba pesa za umma.

Inasikitisha kuona kuwa katika Ripoti ya Mkaguzi Mkuu wa Vitabu vya Serikali, naye pia anashindwa kutoa maoni yake kuhusu hesabu za fedha za kampuni hizo kwa sababu hakuna stakabadhi za kutosha. Hii ni kwa sababu wakiambiwa waziwasilishe hawazisawalishi. Mara nyingi, inakuwa ni changamoto kubwa kwa watu kuweza kubainisha kama makampuni haya yaliundwa ama yalianzishwa na Serikali ili kuhakikisha yanatoa huduma kwa umma ama kufaidi watu binafsi.

Utakuta kitengo kama Chuo Kikuu cha Ujuzi cha Kenya ni shirika ambalo linafilisika. Ukiangalia utaona ni shirika la umma. Sababu ni kuwa fedha hazipo za kutosha. Na pale fedha zimetolewa, hakuna uwajibikaji. Suala nyeti ambalo tunajuliza ni kwamba hao ambao wanateuliwa kuongoza mashirika haya, watakuwa wamekosa nidhamu kwa muda gani ndio wachukuliwe hatua? Tutaendelea na hatua hizi kwa muda gani? Kila mwaka, Bunge hili linaombwa litoe idhini ya fedha kiasi fulani zitolewe ili kuendesha mashirika haya. Lakini fedha zikishaingia, zinatumbukia katika shimo kubwa na hakuna mtu anayewajibika wala anayefuatilia na kuuliza mashirika haya yanafanya nini.

La kushangaza ni kuwa utakuta pia wakurugenzi ambao wanatakiwa waendeshe mashirika haya mara nyingi muda wao wa kuhudumu katika mashirika hayo huwa umeisha. Ukishaisha, inachukua muda mrefu sana kuona wengine wameteuliwa. Wale wanahitajika kuhakikisha hawa wakurugenzi wameteuliwa huwa wamelala na kuzembea katika kazi yao. Unakuta mashirika haya yanaendeshwa bila wakurugenzi.

Tukiangalia sheria za kampuni, tunaona ziko wazi. Utendajikazi wa kampuni yoyote, mwelekeo wake na mwongozo wake unatolewa na wakurugenzi wakisaidiwa na mkurugenzi mkuu. Kama mkurugenzi mkuu ameachwa peke yake, yeye pamoja na maafisa wake watafanya watakalo, na mara nyingi huwa ni uporaji wa pesa za umma. Pesa za umma zimeporwa na zitaendelea kuporwa.

Inasikitisha sana kuona sheria za nchi ambazo ziko wazi, na kila mtu anazijua kama sheria za kulipa ushuru zikivunjwa. Unakuta hata sisi Wabunge katika mishahara yetu, kuna kiwango kinakatwa ama tunatozwa kama kodi - Lipa Vile Ulivyolipwa. Wazungu wanaita *PAYE*. Unakuta fedha hizo zikitolewa kwa mshahara wa mfanyikazi, mashirika haya hayahakikishi kuwa zimefika kwa Kitengo cha Kodi. Kitengo cha Kodi kinabana kikijua kuwa haya mashirika yana deni. Pesa za wafanyikazi wenyewe huwa zinakatwa ili kulipia vitengo kadha wa kadha kama NSSF na NHIF. Lakini unakuta mara nyingi fedha hizi zinaondolewa kwa mshahara wa mfanyikazi lakini hazipelekwi pale zinapotakiwa ila zinabanwa. Mfanyikazi kesho akiwa anataka huduma ya hospitali anaambiwa kuwa kadi yake haiko sawa kwa sababu hizo fedha hazijapelekwa. Akienda kuuliza anaambiwa hakuna chochote.

Ninakumbuka kuna shirika ambalo pia lilikuwa na uzoefu kama huu - Shirika la Reli. Likakata fedha za wafanyikazi hasa za kustaafu. Baadaye shirika lilipokuwa linauzwa, wenyewe ambao wamestaafu wakawa hawana pesa za kuwasitiri wakati wamestaafu, kwa sababu lilikuwa ni deni kubwa kiasi kuwa Shirika la Reli lilikuwa haliwezi kulipa. Kuna mashirika mengi ya Serikali ambayo yako katika janga hilo hilo. Inababaisha na kusikitisha kuona kuwa mashirika yetu ambayo nia ya Serikali kuyaunda ilikuwa iwape wananchi huduma ili angalau maisha yao yabadilike, yamekuwa ni mashirika ya kunufaisha na kutajirisha watu wachache.

Katika uwajibikaji wetu kama wanakamati, wakati mashirika haya yamekuja kutoa stakabadhi zao za ardhi, inasikitisha kuwa mara nyingi ardhi hiyo haina stakabadhi. Unauliza wanafanya nini na wanasema kuwa wanangojea kitengo cha ardhi kiwaletee stakabadhi hizo. Ni mara ngapi tumeona mashirika haya yamelazimishwa kununua ardhi ambayo hawahitaji? Unakuta ardhi labda haina stakabadhi ama cheti. Mtu anakuja Nairobi anahakikisha kuwa ardhi hiyo imepata stakabadhi na amepata cheti. Anakimbia kwa shirika hilo na kuiuzia hiyo ardhi ilhali watu wako hapo kwa ardhi. Hakuna mtu anangoja kuangalia kama ardhi hiyo ina watu au la. Mara nyingi, huwa ina watu. Baadaye shirika hilo linageuka na kuwafurusha wale watu kwa sababu wako kwa ardhi ambayo ni yake ilhali hao watu walikuwa hapo tangu jadi. Lakini watu wamefanya ukora, wakaenda wakachukua cheti na kulazimisha shirika hilo kununua hiyo ardhi. Sasa itakuwa ni utata kati ya shirika na wenyeji. Mambo haya yanatakiwa yatatuliwe.

Sheria ya kununua vifaa inayoitwa kwa Kiingereza *Public Procurement and Asset Disposal Act*, imewekwa ili kuhakikisha kuwa kama kuna vifaa vyovyote vinanunuliwa ama kuna tenda yoyote inatakiwa kupeanwa na kampuni ama shirika, kuna utaratibu unatakiwa ufuatwe. Mara nyingi, utakuta kuwa hakuna mtu anashughulika kufuata utaratibu huo. Tunaomba wale ambao wanahusika kuhakikisha kuwa mashirika haya yanafanya kazi ilivyotakikana, wanawajibika iwezekanavyo.

Kwa hayo mengi, ninaomba kuunga mkono Ripoti hii ili Bunge iipitishwe.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Yes, the Member for Limuru.

Hon. J.K. Chege: Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to air my views. I would, first, like to support the 20th Report of the PIC.

I want to note that the 64 State corporations mentioned in this Report are very important. They cover a number of areas, including agriculture, universities and middle-level college, education, medicine, power generation, infrastructure and regulatory bodies. As my colleagues have mentioned, these parastatals were created to provide services to Kenyans in a manner that they can deliver quality services. Kenya has demonstrated over the years that she has people who can run businesses properly. We are known in this region as people who provide manpower not only to the East African region but also overseas. Some of the institutions that are doing well in Africa have the expertise of many Kenyans.

It is worrying that when it comes to state corporations, we take them as avenues for enriching ourselves. I am a Member of this Committee. As we conducted interviews, we could not fail to notice that the quality of the management teams and the board members did not measure to the responsibility of the various State corporations. Some of the corporations require managers with specialised skills. For some reasons, some State corporations do not even have board members. Some have board members who do not meet the bare minimum requirements to run State corporations. You can see that when they appear before the Committee. They were never prepared. Most of the time, there was time wasting. If you looked further, you realised that most of them lacked the capacity. If we are to help the parastatals grow and become efficient, this House must ensure that the Executive appoints qualified Kenyans to run the organisations. We must also make sure that as we appoint people to the various boards of parastatals, we avoid nepotism. We must provide the institutions with the most qualified Kenyans to run them. We risk losing the organisations if we appoint people from our villages to run them.

If you look at the organisations that are responsible for overseeing these corporations, you will find that the Auditor-General does not have adequate budget. If you look at the amount of load the Auditor-General has because of devolution, you will realise that he has a challenge of looking into the operations of these corporations. Some of the challenges they have had is that of going out to pick private parties to do what they must be doing. In fact, we need to help the Auditor-General so that he can have enough budgetary allocation to do his job and also recruit qualified and specialised people who can deal with the challenges they have. There is a tendency to think that one of the problems we have in these parastatals is financial. When I look at the submissions on the challenges that are facing these State corporations, I realise that some of their problems are technical. There are people who think that they will use technical manoeuvres to achieve what they want to achieve.

On the matter of conspiracy or what you can call collusion, you will realise that there seems to be a conspiracy to loot these State corporations. This conspiracy covers various arms of our governance. People who are in the board and officers who work there do so with investigating authorities. Some work with the business community. Even when there is an obvious case of money being taken out of a State corporation, you wonder why people cannot be put behind bars. You will also realise that even the Judiciary has its own challenges. If you read this Report, you will find that some of the cases have been in court for many years. Why? It is because it is not in the interest of those involved that these cases must be concluded.

We must understand that if we do not run State corporations properly or secure them, the cost of doing business and providing services in this country will continue to go up. Unfortunately, the person who suffers is the ordinary Kenyan. The monies we lose by running down parastatals could be used for water supply, providing electricity and building roads. It is

very important for people to take this Report and other reports that have been done by the PIC very seriously. Even this House should take them seriously so that the many hours that have been spent interviewing people can be of benefit to this country.

We also call upon the various arms of Government like the EACC, DPP and DCI to do their job. There is a lot that this Committee can do. They should pick the things that we have unearthed in this Report and play their part because if we do not do that, I do not think we will do this country any good. This is because the people who are using these organisations to enrich themselves will continue doing so.

Without repeating what my colleagues have said, I think we have a challenge to ensure that these State corporations are not run down. Those who do so should take responsibility and pay for it.

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The next Member is Hon. Ndegwa.

Hon. Kariuki Ndegwa: Thank you, Hon. Temporary Deputy Speaker. I also concur with my colleagues on the State corporations and institutions Report. They should be under mandatory guidance from the Government. It is necessary they seek authority, search for professionals and follow accounting rules. Some corporations are run as if they are a personal entity.

The Government of Kenya should ensure that the property of citizens is protected. I am aware that some of the CEOs get involved in dubious activities to enrich themselves. Most of them delay when it comes to remitting statutory deductions like the NSSF money and others. The reason for this is purely poor management. These corporations end up collapsing with members' money and it becomes difficult for Kenyans to be paid their dues. I believe these are institutions like any other and require proper and adequate supervision by the Auditor-General and any other body which is entitled to protect Kenyans and their investments.

We all know that some corporations have collapsed with a lot of money belonging to ordinary Kenyans. It is unfortunate that they may never recover their money. Right now, there is no clear law to follow the managers of these corporations when they collapse with people's money. The Government should supervise them. The board members must report to the necessary authorities, for example, the PAC and the PIC.

Whenever they want to invest in land, most of them get into dubious deals. So, we need to use the necessary authority and government machinery to make sure that whatever they are buying is done in accordance with the law. So, I concur with my colleagues. State corporations need to be regulated and controlled to make sure that members' money is safe.

Thank you. I support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Hon. Member for Kwanza, Hon. Ferdinand Wanyonyi.

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Speaker, I have perused through this Report. My observation is that there is something wrong with the state of affairs in these parastatals. These parastatals provide employment to Kenyans and some of them are very technical. Although they offer employment to our people, the way they are being run is not satisfactory and so something needs to be done immediately. I came in when one of the Members was highlighting this matter. I got concerned because I am also a former CEO of two big parastatals. The EACC should move with speed in order to assist or correct some of the abnormalities that exist within some of the parastatals.

Sitting allowance is surely meant for board members. I am surprised because at the two big parastatals that I headed, we were not allowed to pay civil servants because they draw salaries. I am surprised that a CEO or a board that is well informed could go ahead and pay allowances to civil servants who attend meetings on behalf of the parent ministry.

Secondly, the situation is getting out of hand because the agencies that are supposed to oversee the State corporations are not doing their job well. The Efficiency Monitoring Unit (EMU) is supposed to monitor the efficiency of parastatals and how they are run. The Inspectorate of State Corporations is supposed to check on what is happening in the parastatals. Something is amiss. I cannot reconcile my thinking but these things are getting out of hand. This Report shows that nothing is really happening. Where is the EMU? Is it still under the Office of the President? Were they sleeping or were they on holiday all this time?

The other thing I want to affirm is that the directors of some parastatals are picked because they come from the same village as the CS or the CEO or the Principal Secretary (PS). Some of them are friends to some personalities within the Executive. That is why this is happening. There are no checks and balances. The directors are supposed to detect some of these issues. During board meetings, minutes are taken. The members go through the minutes in the subsequent meeting and confirm them. That is the time they are supposed to notice that something is wrong. That is the time when the directors can also question the Executive or the CEO. However, because the directors are just there to earn a living by drawing sitting allowance, they are not able to do anything. Again, where are the EMU and the parent ministries? Every parastatal has a parent ministry, which is represented by the PS or a senior ministry official appointed by the PS to sit in the board. What is happening? Something is wrong.

During the reigns of former President Mwai Kibaki, we started performance contracting. All heads of parastatal would sign a performance contract with the Executive at the beginning of every financial year. The contract sets the targets for each State corporation. It contains intakes and parameters to enable them to know what to do. By the middle of the financial year, you will have a clear picture on whether you are actually working within the targets or not. What are they doing nowadays? It appears like nothing is being done? That is why they have all these problems.

Lastly, there is something else I have observed. It is very disappointing when you have a State corporation without a board. What happens? It means lack of management and theft. People place themselves strategically to loot the institution's resources.

We have Chief Executive Officers (CEOs) who have been acting. I know of about six CEOs. As we speak, there are parastatals without substantive CEOs. What is happening to the parent ministries? One can act for about two or three months and get a substantive replacement. We do not have that. Something is wrong. The whole saga is about people who are not working. An accusing finger should be pointed at the parent ministries of all these parastatals. Pick any one of those mentioned. They either fall under the Office of the President or under a particular ministry. If we have to adopt this Report, we should have a timeline within which we will check whether whatever we have raised here is complied with or not because somebody somewhere is sitting on his or her job. I particularly ask the EMU which falls under the Office of the President and State corporations which are supposed to be overseeing these parastatals on behalf of the Government to do something. Something is not right. We cannot just be complaining. We should put an end to this saga.

Otherwise, I take this opportunity to support the adoption of this Report. I look forward to having it adopted as soon as possible.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Well done. Let us have the Member for Kiharu.

Hon. Kang'ata: Hon. Temporary Deputy Speaker, I rise to support this Report. At the outset, let me declare that I am a Member of the PIC. This is a well done Report. However, I have some observations to make.

First, I draw your attention to pages 3 and 4 of this Report. You will realise that we were considering 64 parastatals or State corporations and yet we have almost 300 parastatals in this country. It is very clear that these are too many State corporations. I belong to the school of thought that we need to have fewer Government-based State corporations for obvious reasons. You will realise that out of the 64 corporations, the ones with the unqualified opinion from the Auditor are about 20 per cent.

You can imagine wastage of Government resources as a result of directors holding unauthorised meetings so that they can obtain irregular payments in terms of sitting allowances. You will see Government entities holding land they ought not to hold. The land should be for the private sector where it can be used well. From my interactions, as a Member of this committee, I am now more convinced that we need to reduce the size of state. We need to have a smaller state. The first starting point is to reduce the number of State corporations.

Hon. Temporary Deputy Speaker, I am aware that there was a presidential committee that was headed by an eminent lawyer and a former Member of Parliament called "Abdikadir" which had proposed the reduction of State corporations. I urge the President to move with haste and effect the recommendations of that committee to reduce the number of State corporations.

If you look at that list, for instance, you will realise that we have South Nyanza Sugar Company. This is a company that is dealing with sugar. I strongly believe that the State should deviate from such endeavours and allow a private entity to deal with matters sugar. More often than not, the people managing those entities are more interested in stealing Government money as opposed to efficiently running these institutions. We have the Tea Research Institute of Kenya. The objects of this institution can be met by either the Kenya Tea Development Authority – it can do the research – or our public universities. We have, for instance, Kabiriga University which is situated in Kericho. It is in the middle of what we call "the tea belt". Why can they not do this research as opposed to having a separate entity doing the research? The same applies to entities like Pest Control Products Board and the Youth Enterprise Development Fund Board. I agree it is a noble idea that we have a youth Fund that is separate from the other funds targeting the vulnerable people, but we should ask ourselves: Why is it that we have very many funds targeting the so-called vulnerable groups operating independently? We have the Uwezo Fund with its own separate board. We have also the YEDF Board. We have another board that deals with the Women Enterprise Development Fund. Why can we not consolidate all those funds?

One, it will become more efficient. Two, it will reduce the number of people being employed by these entities and we can use that money to fund our women, persons living with disabilities and the youth. It will also save us from the problem raised by auditors. They always say these corporations are mismanaged and money misused.

If you look at the Committee's observations and findings, you will find that page five of the Report talks about weak financial position. You will see that all these entities tend to be mismanaged and they rely on Government capitation. Good managers of corporations ought to think outside the box. Such entities can leverage outside and get money from other independent

sources. They can get either foreign funding or funding from the private sector to meet some of their objectives.

I urge that the Committee's recommendations be enforced, in particular the recommendation on page 7 of the Report, where we are proposing to the National Treasury to fast-track the restructuring and privatisation of poor performing commercial State corporations, like the KMC. It is one of the entities that have been mismanaged. We all know agriculture is devolved. I strongly believe that we can urge entities like the Council of Governors (CoG) to either come up with a KMC-equivalent institution that will do marketing of meat or, alternatively, we allow the respective counties to form their KMC-like entities.

I also draw your attention to page 9 of this Report on the non-remittance of statutory deductions. We have various laws which compel employers to remit various deductions like PAYE, pension money payable to NSSF or NHIF payments. You will find there are several entities which do not pay these statutory deductions. Probably, we need to change the law and provide a situation where the managers of these State corporations have personal stake or they can be found personally culpable for failing to remit statutory deductions. This is money which they have already obtained from their employees. What reason do they have for failing to remit that money to the respective entities?

The issue of land and buildings is captured on page 10. The parcels of land and buildings that belong to State corporations have been grabbed by private persons. I also belong to the school of thought that the Government should not be holding land. They should privatise land. The Government should give land to private entities to allow them play a crucial role. Dead capital on idle land does not make any sense. Why should a parastatal have 500 hectares of land that is not useful? Why can we not give that land to the private sector, which will employ resources to ensure it is used efficiently?

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. (Ms.) Shaban, you have the Floor.

Hon. (Dr.) Shaban: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report of the PIC on the audited financial statements of State Corporations, which was tabled in this House. It is obvious that there is carelessness with the management of some of these parastatals. It does not make sense for a CEO, whether with or without a board to apportion money as if it is personal money. It is taxpayers' money. It is obvious that the Retirement Benefits Authority (RBA) has refused to carry out its mandate because it is supposed to ensure that pension schemes in this country are run according to the law.

The issue of statutory deductions from employees not being remitted leaves a lot to be desired. The recommendations by the Committee must be followed to the letter because with this attitude, we are mistreating Kenyans who work in these parastatals. How will they be paid when they retire? They will end up suffering and running around because their money was not remitted as per the law.

Land and buildings are some of the assets that Kenyans look at as part of the wealth of this country. That attitude has been there because of the arbitrary allocations and funny allotments, which are not real and not based on any law. According to this Report, the boards in those parastatals should move very fast and make sure that they get titles for the pieces of land and buildings, and kick out people staying in those houses without paying rent.

It is not easy for people to deal with this. As Hon. Wanyonyi has said, this is because some of the board members have been appointed on the basis of friendship and blood

relationships. Therefore, it is difficult for anyone to take legal measures against people in the management when they misbehave.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You have 30 seconds to conclude.

Hon. (Dr.) Shaban: The Kenya School of Monetary Studies should be delinked from the CBK so that it can run its own affairs without interference from anybody. It should also admit students from other areas so that it can make money to enable it fulfil its mandate.

I support the Motion.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, for obvious reasons, I will not call upon the Mover to reply. I order that he be called upon to reply at the most appropriate time.

Hon. Members, the time being 6.30 p.m., this House stands adjourned until Thursday, 6th October, 2016, at 2.30 p.m. It is so ordered.

The House rose at 6.30 p.m.