

NATIONAL ASSEMBLY

OFFICIAL REPORT

SPECIAL SITTING

Tuesday, 20th December, 2016

The House met at 3.00 p.m.

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

PRAYERS

MESSAGE

JOINT COMMITTEE ON PARLIAMENTARY SERVICE
(SENATE MONITORING AND EVALUATION)
(PROCEDURE FOR MANAGEMENT OF FUNDS) REGULATIONS

Hon. Speaker: Hon. Members, I wish to convey a Message from the Senate regarding the decision of the Senate on the Parliamentary Service (Senate Monitoring and Evaluation) (Procedure for Management of Funds) Regulations, 2016.

Standing Order No .41(5) relating to messages from the Senate requires the Speaker to report to the House any messages received from the Senate at the time when the House is not in session, on the day the House next sits. In this regard, hon. Members, I wish to report that on Wednesday 7th December, I received a Message from the Senate regarding the decision of the Senate on the Parliamentary Service (Senate Monitoring and Evaluation) (Procedure for Management of Funds) Regulations, 2016. The Message states as follows:

The Senate, by resolution made on Tuesday, 29th November 2016, pursuant to Standing Order 215(3)(b) and 216 of the Senate Standing Orders resolved to establish a Joint Committee comprising the following Senators to consider the Parliamentary Service (Senate Monitoring and Evaluation) (Procedure for Management of Funds) Regulations, 2016.

1. Sen. Kiraitu Murungi
2. Sen. Abdirahman Hassan
3. Sen. Beatrice Elachi
4. Sen. Muriuki Karue
5. Sen. (Dr.) Agnes Zani
6. Sen. Billow Kerrow
7. Sen. Stephen Sang
8. Sen. (Prof.) John Lonyangapuo
9. Sen. Peter Mositet
10. Sen. Judith Sijeny
11. Sen. Henry ole Diema
12. Sen. Janeth Ongera

13. Sen. Kimani Wamatangi
14. Sen. Boni Khalwale
15. Sen. Christopher Obure

Hon. Members, you will recall that on Thursday 1st December 2016, this House did approve the names of its 15 members to form part of the Joint Committee for the purposes of referral and consideration of the said Regulations.

As you are aware, the formation of the Joint Committee was necessitated by the annulling of the Regulations by the National Assembly on 17th November 2016. I, therefore, wish to call upon Hon. William Cheptumo, who is the Co-Chairperson of the Joint Committee, to reach out to his Senate counterpart so as to commence the reconsideration of the Parliamentary Service (Senate Monitoring and Evaluation) (Procedure for Management of Funds) Regulations, 2016.

I thank you.

Hon. Members, there is a further Communication that is coming. It also requires the Leader of the Majority Party to do some other extra work.

PETITIONS

LIFTING OF BAN ON CONSUMPTION OF GMO FOODS

(Hon. (Ms.) Wahome stood up in her place)

The Speaker: Member for Kandara, you appear to be in a foul mood today.

Hon. Members, pursuant to the provisions of Standing Order No.225(2)(b), I hereby convey to the House that my office is in receipt of a petition signed by one Joel Winyo Ochieng, on behalf of the Kenya University Biotechnology Consortium (KUBICO). The petitioners are praying for lifting of ban on consumption of foods derived from Genetically Modified Organisms commonly referred to as “GMOs”, and issuance of permit to conduct field trials of BT maize – a maize crop developed locally using genetic engineering for resistance to a common stalk borer. The petitioners contend as follows:-

THAT, the Government, in banning consumption of all food derived from GMOs violates Chapter Six of the Constitution on the Bill of Rights and provisions of the Biosafety Act, 2009, which provides that the National Biosafety Authority is the only regulatory body authorized to impose such ban;

THAT, to-date the ban on GMO foods has not been gazetted and no legal notice has been issued to that effect, hence the Ministry of Health may be irregularly implementing the order to ban GMOs in Kenya;

THAT, sufficient evidence demonstrates that the ban was imposed in a discriminatory manner and does not suggest any safety measure or an act of precautionary nature; and,

THAT, the ban on GMOs undermines the authority of Parliament, which enacted the Biosafety Act No.2 of 2009.

In this regard, the petitioners pray that the National Assembly examines the prayers contained in this petition with a view to causing lift of ban on consumption of foods derived from GMOs and issuance of permit to conduct field trials of BT maize crop.

This petition therefore stands committed to the Departmental Committee on Agriculture, Livestock and Cooperatives for consideration. The Committee is required to consider the petition and report its findings in accordance with the provision of Standing Order 227 (2).

I thank you.

Hon. Members, in view of the fact that we have tremendous business, you will allow me to not get Members to comment on that petition.

Nominated Member Isaack Mwaura, what is your petition? You also appear to be in some attire that makes you very bright.

Hon. Mwaura: Thank you, Hon. Speaker. It is African attire. We need to appreciate our culture.

LEGISLATION ON PREVENTION, CONTROL AND
MANAGEMENT OF SICKLE CELL ANAEMIA

Hon. Mwaura: Hon. Speaker, I wish to present a public petition---

(Hon. (Ms.) Odhiambo-Mabona and Hon. (Ms.) Shebesh argued)

Hon. Speaker, I wish Hon. Millie and Shebesh could keep quiet. They are making a lot of noise.

Hon. Speaker: Now, now, now! The two honourable ladies---

Hon. Mwaura: Hon. Speaker, these are two former nominated Members of Parliament. They should show some decorum.

I wish to present a public petition by the Children Sickle Cell Foundation of Kenya on enactment of legislation on prevention, control and management of sickle cell anaemia in Kenya.

I, the undersigned, on behalf of persons living with sickle cell anaemia, draw the attention of the House to the following:

THAT, sickle cell anaemia is a fatal condition that claims lives of infants below the age of five years, yet most neglected non-communicable disease in Kenya;

THAT, the Government has given little attention to prevention, control and management of sickle cell anaemia;

THAT, there is minimal sensitisation about the disease as opposed to comparable diseases like cancer, diabetes and HIV/AIDS---

(Loud consultations)

The Speaker: Hon. Members, please, we have only a few hours for today. You must also allow the country to see the benefits of the provisions of Article 97(1) (c). Familiarise yourselves with that Article. It is the one that talks about the composition of the National Assembly. Please, let us allow the Hon. Member to present his petition in silence.

Hon. Mwaura: Thank you, Hon. Speaker. Let me proceed. It is very important for the President to be respected.

THAT, there is minimal sensitisation about the disease as opposed to comparable diseases like cancer, diabetes and HIV/AIDS that claim nearly similar number of lives as sickle cell anaemia does;

THAT, there is no national registry or tracking system in place for this condition to determine the annual infants deaths caused by the condition or the number of people living with the condition;

THAT, there is insufficient control and management programmes, with only one ill-equipped national sickle cell clinic domiciled at the Kenyatta National Hospital, forcing patients to seek treatment in private clinics that charge exorbitant fees;

THAT, the Government has not provided an elaborate plan for provision---

The Speaker: Hon. Mwaura, there is a point of order from the Member for Kisumu Central.

Yes, Hon. Obura.

Hon. Mirenga: Thank you, Hon. Speaker. Allow me to alert the House of a possible fist fight between Hons. Millie Odhiambo and Rachel Shebesh. There is a lot of tension and something must be done urgently, otherwise this House is likely to be reduced into something not quite honourable. I think there is an urgent need to have the two separated for whatever reason they want to fight about.

I think it would be wrong for us as male Hon. Members of this House to watch the tension and possibly a physical fight erupting while we can actually afford to prevent this. We can avert it. Of course, we do not need the General Service Unit (GSU) here. We only need a physical separation.

Hon. Speaker: Hon. Obura, there is no cause for alarm. We have sufficient---

Hon. Mirenga: Hon. Speaker, my observation is so right and we need to do something about it. You can see the tension is almost lighting up and with Hon. Sabina Chege and Gladys Wanga sitting around them, it only worsens the situation. Something must be done. Please we beg you to act urgently or Hon. Kaluma should be allowed to sit around there. You know what happened to him.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Mwaura, proceed with your Petition. Hon. Members, let us not allow ourselves to be carried away by certain jigs that we may be making out there.

Hon. Mwaura: Thank you, Hon. Speaker, my fellow Members are saying that these gracious ladies could be fighting over the fact that you do--- Let me proceed.

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

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

- (i) Develops as national policy on effective management of sickle cell anaemia including integrating sickle cell control programmes with the national programme for prevention and control of the disease, early detection and treatment, community sensitisation, data collection, surveillance and research on the disease.
- (ii) Makes any other order or direction that it deems fit in the circumstances of the Petition.

And your humble Petitioners will ever pray.

Hon. Speaker: There is a passionate request from Hon. Pukose.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker. I want to support that Petition by Hon. Mwaura. I know it will come to our Committee and we will look at it.

As we speak today and debate as a House, there is something that the attention of Kenyans must be brought to and that is the doctors' strike. It has entered into the third week and I think it is something which is very critical. I saw some of my colleagues like Hon. Chris Wamalwa and others talking about it in the morning but it is a critical issue that this House must

address. The Kenyan doctors are on strike because of a Collective Bargaining Agreement (CBA) that was negotiated. Today, I saw the High Court issuing warrants of arrest and I think that is not the way for us to go as a country. I think we need to sober up. The Cabinet Secretary (CS) for Health, Council of Governors (CoG) and the CS, National Treasury must sit together. His Excellency the President must beat the forefront to resolve this issue because I think we are moving in the wrong direction and soon we will have many of our doctors leaving the service and going out of this country and that will not be good.

Hon. Speaker, I want to urge this House to look into this matter and as the Budget and Appropriations Committee looks at the Supplementary Budget, they should put in something for the doctors so that they can work and deliver services to Kenyans.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Samburu North.

Hon. Lentoimaga: Thank you, Hon. Speaker for allowing me this time to contribute on the Petition that was made by the first Member. I think the issue of GMOs is critical. Sometimes GMOs are allowed because of the population in the world that cannot be accommodated by organic food.

Currently, we have a looming disaster in northern Kenya and that is drought. In my constituency, more than half of the population is facing a disaster of lack of food because they depend wholly on livestock. There is no water and grass for the livestock. People are shifting from one place to another. Young children and elderly people have no food because they depend wholly on livestock.

My appeal is that the Government of Kenya moves very fast and provides relief food to our people in big quantities and to look at the issue of livestock off-take. This is because they are becoming very weak. There is no market and goats and cows cannot be sold. We need the Government to put aside some money for livestock off-take. Currently only a few animals are bought, about 1,000. What can make a difference is maybe buying more than 10,000 animals in those areas.

I call upon the Government to ensure there is supplementary feeding for young children and the elderly to combat this disaster that can destroy our people during this drought season. The rains have failed this month and we do not expect any rains until April. There is a looming disaster that the Government needs to take action on as early as possible.

Thank you, Hon. Speaker.

Hon. Speaker: The two Petitions are referred to the relevant Committees to deal with them appropriately.

Hon. Members, before we proceed to the main business, there is a saying that “An elephant is never unable to carry its own tusks”. I hope you can apply it whichever you think. So each Hon. Member should be able to carry his or her tusks.

COMMUNICATION FROM THE CHAIR

APPROVAL OF NOMINEE FOR APPOINTMENT AS THE CHAIRPERSON OF THE EACC

Honourable Members, pursuant to the provisions of Standing Order No. 42(1) of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from His Excellency the President, seeking National Assembly’s approval of the nominee for appointment as the Chairperson of the Ethics and Anti-Corruption Commission (EACC). In the

Message, His Excellency the President conveys that, in exercise of powers vested in him under Sections 3 and 5 of the Ethics and Anti-Corruption Commission Act, 2011, he has nominated Archbishop (Rtd.) Eliud Wabukala Wamukekhe for appointment as the Chairperson of the Ethics and Anti-Corruption Commission (EACC).

Order Members! Hon. Members, I appreciate that this is the month of December and people may be excited but let us transact business.

Honourable Members, it is expected that the nominee will undergo the vetting process in accordance with the provisions of the Public Appointments (Parliamentary Approval) Act, 2011.

Section 8 of the said Act provides that the relevant Committee of the House---

(Loud consultations)

Order Members! Hon. Members, I appreciate that this is December and those of you who are a little advanced in age, will remember that it used to be - those days - a very exciting month. I appreciate that, but it is just for this afternoon.

Hon. Members, it is expected that the nominee will undergo the vetting process in accordance with the provisions of the Public Appointments (Parliamentary Approval) Act, 2011, whose Section 8 provides that the relevant Committee of the House should consider the suitability or otherwise of the nominee and table its Report for consideration by the House within 14 days from the date when the notification of nomination is conveyed to the House. Further, the Act requires that the public be given a seven days' notification to submit their views regarding the suitability or otherwise of the nominee proposed for appointment to an office requiring parliamentary approval.

In this regard, and in accordance with the provision of Article 259(5) (a) of the Constitution as read together with Section 5 of the said Act, the seven days' notification to the public shall start running on the day following the day when the notice is published in the dailies. Further, Section 9 of the said law provides that:

“If, after expiry of the period for consideration specified in Section 8, Parliament has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved.”

Hon. Members, in this regard I will be asking the Chairperson of Departmental Committee on Justice and Legal Affairs to seek relevant resolution of the House today to extend the period for consideration of the nominee as provided for under Section 13 of the Public Appointments (Parliamentary Approval) Act 2011.

Hon. Members, owing to the pivotal role that the office of the Chairperson of the Ethics and Anti-Corruption Commission (EACC) in driving the fight against corruption within our society, it is advisable that the concerned Committee expeditiously proceeds to notify the nominee and the public. Thereafter, the Committee should commence the approval hearings and table a Report thereto, at the earliest opportunity to enable the House to consider the Report within the statutory timelines. This Message, together with the resume of the nominee stand committed to the Departmental Committee on Justice and Legal Affairs for consideration. I thank you.

Next Order!

PAPERS LAID

Hon. A.B Duale: Thank you, Hon. Speaker. As I table these documents, I want to confirm to the House that it looks like the Auditor- General shares these documents with the media before they are tabled before the House.

Reports of the Auditor- General on the Financial Statements in respect of the following constituencies for the year ended 30th June, 2015 and the Certificate therein:

Isiolo South Constituency, Kibwezi East, Kibwezi West, Kitui East, Laisamis, Saku, Budalang'i, Igembe, Mara, Webuye West, Igembe South, Mbeere South, Ikolomani, Tigania East, Mwingi West, Manyatta, Yatta, Kitui Central, Shinyalu, Bomet Central, Samburu East, Ainamoi, Nyeri Town, Baringo North, Kilome, Kuresoi South, Bahati, Laikipia East, Gichugu, Ol-Jorok, Kiambu Town, and Narok East Constituency.

These documents have already been serialized but I ask Hon. Members to get a copy for their constituencies. I did a similar number of constituencies this morning.

Secondly, the Report of the Auditor General on the Financial Statements of Masinde Muliro University of Science and Technology for the year ended 30th June, 2015 and the Certificate therein.

The National Climate Change Framework Policy Sessional Paper No. 3/2016.

Hon. Speaker: Very well. Chairman of the Budget and Appropriations Committee.

Hon. Musyimi: Thank you, Hon. Speaker.

I beg to lay the following Papers on the Table of the House today, Tuesday 20th December, 2016:

The Report of the Budget and Appropriations Committee on its consideration of the Budget Policy Statement and the Debt Management Strategy for the Financial Year 2017/2018 and the Medium Term.

Hon. Speaker: Chairperson, Departmental Committee on Lands.

Hon. Mwiru: Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Tuesday 20th December, 2016.

The Report of the Departmental Committee on Lands on the Petition by Ngiiri Market squatters in Mutitu Location, Mbeere North Constituency on ceding of part of Tana and Athi River Development Authority (TARDA) land to Ngiiri Market squatters.

Hon. Speaker: Very well. Next Order

NOTICES OF MOTIONS

BUDGET POLICY STATEMENT AND DEBT MANAGEMENT STRATEGY

Hon. Speaker: Chairman of Budget and Appropriations Committee, give your notice of Motion.

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

THAT, this House adopts the Report of the Budget and Appropriations Committee on its consideration of the Budget Policy Statement and the Debt Management Strategy for the Financial Year 2017/2018 and the Medium Term.

Hon. Speaker: Let us have Hon. Mwiru.

ADOPTION OF REPORT ON PETITION BY NGIIRI MARKET SQUATTERS

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

THAT, this House adopts the Report of the Departmental Committee on Lands on the Petition by Ngiiri Market Squatters, Mutitu Location Mbeere North Constituency on ceding part of Tana and Athi River Development Authority (TARDA) land to Ngiiri Market squatters, laid on the Table of the House today Tuesday 20th December, 2016.

Hon. Speaker: Next Order.

Hon. Ng'ongo: On a point of order, Hon. Speaker.

Hon. Speaker: Let us hear the point of order from Hon. John Mbadi.

Hon. Ng'ongo: Thank you Hon. Speaker, I am rising on Standing Order No.40. This is on the sequence of proceedings. This morning we had a discussion, which began with the Hon. Speaker's *Kamukunji*. We were talking about the law on elections. We reached a point where we felt this House was at a point of agreeing whether to proceed with this Elections Law or not.

Hon. Speaker, from the Order Paper I can see that, that particular Motion is listed as Order No. 13. I was requesting that the Hon. Speaker invokes Standing Order No. 40(2) which states that: "Business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenience of the House, direct."

I was asking, for the convenience of the House, that this particular Motion be brought to Order No.9 immediately after Order No. 8 so that we transact Order No. 13. Hon. Speaker, this is informed by the fact that this matter has attracted national interest.

Hon. Speaker, remember that in the morning we witnessed some kind of drama, especially with regard to the Departmental Committee on Justice and Legal Affairs. We wanted to understand the position of the Chair of that Committee regarding whether that matter had been debated at the Departmental Committee on Justice and Legal Affairs.

Hon. Speaker, later on, I will request that you look at this matter clearly so that this House is clear on whether the matter was debated by the Committee and if it was, we will then proceed. If it was not---

(Hon. A. B. Duale consulted loudly)

The Leader of the Majority Party is shouting. I do not know what is agitating him. I was just asking that you indulge the House so that we dispose of this matter. We want this matter disposed of. What we witnessed this morning was interesting. In the event that it will be discovered that the Chair of the Departmental Committee on Justice and Legal Affairs was tabling his own report that is not the report of the Committee, we will be required to refer the matter to the Powers and Privileges Committee. Before we reach there, it would be in order to request that you prioritise this debate. Immediately we finish with Order No.8, I beg that we debate Order No.13. Then we can proceed with the other items listed on the Order Paper.

I seek your favourable ruling.

Hon. Speaker: Fortunately, Hon. Members, Hon. John Mbadi is holding his copy of the Standing Orders. I am sure he knows that all that is reposed in me. I will be considerate. The reason why the business was arranged in this manner is because it was expected that there may not be a lot of debate on the various other motions that appear beforehand. I am fully seized of the issues and matters that you have raised. They are appropriate and I will apply my mind to it.

Let us move to the Procedural Motion.

PROCEDURAL MOTION

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ALTERATION OF THE CALENDAR OF THE HOUSE (REGULAR SESSIONS)

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

THAT, pursuant to the provisions of Standing Order No.28 (4) relating to the Calendar of the House, this House resolves to alter its Calendar for the Fourth Session so that—

- (i) The Fourth Session terminates on 23rd Day of January 2017; and
- (ii) The House resumes for its regular sessions at the commencement of the Fifth Session on Tuesday, 24th January 2017 at 2.30 p.m.

As Members are aware, the general election which will be held in August 2017, *Insha Allah*, has necessitated several changes in the budget cycle and budget-making process of the National Assembly. The Budget is being prepared under a revised budget calendar that takes into account the preparation for the General Election in 2017. The National Assembly and the National Treasury have already set the ball rolling for next year's Budget including the approval of the relevant budget related items. This afternoon, we will deal with the Budget Policy Statement for the 2017/2018 Financial Year, which is one of the items which are ordinarily submitted to the House in February.

The House Business Committee, in its wisdom, formulated a calendar for this year's Budget in consultation with the National Treasury. We are planning to ensure that by 24th January 2017, the draft budget estimates for the 2017/2018 Financial Year, the Division of Revenue Bill, 2017 and the County Allocation of Revenue Bill 2017 will have been published and read the First Time. This means altering the calendar of the House to allow for the consideration of all the budget related items of the 2017/2018 Financial Year.

We are only coming back two weeks early from the initial date of 7th February, 2018. My colleagues who were in the 10th Parliament will agree with me that the Fifth Session is usually precipitated by lack of quorum. I am sure with the party nominations being done early next year and many of the election timelines falling due in the months of February, March and April, we might have serious quorum hitches in approving the Budget for 2017/2018 Financial Year and any other important national agenda.

This Motion confirms and indicates that Parliament is fully in charge of its calendar. The days when you are not sure whether you will finish your five-year term, when Parliament will be sent home-- The Constitution of Kenya, 2010 gave Parliament independence in its true meaning and it is fully in charge of its calendar.

With those remarks, I beg to move and ask my deputy, Hon. Naomi Shaban, to second.

Hon. (Dr.) Shaban: Thank you, Hon. Speaker. I rise to second the Motion. It is important for us to consider that we need more time to be here to make sure that we follow the new budget calendar which has been set so that we can meet the budgetary obligations of the coming financial year, before we break off and go home for the coming elections.

Hon. Speaker, it is important for all of us to agree that the Constitution has set the election date for the second week of August. We all should agree that we need to go home for a shorter break and come back and continue with the rest of the work.

I beg to second.

(Question proposed)

Hon. Members: Put the Question!

Hon. Speaker: Hon. Members, I get the sense that I should put the Question.

Hon. Members: Yes!

(Question put and agreed to)

MOTION

EXTENSION OF PERIOD FOR CONSIDERATION OF APPOINTMENT OF EACC CHAIRPERSON

Hon. Chepkong'a: Thank you, Hon. Speaker. I beg to move the following Motion:

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, this House resolves to extend the period for consideration of approval of appointment of Archbishop (Rtd) Eliud Wabukala Wamukekhe as the Chairperson of the Ethics and Anti-Corruption Commission, notified to this House on Tuesday, 20th December 2016, by a further period of not more than 14 days from 4th January, 2017.

The Parliamentary Approval Act requires that this appointment must be approved within 14 days failure to which it takes effect by operation of the fact that we have not acted on it. So, we are requesting to be given another 14 days so that it becomes a total of 28 days. That gives us to around 14th January, 2017.

Thank you, Hon. Speaker. I ask Hon. Ngeno to second.

Hon. Speaker: Hon Member for Emurua Dikirr.

Hon. Kipyegon: I know Hon. Duale thinks that I usually go against everything. No. I normally look at things substantially. I agree on matters which are agreeable and disagree on matters which are disagreeable.

Hon. Speaker, I wish to second. For a long time, we have been worried about how exactly the Ethics and Anti-Corruption Commission (EACC) will be run. Whenever we put a person there, the following day we remove him. When I looked at the name "Archbishop Wabukala Wamukekhe," I remembered that this is a man of the cloth. I just want to second and say that when I look at that name, I feel that we should come and pass it. We need a person of integrity and we hope this gentleman will do that.

I second.

(Hon. (Ms.) F.M. Mutua walked in the gangway)

Hon. Speaker: Order Members! Member for Busia County, we are in the House. We are not in Moding.

(Question proposed)

(Question put and agreed to)

(Hon. (Ms.) Mumo stood in her place)

Hon. Speaker: Hon. Members. Hon. Musau, take a seat. I see some excitement on account of refreshments.

COMMUNICATION FROM THE CHAIR

SUSPENSION OF COMMITTEE BUSINESS

Hon. Members, I wish to make this Communication before we go to the substantive business.

Today's sitting marks the culmination of the National Assembly's sittings for the Fourth Session of the 11th Parliament. As the curtains to the Session are drawn to a close, I wish to take this opportunity to thank and congratulate all Committees of the House for their exemplary work and service undertaken during the Session. The services rendered by the Committees have indeed gone a long way in contributing to the delivery of the overall constitutional mandate according to the National Assembly in the three key areas of representation, legislation and oversight. For this reason, we have to give Hon. Members sufficient time to interact with their respective constituents with a view of obtaining *wananchi's* agenda for prioritisation in the forthcoming Fifth Session. It is hereby notified that all businesses and activities of all Committees of the House shall stand suspended from Friday 23rd December, 2016 to Monday 23rd January, 2017 with the exception of business to be transacted by the Departmental Committee on Justice and Legal Affairs relating to consideration of appointment of the Chair of the of Ethics and Anti-Corruption Commission (EACC).

Hon. Members, the suspension, however, will also affect the consideration by that Committee again with regard to the nominees to the Independent Electoral and Boundaries Commission (IEBC), should they be forwarded during the recess period. This is in keeping with the House resolution of 1st December, 2016 which allowed the Speaker to forward forthwith names of nominees to the relevant Committees to conduct vetting exercises.

Thank you.

MOTIONS

APPOINTMENT OF MEMBERS TO THE COMMISSION ON REVENUE ALLOCATION

Hon. Langat: Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of Nominees for Appointment to the Commission for Revenue Allocation, laid on the Table of the House on Tuesday, December 20 2016 (Morning Sitting), and pursuant to the provisions of Article 215 of the Constitution and Section 9 of the Commission of Revenue Act, 2011, approves the appointment of the following persons as Members of the Commission of Revenue Allocation:

- (i) Prof. Edward Akong'o Oyugi;
- (ii) Mr. Peter Gachuba Njeru;
- (iii) Mr. Kishanto Suuji;
- (iv) Dr. Irene C. Koech Asienga;

- (v) Ms. Fouzia Abdikadir Dahir;
- (vi) Mr. Humprey Wattanga; and
- (vii) Mr. Peter Kiko Kimuyu.

Hon. Speaker, as the House may note, the Commission on Revenue Allocation is an independent commission which has been set up under Article 215 of the Constitution and its functions have been assigned under Article 216 of the Constitution of Kenya. As you may also know, the core mandate of the Commission is to recommend the basis for equitable sharing of revenue raised nationally between the national Government, county governments and among the county governments.

Article 215(2) of the Constitution provides that:

“The Commission shall consist of the following persons appointed by the President—

- (a) a chairperson, who shall be nominated by the President and approved by the National Assembly;
- (b) two persons nominated by the political parties represented in the National Assembly according to their proportion of members in the Assembly;
- (c) five persons nominated by the political parties represented in the Senate according to their proportion of members in the Senate; and
- (d) the Principal Secretary in the Ministry responsible for finance.”

It was agreed in the National Assembly that each will nominate one member each. The current commissioners’ term started on 31st December, 2010 upon the promulgation of the new Constitution. Therefore, their term has just expired. That is why we are in this stage of recruiting new commissioners. It is also worth noting that the term of commissioners of the CRA is a six year term which is not subject to renewal.

On 8th November 2016, the Clerk of National Assembly placed an advertisement in the *Daily Nation* and *The Standard* newspapers inviting persons to submit applications for consideration. At the close of the application period on Friday 18th November 2016, 63 applications had been received at the Office of the Clerk of the National Assembly. The same advertisement was placed by the Senate on 4th November, 2016 in the *Daily Nation* and *The Standard* newspapers. The full list of applicants from the National Assembly was published in the *Daily Nation* and *The Standard* on Friday 18th November whereas the list for Senate was published on 25th November, 2016. The process, according to the Committee, was done and there was public participation. Members of the public were allowed to participate.

On Friday 9th December 2016, the Speaker of the National Assembly referred the names of the seven nominees from the leadership of the political parties in Parliament together with their curricula vitae to the Departmental Committee on Finance, Planning and Trade to conduct approval hearings. For the House to appreciate what I am talking about, Mr. Peter Gachuba Njeru was nominated by the Majority Party of the National Assembly under Article 215(2)(b). Prof. Edward Akong’o Oyugi, by the Minority Party of the Kenya National Assembly under 215(2)(b). Mr. Kishanto Suuji, Dr. Irene C. Asienga and Ms. Fouzia Abdikadir Dahir were all nominated by Majority Party of the Senate under Article 215(2)(c). Mr. Humprey Wattanga and Mr. Peter Kimuyu were all nominated by the Minority Party, Senate.

Upon receipt of the names by our Committee, on Saturday 10th December 2016, through print media, the Clerk of the National Assembly notified the general public of the Committee’s vetting programme and requested for memoranda by way of written statement on oath, that is

sworn affidavit, regarding the nominees' suitability to serve or otherwise. By the time we finalised these reports, we did not receive any memorandum negative or otherwise. Therefore, we proceeded with the finalisation of the Report.

Following the law, on 9th December, the Clerk of the National Assembly wrote to the nominees informing them of their nomination for positions of Members of the Commission on Revenue Allocation and requested them to appear before the Departmental Committee. We also wrote for clearance from Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), Higher Education Loans Board (HELB), Directorate of Criminal Investigation (DCI) and any of the reference bureaus.

I wish to report further that we did not receive any negative reports against any of the Members. The Committee met with all the nominees on 19th December and conducted approval hearings. During the process, the Committee was guided by the Constitution, Public Appointments (Parliamentary Approval) Act, Commission on Revenue Act, Standing Orders and other relevant statutes.

I want to talk briefly about the respective nominees. Prof. Edward Akong'o Oyugi holds a PhD in Psychology from the University of Cologne in Germany obtained in 1970. While in the same University, he trained in psychology and socio-psychology. Other trainings he did are courses in finance totalling up to five semesters, that is, social survey techniques, problems of identity in Africa, social diagnostics, field survey, evaluation from the Cologne University, public finance and evaluation, strategic planning methods and public finance under the federal arrangements in 1987.

On his career, he has been a CEO of Social Development Network from 1994 to date. He has also been a member of the national and social council between 2008 and 2012 and has been a lecturer at Kenyatta University from 1971 to 1990 where he rose through the ranks to be a professor. He has also been a visiting professor of the University of Beirut, Germany from 1985 to 1987. The Committee noted that he would be useful to the Commission, especially in the areas of research and generally in understanding the issues that *wananchi* are facing especially in terms of questions of equity.

Mr. Peter Gachuba Njeru is a Kenyan born in Kirinyaga. He is a holder of Bachelor of Science in Accounting obtained in 1993 and Masters in International Business from Southern New Hampshire in the USA. He has also undertaken courses from Harvard Business School and Wharton Business School. The nominee has been involved in investment banking and private equity space over the last 25 years and some of the positions he has held include managing partner Strategic Governance Advisors; partner AfriCap Microfinance Fund; senior manager First Africa; consultant World Bank; Chief Manager at Cooperative Bank of Kenya from 2002 to 2004; General Manager Kestrel Capital East Africa, January 2001 and associational fund manager CDC Capital Partners. His finance background is what the law requires of the commissioners. His wealth of experience will be very useful to the Commission, especially in terms of revenue allocation.

Mr. Kishanto ole Suuji has been working for Central Bank. He graduated from the University of Nairobi with a Bachelor's degree in Economic Development and Public Administration in 1990. He has a Master's degree in Business Administration. He is currently the Deputy Director of Kenya School of Monetary Studies and also heads the Finance and Administration Department.

Dr. Irene C. Koech Asienga holds a PhD in Economics from Strathclyde University in the UK. She has a Masters degree from the University of Malawi and has a degree from the

University of Nairobi. She is currently a lecturer at Kabarak University and also director at the Kabarak University, Nairobi Campus. Her knowledge of economics will be very useful to the Commission and the Committee recommends that she be approved.

Ms. Fouzia Abdikadir holds a Bachelor's degree in Finance from Jomo Kenyatta University and is currently a student of MBA programme Finance at the University of Wales Institute of Cardiff. He is also currently a Board Member at the Ewaso Nyiro North Development Authority and a Finance Administration Manager at Medina Chemicals Limited, a private company, from 2014 to date.

Mr. Humprey Wattanga was born in Nairobi County. He holds a Master of Business Administration degree from Wharton Business School, which is one of the top business schools in the United States of America (USA). He majored in Information Systems and Economics. He also holds a Bachelor of Science Degree in Bio-chemistry from Harvard University.

At his time, he was the top student at the Alliance High School. He proceeded to Harvard University, as I have said, where he got a Bachelor of Science Degree in Bio-chemistry and subsequently proceeded to the Wharton Business School.

He has held many positions in finance and investment companies. He was a senior partner at AfriCOG Investment in Johannesburg South Africa. He did product marketing and business development. He was the Market Strategy and Business Development Manager. He was at one time a financial strategy consultant of the World Health Organisation (WHO). In short, he is qualified both in terms of experience and academically.

Prof. Peter Kimuyu has been working for the University of Nairobi (UoN) for the last 40 years. He has a Doctorate of Philosophy (PhD) in Energy Economics from the University of Nairobi (UoN), a Master of Science degree in Energy Economics from the University of Surrey, England and a Bachelor of Education in Economics and Mathematics from the UoN.

Hon. Speaker, his experience at the university and academic qualifications qualify him to be a commissioner at the Commission on Revenue Allocation (CRA). The Departmental Committee on Finance, Planning and Trade recommends that we approve the nomination of Prof. Kimuyu for appointment as a commissioner of the CRA.

With those remarks, I recommend the nominees and ask the House to support. I request my Vice-Chairman to second the Report.

Hon. Speaker: Vice-Chairman, Hon. Nelson Gaichuhie.

Hon. Gaichuhie: Thank you, Hon. Speaker. I stand to second the Report of the Departmental Committee on Finance, Planning and Trade on the vetting of nominees for appointment as commissioners of the CRA, which was laid on the Table of the House during the morning sitting.

When you communicated to the House the nomination of these members, the Committee, as usual, requested for their Curriculum Vitae (CVs), which we received and went through. The nominees were invited for interview. They appeared before the Committee yesterday. They underwent their oral interview. By last evening, all the members of the Committee were satisfied that these members had all the requirements as per the Constitution. After vetting them, we saw that all the nominees met all the requirements. The rule of gender and regional balance has been observed. The nominees are conversant with financial matters, which is a requirement of the Commission on Revenue Act.

We want to confirm that these Kenyans are very experienced in the financial sector. We are sure they will meet the requirements and duties they are supposed to perform. By the time we were vetting them, we had not received any memorandum from anybody. We had not received

any adverse report from the statutory bodies that are supposed to clear them. We are sure these are Kenyans who are up to the task. There is a good combination because there is blending. There are old and young people. We know that even the young people will tap a lot of experience from the old people who are in that commission. Being nominees of both parties, the House should approve them.

With those very few remarks, I second.

Hon. Speaker: I can see a group that is purporting to either broker peace or some form of truce. I do not see any combatant.

(Hon. Nuh stood up in his place)

Hon. Junet, please. Let me finish this. Be in the House. You will soon be out there in the villages doing all those things.

(Question proposed)

Hon. Members: Put the Question! Put the Question!

Hon. Speaker: Member for Suna East?

Hon. Nuh: Hon. Speaker, I stand to support the Motion. The CRA is very important. This is a commission which must be in place all the time so that the counties can receive their funds on time. I stand to point out one of my constituents who managed to get into this list. It is Prof. Edward Akong'o Oyugi. This is a distinguished academician and scholar. This is one man whose CV is as long as from Nairobi to Migori. I wish it is possible that he is appointed the chairman of this commission. You know, it is only two names which have been getting the chairmanships of this commission for the last three years. If, this time round, the second name of this man can help him to be the chair of the commission, we will be very grateful as a country. It will serve as a Christmas gift and foster reconciliation and cohesion in the country.

This man has served this country in many capacities. This is a believer in devolution. He is one of the people who took part in making the new Constitution. It is my belief that he will do good service to this country by serving in this commission. It was a wise decision by the people who decided to put him in this commission.

With those few remarks, I support.

Hon. Speaker: Hon. Katoo!

Hon. Katoo: Thank you, Hon. Speaker. I also rise to support this Motion. First of all, I must also confirm that I know Prof. Edward Oyugi. He was one of my mentors before I joined politics. I have no doubt that he is equal to the task.

I also want to say two things on the work of this commission. The two main functions of this commission include strengthening devolution by deciding the amount of revenue that should be shared among the 47 counties. The commission is expected to come up with a formula. Another very important function is deciding which counties should get shares of the Equalisation Fund. That is where I come in. With the help of the poverty indices of the various counties, they are supposed to come up with a general formula on which countries should benefit from the Equalisation Fund.

I was very disappointed with the outgoing Commission whose term is ending on 31st of this month. This is because they left out some very crucial counties especially Kajiado County which is an Arid and Semi-Arid Land (ASAL) county, from benefitting from the Equalisation

Fund. I want to plead with the incoming Commission if this House approves its appointment to re-evaluate the existing formula that the outgoing Commission came up with. More so, they should stop generalising or making counties the focal points of accessing the poverty index.

Nairobi County will not benefit from the Equalisation Fund. But if you look at constituencies with slums like Mathare, Mukuru kwa Njenga and Kibra they will benefit from Equalisation Fund. Therefore, I want to plead with the incoming Commission to make the constituencies the focal points to benefit from the Equalisation Fund. If a county has got five or 10 constituencies and two or three do not qualify, they should not cut out the entire county.

If you look at Nyeri County, we know some parts of it are arid and semi-arid. Therefore, they should just focus on the ASAL areas that can benefit where poverty is so high. I want to urge this Commission if they get the approval of this House to reevaluate the formula used by the outgoing Commission to come up with areas to benefit from the Equalisation Fund and focus on the constituencies and not counties.

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

Hon. Members: Put the Question.

Hon. Speaker: Hon. Chrisantus Wamalwa.

Hon. Wakhungu: Thank you, Hon. Speaker. I rise to support this Motion. Indeed this Commission for Revenue Allocation (CRA) is very important because---

Hon. Speaker: There is a problem, Hon. Members. I am being told to think about something which Hon. Jimmy Angwenyi raised as ‘*chenda*’ but it is called gender.

Hon. Wakhungu: Thank you, Hon. Speaker. When you look at this list, it is fairly representing the face of Kenya and this is because the nominations were being done by different political parties. In terms of gender, out of the seven members there are two ladies here. So, you can see each gender is fairly represented. Again, on the issue of youth, I can see a lady here who is a youth. So, indeed all the categories have been taken good care of.

Hon. Speaker, because we have so much business ahead of us which is very important, I request the Hon. Members to move with speed and approve this so that we can go on with the serious matters which have brought a lot of tension here. I humbly request that if this is the mood of the House, you can call upon the Mover to reply.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, is that the mood of the House? You must express it and the way to do that is by how you vote. By the demand of Members, I put the Question.

(Question put and agreed to)

Member for Homa Bay, you will contribute to the next one.
Next Order!

MOTION

APPOINTMENT OF MEMBERS TO NATIONAL CLIMATE CHANGE COUNCIL

Hon. Speaker: Hon. Amina you have an able assistant, the Hon. Member for North Horr, Hon. Chachu Ganya. Proceed.

Hon. Ganya: Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to Section 7 of the Climate Change Act, 2016, Section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 45(4), this House adopts the Report of the Departmental Committee on Environment and Natural Resources on the vetting of the Nominees for appointment as Members of the National Climate Change Council, laid on the Table of the House on Tuesday, December 20, 2016 (Morning Sitting), and approves the recommendations of the Committee as follows:-

- (i) Approves the appointment of Messrs. Suresh Patel and John Kioli as Members of the National Climate Change Council;
- (ii) Rejects the appointment of Ms. Cynthia Wechabe and Dr. Jane Mutheu as Members of the Climate Change Council; and
- (iii) Recommends that the appointing authority submits nominees of the female gender to represent the marginalized communities and Commission for University Education as prescribed by Public Appointments (Parliamentary Approval) Act.

This was a Joint Committee of the National Assembly and the Senate. In undertaking the vetting process we considered matters relating to integrity and suitability of these candidates in terms of both academic and professional qualifications. We also took a hard look to see if they had fulfilled all their constitutional and statutory requirements. All these are great Kenyans who are all well qualified for this job.

However, we rejected the two nominees, Ms. Cynthia Wechabe and Dr. Jane Mutheu simply because we questioned the integrity of their nomination process. We felt the process was flawed and nominations were not done in an open and transparent manner as required by our Constitution. For instance, Dr. Jane Mutheu was supposed to represent the academicians and we expected the Commission for Higher Education (CHE) to appoint that nominee. This is because the Climate Change Act, 2016 clearly states that there should be representatives of institutions or structures of either marginalised communities or academia. We felt with regard to those two nominees, the process was not well done and was flawed.

We were not questioning the academic or professional qualifications of the two nominees. What we questioned was the integrity of the nomination process. We felt that for instance they were handpicked and no structures were used to nominate those two individuals. We approved Messrs. Patel and John Kioli. Mr. Patel was nominated by the Kenya Private Sector Alliance (KEPSA) which is an institution well known in this country. Mr. John Kioli was nominated by civil society organisations dealing with matters of climate change.

(Loud consultations)

Hon. Speaker: Order Members! I think it is absolutely important to listen to the Member for North Horr because if you look at that Report, there is approval and rejection. I think you may need to know the reasons that have been advanced. If you do not hear the Member for North Horr in silence, it will become difficult. You will then be doing what has been said to be other peoples bidding. Hon. Chachu.

Hon. Ganya: Thank you, Hon. Speaker. As I said these were highly qualified Kenyans. However, what we questioned was the integrity of the nomination process. We felt the institutions that were supposed to nominate these individuals were not used. The nominees were just handpicked and that is contrary to the Climate Change Act and our laws.

For the other two, Mr. Kioli and Mr. Patel, the institutions that were required to nominate them were the Private Sector Alliance for Mr. Patel and the umbrella civil society association for Mr. Kioli. These institutions deal with issues of climate change. They belong to the Kenya National Climate Working Group. This is an outfit that is well known to some of us who are environmentalists.

There were issues of regional balance. Out of the four, two are from one region and we felt that it would be fair to balance when appointing these individuals. Those are the reasons that we advanced and we had a very good working relationship with our colleagues from the Senate. We had a number of sessions in which we all agreed and came up with this final decision.

Thank you, Hon. Speaker. I ask my able Chairperson, Dr. Amina Abdalla to second.

Hon. Speaker: Usually it is Hon. Ottichilo, but now --- Anyway the three of you form a formidable trio.

Hon. (Ms.) Abdalla: Hon. Speaker, it is in light of the fact that some of us have to build capacity for those who might return here. That is why the Member for North Horr has high chances of returning here. I am, therefore, building his capacity to be the next Chairman of this Committee in the next Parliament.

I wish to point out a few issues that may not have come up. We received three memoranda from members of the public with regard to these nominees. The first one was from the Kenya Forest Working Group which urged us to ensure that there was gender representation in the council. The second one was from the Kenya Industrial Research and Development Institute (KIRDI) in support of Mr. Suresh Patel's suitability to serve as a member of the Climate Change Council and finally, the memorandum from the Green Belt Movement raising objection as to whether the Kenya Climate Change Working Group is a representative of the organisations that should nominate.

We rejected the third memorandum because the Green Belt Movement was proposing the Pan-African Justice Alliance, which is not a Kenyan registered organisation to nominate and so we are comfortable with the nomination of Mr. John Kioli as the representative of the most represented civil society organisation in this country involved in climate change.

Hon. Speaker, I want to speak on one issue that is becoming a trend when organisations are asked to nominate individuals. They ensure that the person they want has zero competition from their number two. Let us look at the nominee from the Council of University Education. They decided to give a tutorial fellow the nomination slot intended for women so that the President's hands would be tied in not nominating their preferred person and yet we have hundreds of women with qualifications in the climate change area working in different universities in this country.

So, we felt it was important for us to reject this nomination to show the Council of University Education that they cannot send us the person they did not want so that the President's hands are tied to appointing a person they want. We are ordering them that they nominate another woman who has more experience and is qualified enough to sit in a council that is chaired by the President. So, as a House, we must stand firm and stop rubberstamping nominations, so that people force the appointing authority to nominate their friends. That is the same reason we rejected the nominee from the indigenous and marginalised groups. Whereas she works for an organisation that serves marginalised communities, she does not represent marginalised communities as anticipated by the Act.

(Applause)

So, mine will be to urge the House to agree with the Joint Committee and ensure that Parliament does not rubberstamp decisions made by people earmarking individuals of their choice to be members of important national committees. Thank you, Hon. Speaker.

(Question proposed)

Hon. Speaker: Let us have the Hon. Leader of the Minority Party.

Hon. Nyenze: Thank you, Hon. Speaker. I take this opportunity to thank the Committee on Environment and Natural Resources for coming up with these two candidates through a rigorous vetting exercise. I knew Mr. John Kioli when I was the first Minister for Environment in this country. Since that time I have known him of going round and encouraging people to plant trees. He has been doing that even long before we knew about climate change.

The Committee made a very wise decision and resisted dictation by the international organizations. This is because people form cartels and try to influence the appointment of their friends to these committees. I like what Hon. Amina has said. The Committee stuck to its guns and appointed people it felt deserve the positions instead of being dictated to. I do not know Mr. Suresh Patel, but I have no doubt the Committee did due diligence and came up with good names. I am urging the House to approve these recommendations, the rejected names and the ones that are approved by the Committee.

With those few remarks, I support.

Hon. Speaker: Hon. Members by the demand of the House, I put the Question.

(Question put and agreed to)

ADOPTION OF REPORT ON BUDGET POLICY STATEMENT
AND THE DEBT MANAGEMENT STRATEGY FOR 2017/2018

Hon. Musyimi: Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to provisions of Section 25(7) of the Public Finance Management Act and Standing Order No.232, this House adopts the Report of the Budget and Appropriations Committee on the Budget Policy Statement and the Debt Management Strategy for the 2017/2018 Financial Year and the Medium Term, laid on the Table of the House today, Tuesday, December 20th 2016 and approves the budget ceilings in respect of the various votes and programmes in the National Government, the Judiciary and Parliament as contained in the Schedule.

Hon. Speaker, let me begin by thanking you and your office and that of the Clerk of the National Assembly for the support and services extended to my Committee in fulfilling our mandate. My Committee and I are also grateful to the departmental committees of the House and all Members of Parliament who participated in this process, working very hard to ensure that this report was finalised on time. I also thank the Parliamentary Budget Office for all the services they gave us in a very professional way to help us make decisions that are, otherwise, not easy.

By way of introduction, let me begin by saying that the Budget Policy Statement (BPS), as we all know, is a Government policy document which provides broad strategic direction that will guide the national Government and the county governments in formulating their annual

budget for a given financial year. It is also a requirement in the Public Finance Management Act; 2012, the Public Finance Management Regulations, 2015 and the relevant Standing Orders, that the document be submitted to Parliament for deliberation and eventual adoption.

The 2017/2018 BPS aims at consolidating economic gains through five key pillars; mainly improving business environment, infrastructure, the social sector - that is health and education, agriculture and manufacturing. The idea is for this policy document to give us direction on how these pillars will be strengthened so that we can have a strong economy that grows and expands.

My Committee was, however, concerned that when identifying the policy priorities for the 2017/2018 Financial Year over the medium term, we did not sense any concrete review of the status of previous key targets. There was no information on the status of projects supported by capital expenditure. Under each pillar, various important measures and targets, which were included in previous BPSs, have been omitted in the current BPS, making it rather difficult for scrutiny of the policy proposals contained therein.

This House approved the 2016/2017 Budget in June this year. Nearly halfway through the financial year, all indications are that substantial adjustments of the Budget have been carried out. This implies that the achievement of some budget targets hang in the balance. In addition, it is also an indicator that there are issues in the process of review of the Budget, right from preparation to approval. Obviously, this will put into question the integrity and credibility of the budget-making process.

My Committee also notes with respect to the macro-economic framework that the programmes outlined in the 2017/2018 BPS are underpinned by a macro-economic framework that estimates the economy to grow at 6.2 per cent in this coming financial year and 6.6 per cent in the medium term. This is supported by ongoing investments in infrastructure, resilient domestic demand, strong agricultural output supported by a stable weather outlook with all its unpredictability, continued recovery of tourism which is very positive, growth of exports in the regional markets; and improved productivity in the private sector, due to the implementation of the structural reforms.

My Committee notes with concern that key fundamentals driving growth are not likely to lead to such growth as is contemplated by the BPS. Of particular concern is that significant resources have been invested in infrastructure and in improving the business environment, to be fair, as key drivers of growth. We do not sense that there is expansion of the existing capital base to unlock the productive potential of the economy. We are not putting enough money and creative thinking in agriculture and manufacturing. Unemployment remains high and these two sectors need to get serious review. On behalf of my Committee, I commend the tremendous improvement we have seen in tourism, which brings us very vital foreign exchange earnings.

Given that 2017 will be an election year and has been the case in the past, there is likely to be no major improvement in private investments as most investors, as we all know, especially from outside, often adopt a wait-and-see attitude, the micro-fiscal framework underpinning that this BPS should have put into consideration these vulnerabilities that are likely to affect the growth trajectory. My Committee notes that there has been a constant review of fiscal projections in the past financial years. There is a clear disconnect between the ministerial ceilings approved in the BPS, the ministerial allocations approved in the budget and the revisions proposed in here through supplementary budgets.

Hon. Members are aware that on 1st December 2016, the first Supplementary Budget for the 2016/2017 Financial Year which is mainly revisions of the 2016/2017 Budget, were tabled in

this House. It is currently being reviewed by various Committees and my Committee. As we do so we will see some very major suggestions to the budget that we passed early this year.

I need to say quite a bit on debt financing. As indicated earlier, the 2017 BPS shows that the medium term fiscal projections have set the country on a course towards achieving East African Community Monetary Union Protocols. The fiscal targets of that Community target a 3 per cent deficit by 2021. However, the strategy to reach this level is built on weak projections coupled with an unclear fiscal consolidation framework. Fiscal consolidation entails prescribing clear measures to increase tax revenue, better aligning expenditure to reduce non-core and wasteful expenses and reducing the overall deficit. However, there are no concrete measures aligned in the BPS that will lead to achievement of each of these targets.

The level of debt is a function of the level of deficit achieved in a given financial year. Currently, the deficit level indicated in the BPS is 6.4 per cent for the 2017/2018 Financial Year, which will then drastically reduce to 5 per cent in the 2018/2019 Financial Year and downwards to 4 per cent in the 2019/2020 Financial Year. However, it is estimated that in order to keep debt below 50 per cent of GDP, the fiscal debt should be maintained below 2 per cent of GDP. Indeed, to achieve a fiscal deficit of 3 per cent by 2021 as agreed by the East Africa Community (EAC) Monetary Union Protocol, the country needs to operate a budget surplus over the medium-term.

Hon. Speaker, to reduce the deficit to a manageable level will require this country to check its appetite for borrowing, its corruption tendencies which has become a societal problem and also to begin curbing all leakages and wastages that we have seen.

My Committee is concerned that unlike other countries in the region, this House does not approve new borrowing, but instead, the threshold is set in the Public Finance Management (PFM) regulation. To this extent, this House may need to enact legislation to ensure that any external borrowing should be brought to Parliament for review and approval before Government finalises any loan agreements.

With respect to county financial management matters, although the fiscal performance of county governments has been improving over the last two years, the 2017/2018 Budget Policy Statement (BPS) has raised critical concerns on the ability of county governments to raise their own revenues noting that a number of counties are having challenges in revenue estimation and collection. It is reported that local revenue collection has been lagging below 70 per cent over the last two financial years. There is little diversification to different revenue sources with counties relying mostly on national Government transfers. My Committee also notes that there are large unutilised funds at the end of financial years with a huge proportion of those funds being pending bills. For instance, in 2015/2016, the total unutilised funds at the end of the financial year amounted to Kshs48 billion with Kshs37 billion being pending bills. That must be a matter of concern.

Further, the management of health institutions in the counties has faced huge challenges of front-end financing. This is despite huge allocations to healthcare through various conditional allocations like free maternity care, compensation of user foregone fees, Level 5 hospitals and reimbursement for the National Hospital Insurance Fund (NHIF). The situation may be attested by the fact that funds for the health sector are all paid in the County Revenue Fund and, therefore, not ring-fenced for health institutions. To ensure that funding for county health institutions is assured and timely, there is need to develop a health fund for each county where all allocations for the health sector are channelled. Further, the fund should have specific accounts

for each hospital to ensure that each hospital receives a fair share of the reimbursement for the services rendered.

Hon. Speaker, while we are on hospitals, let me also join the Member for Endebess, Dr. Pukose, the Vice-Chairman of the Departmental Committee on Health, in hoping that the current strike and crisis in the health sector will be resolved as soon as possible.

On this matter, finally, the key issue that needs to be addressed in the counties is the weak accountability and oversight processes. The national Government should, therefore, increase resources towards building necessary capacity on county financial management and oversight. That is not just a problem at the county level, but it is also a problem in other sectors of the Government.

With respect to vertical division of revenue for 2017/2018 Financial Year, I have the following to say, that the BPS indicates that the total shareable revenue for 2017/2018 is Kshs1.45 trillion. It proposes to allocate Kshs1.24 trillion to the national Government and Kshs299.1 billion to county governments. The allocation to counties will be a 6.7 per cent increment from the last financial year's allocation of Kshs280.3 billion. In addition, the counties have to be allocated Kshs34 billion as conditional grants bringing the total funds to county governments to Kshs333.1 billion. This is equivalent to 32.3 per cent of the most recent audited revenues which is a major improvement and a major statement by the Jubilee Government about its commitment to financing devolution and supporting it in all ways possible. We can only hope that county governments will reciprocate by making sure that this money is well spent.

Given the current inflation of 6.5 per cent, this amount will only cover changes in prices with no additional resources in real terms. But these are matters we will have to deal with at the global level.

My Committee is concerned that there are devolved functions that are still being allocated resources at the national level. These functions should be reviewed. My Committee also wishes to highlight that the free maternity healthcare is an important policy whose impact is probably muted on account of the resources being transferred to counties as conditional grants. This Committee is in consultation with the Departmental Committee on Health and recommends that the free maternal health care funds be disbursed through the NHIF as it has a wider reach and is more efficient.

Hon. Speaker, allow me then to proceed to highlight some policy recommendations from the Committee. I do not think we have time to go into that, suffice to say that one of the documents I have laid on the Table of the House today is Annex II, which is a very important document. You will find that all the recommendations of the various Committees are contained in that document, laid on the Table of the House this afternoon and is, therefore, the property of the House. I plead that Members make themselves aware of the recommendations of the Committees. In particular, I will be asking that the National Treasury takes a very keen interest in the specific recommendations by the Committees because these are key oversight recommendations with very useful information from the representatives of the people. I hope, believe and trust that the National Treasury will harvest this remarkable resource of information and insight that is now made available by very specific recommendations of the Committees after a lot of work over the last couple of weeks.

By way of recommendations on the BPS and the Medium-Term Debt Management Strategy (MTDMS), I wish to say the following as I conclude: My Committee is concerned that despite this House making far reaching recommendations on the BPS as well as adopting the MTDMS to guide the Government's borrowing plans, they are rarely adhered to during the

finalisation of the Budget. As I said earlier on, this brings into question the credibility and, indeed, the integrity of the budget-making process, particularly the role of the Legislature as we seek to impact and influence strategic direction of the country in the budget-making function that we have.

My Committee is concerned on the current structure of the medium-term expenditure framework sector working groups and recommends that an oversight sector working group be established to ensure that there is adequate participation in the budget-making process and the principle of separation of powers is adhered to. The national Government, through the National Treasury, is mainly divided into sectors when they are debating and discussing the Budget each year before the BPS comes to us. We have noticed that sufficient attention has not been given by the Executive arm of the Government with respect to key oversight institutions which include Parliament, Office of the Auditor-General, Ethics and Anti-Corruption Commission (EACC) and the Office of the Controller of Budget. We have raised this matter with the National Treasury.

Yesterday, more or less, I had a lengthy discussion on this matter. We hope the National Treasury will review its own architecture or structures when it comes to the sector working groups, so that we have a cluster of institutions whose main and key role is oversight. We recommend that, that matter be looked at seriously by the National Treasury. My Committee requests this House to adopt this Report along these lines. That the deficit fiscal balance for commitment basis excluding grants be limited to no more than Kshs500 billion, namely, 6 per cent of the GDP in the Financial Year 2017/2018 as opposed to proposed Kshs582.4 billion, namely, 7 per cent of the GDP and thereafter be reduced to Kshs450 billion, which is 4.9 per cent of the GDP in Financial Year 2018/2019 and Kshs400 billion, which is 4 per cent of the GDP in Financial Year 2019/2020. These numbers have been arrived at based on the need to intensify measures to reduce leakage in the public sector, which is estimated at 20 to 30 per cent taking into consideration the low absorption capacities in particular for the projects that are externally funded.

We also propose that the ceilings of each arm of the Government for the Financial Year 2017/2018 be capped as follows: Parliament - Kshs36 billion, Judiciary - Kshs18 billion and the Executive - Kshs1.468 trillion. What may not be apparent to you in those figures is that yesterday we negotiated and arrived at a raised ceiling for Parliament. We managed to add an extra five billion from the Kshs31 billion or so that had been made available in the Budget Policy Statement (BPS) that was being debated by the Committees. We also gave the Office of the Auditor-General an extra Kshs1 billion. We would have liked to do a bit more so that these oversight institutions, as we said earlier, are given the kind of support that the country needs.

We recommend that in effecting the proposed ceilings for each arm of the Government, the National Treasury should take into consideration the recommendations of the Departmental Committees on specific Ministries, Departments and Agencies (MDAs), which are in the First Schedule. This is important. When the National Treasury comes to look at the Estimates, we repeat that it should look at the recommendations of the Committees. This is because Committees put in a lot of time and it is very important that the National Treasury interacts and engages with them in order to benefit from these very useful recommendations.

We recommend that the allocations to county governments for the Financial Year 2017/2018, which will form the basis of the Division of Revenue Bill, be as follows: County Government equitable share of Kshs291.1362 billion and conditional allocations for the national Government equitable share of revenue as follows: conditional allocation for leasing of medical equipment of Kshs4.7 billion, conditional allocation for compensation for user fees foregone of

Kshs900 million, conditional allocations for Level 5 hospitals of Kshs4.2 billion, conditional allocation for construction of county headquarters of Kshs605 million and conditional allocation for rehabilitation of village polytechnics of Kshs2 billion.

I need to say something here. During the Intergovernmental Budget and Economic Council (IBEC) discussions held earlier in the year under the very able chairmanship of the Deputy President, there was an agreement that money should be set aside and ring-fenced to force the hands of county governors and county governments to make sure that they do not ignore village polytechnics. We cannot just leave this at their sweet and good pleasure. So, we have resolved, as the Budget and Appropriations Committee, to make this money available to them, but ring-fence it. It should be given to them as conditional grant, so that county polytechnics across the country get the necessary attention.

We all know that many primary school children who did their exams last year will not make it to Form One in the next one or two weeks. Where do these children go? Those who go to Form One may not even make it to Form Four. Where do they go? They cannot qualify for TVETs, polytechnics and universities. We must tell the governors and the county government that it is absolutely crucial that this Kshs2 billion goes strictly to develop village polytechnics, which is their mandate as is demanded of them in Schedule Four in our Constitution.

The conditional allocation for the Fuel Levy is 15 per cent of collections of Kshs7.875 billion and the conditional allocations for loans and grants of Kshs12.5414 billion. We recommend that the conditional allocation to county governments meant for free maternity healthcare of Kshs3.4 billion be allocated as a special grant to the NHIF to be dispersed as reimbursements. We believe that this will bring efficiency in the disbursement of the healthcare funds.

We recommend that the county health fund legislation be enacted to provide for setting up of health funds for each county government. This will improve the management of funds for the health sector in the counties by ensuring that these funds are ring-fenced. We also recommend that the National Treasury develops a framework on commitment control for the MDAs in order to address this very important issue of pending bills decisively and conclusively. We recommend that the National Treasury reviews the public-private partnerships (PPPs) policy to ensure that all fiscal risks are minimised and there is effective and efficient implementation of all PPPs and the related projects.

In addition, a report should be tabled in this House of total cost of all PPPs, including the contingent liabilities arising therein.

We recommend the medium-term debt management strategy proposal of 60 against 40 borrowing strategy for external and domestic borrowing. The 60 per cent external borrowing comprising of semi-concessional, 30 per cent commercial, and 10 per cent be approved. Any deviation from the approved framework in the course of the financial year must receive parliamentary approval and legislation shall be enacted to this effect. The whole idea here is to come up with a policy that replaces short-term borrowing with long-term borrowing, which is a cheaper way to go. We recommend that the MTEF sector working groups, as I said earlier on, be restructured to provide for an oversight sector that includes Parliament, Controller of Budget, Auditor-General and the EACC.

We recommend that the amount for the Equalisation Fund be set at Kshs7 billion. I am very glad I had a chat with the Chairman of the caucus that deals with the Equalisation Fund, the Member for North Horr, Hon. Chachu, and he seems satisfied. I have confirmed to him that this Kshs7 billion is part of the money that is contained within the ceiling with respect to the

Executive. We recommend that the national Government should urgently identify resources that can be channelled towards giving incentives to agriculture and manufacturing to expand existing capital base and unlock this country's economic potential.

We have said that more imagination and energy need to go into thinking and asking ourselves how we can grow the agriculture sector. We all know how important it is and how we can move the manufacturing sector forward. This is where the wealth of this country is and this is the only way to create the kind of employment that we need, especially for our young people. If these recommendations are approved, they shall form the basis of the Financial Year 2017/2018 Budget. I thank you for listening to me as I ask this House to adopt these recommendations.

It is now my great pleasure on behalf of the Committee and myself, to ask the Member representing the great people of Gatundu North, Hon. Francis Kigo, to second.

Hon. Njenga: Thank you, Hon. Speaker. I rise to second the Report of the Committee on the BPS. I do this on the basis of the recommendation that the MTEF forms a cluster of Parliament, the Controller of Budget, the Auditor-General and the EACC. This has been practised in many other jurisdictions. In fact, in most cases, they get 6 to 7 per cent of the Budget, so that the oversight role is enhanced. In our case, if this would happen, we would drive home the point that we need to curb corruption.

The major problem we have in the budget-making process in this country is that no one takes us through budgets of previous years to see how they performed as we embark on current budget proposals. With that kind of an arrangement, where all the major stakeholders, including all the oversight agencies of the Government are taken to account, we are likely to curb corruption as we will be obtaining feedback. We must also come up with a framework that will ensure only an amount of money that can be absorbed by a spending agency is allocated to that agency so as to curb wastage of public resources.

The proposal to increase the allocation to the Office of the Auditor-General (AG) by Kshs1 billion is welcome. The Office of the AG plays a critical role in deterring corruption, enhancing accountability and stopping wastage of public resources. Over the years I have been in this House, the Office of the AG has continuously had an increasing budget but this year, we have decided to increase it by Kshs1 billion. This is to allow him to outsource audit services as well as employ more auditors. We expect that in future, the kind of reports that he has been producing, which cannot do anything to this great nation, will be a thing of the past. This morning, I read through the Audit Report for Rongai Constituency. On the face of the Audit Report, the AG talks about cheques that were not presented as part of the Report. That kind of reporting does not help Kenya. The only way of helping Kenya is to follow up and have such entries reversed before the Audit Report is prepared. That way, his statement can represent a true and fair view of the state of affairs of funds that are applied by the Government.

Regarding my constituency, the other day I saw a newspaper story claiming that I have looted Kshs76 billion. This was cash at bank. The AG cannot, as a matter of fact, show cash at bank on the face of the balance sheet and at the same time seek schedules for what will be used in future. The Office of the AG should improve its performance. We have financed them sufficiently. They should help Kenyans by taking the accounting process to a higher level.

Another very important thing is the issue of polytechnics. Developed economies have used polytechnics and their workers. I am very sure that even the Chinese we see working on our roads and other transport infrastructure have passed through polytechnics or other technical institutes. If we want to save our scarce foreign currency, we need to enhance training at our

polytechnics. They need to be equipped. They need to have the right personnel. A sum of Kshs2 billion is enough to equip every polytechnic in this country. This will positively impact the lives of the very many people who will go through those institutions, who will otherwise become criminals. It will work very well in the region I come from because people like working and making money. They will not have time to go for drinks.

Another thing that has been brought up by the Committee in their recommendations is that the Kshs3.4 billion that is being given to the county governments for maternal healthcare will now be channelled through the National Hospital Insurance Fund (NHIF), making it so easy to account for.

The medium term debt management framework of 60 to 40 where 60 per cent will be borrowed externally while concessionary and commercial loans will constitute 30 per cent per cent consecutively is another very nice policy. When we engage in external borrowing, the Kenya Shilling is weakened more than some of the currencies that we obtain. It makes sense to borrow US\$1 million somewhere at 3 or 4 per cent and convert it to Kshs100 billion when it gets into the country.

I thought about the reduction of the fiscal deficit by 60 per cent in the current financial year to Kshs500 billion and going down to 4 per cent, which is Kshs400 billion, in the 2019/2020 Financial Year. I find this very nice because we will reduce wastage and address the issue of low absorption of our annual budgets.

The predictability of events such as the new Parliament has been well taken care of. The new MPs will get their mortgages in time. In fact, the outgoing MPs will get their final benefits. That is a welcome thing that has been proposed by this Committee and well financed by allocating the Parliamentary Service Commission Kshs36 billion.

One of the most important things is the provision for the Equalisation Fund (EF) at Kshs7.7 billion. This will go a long way to improving the standards of life of people in areas currently hit by ravaging drought.

I also note that there is a recommendation for undertaking a correlation analysis of the resources allocated to the major sectors of our economy. For example, if roads are being made, the amount of money being spent on them should be correlated with the amounts of money being spent on environment, agriculture, manufacturing and electricity. That is a good recommendation in that it will help us stop wasting public resources by sometimes building roads in areas where those roads may not have much relevance. I can see the Member for Narok is very happy because of the Maasai Mara and all that.

Finally, Kshs4.7 has been set for roads. Well, this translates to about Kshs100 million per county. I hoped that my county of Kiambu, which is so big, would be considered. Anyway, this should translate into our feeder roads being made.

With those few remarks, I second this Committee Report.

(Question proposed)

Hon. Speaker: Member for Kitui Central?

Hon. Mulu: Thank you, Hon. Speaker for giving me this chance to also comment on the Budget Policy Statement.

I have read through this document. I must appreciate the input of all the people who have given their comments into this policy paper, which is quite important.

When you analyse this important document against the legal requirements in terms of what the Constitution says; in terms of what the Public Finance Management (PFM) Act 2012 says; and in terms of what the regulation says, you will realise that the National Treasury has never scored 100 per cent of what is expected of them for the last three years we have been receiving this document. They normally score between 70 and 80 per cent. Since this is just a framework of a document to be prepared, the National Treasury should work hard to meet the expectations of the legal framework.

I want to start by addressing the issue of budget deficit. Just as the Chairman has put it, any time you see a budget deficit, it automatically means it will trigger a borrowing process. The Government will be expected to borrow either domestically or from external sources. What will happen is that, as we continue borrowing, the whole concept of public debt becomes an issue of concern. Many times, in this House, we have said that even though the international indicators show that Kenya is still in the safe zone, we need to continue being very careful with our public debt.

Hon. Speaker, we are now talking about a deficit of about Kshs6.4 million. Just as the Chairman of the Committee has said, when you look at the East African Monetary Union Protocol in terms of fiscal management of our resources, we are expected to move to about 3 per cent in the year 2021. Kenya cannot be a country which has targeted to move there when we start going upwards instead of downwards.

I agree and support the recommendation that this year, we put a ceiling of a maximum of 6 per cent in terms of our Budget deficit. That will help our country, so that next year, we can go to 4 per cent, so that by the time we hit 2021, we will be at about 2 per cent, which will be good for this county. The other thing is the issue of public debt concerning the Treasury single account. We have multiple accounts where public funds are deposited and at times the country ends up borrowing money from commercial banks which have money deposited by other public institutions.

I think it is important that the National Treasury moves very quickly. We are proposing to amend the Public Finance Management (PFM) Act, so that we come up with what we call the Treasury single account. In that case, any resources which are not being used immediately by the different Ministries, Departments and Agencies (MDAs), can be used by the Government to avoid borrowing at commercial rates. That is very important.

Over time, this country has released a lot of money through cash transfers. In the just ended financial year, we had provided Kshs19 billion. It is important for the House to come up with a mechanism of auditing how these resources are being disbursed and see whether in terms of targeting, we are getting it right. If I consider my constituency, and I have heard most of my colleagues say this, there could be money that does not reach the targeted group. It is important we get an audit of these resources, so that as a country, then the issue of social safety programmes are properly targeted and ends up uplifting our people from the poverty bracket and improving their living conditions.

The other issue that I want to speak about is the money we use in terms of leasing police cars. Last year, we provided money for leasing of about 1,200 police cars and the whole essence was to make sure that there is visibility of the police, which is expected to improve the security situation in the country. It is important to conduct a value for money audit for this programme which has been receiving a lot of resources from the Exchequer, so that we can know the objective of setting up the programme and whether it is being achieved.

We could do what I call value for money audit or cost benefit analysis to know whether we should continue with this programme or not. This is closely tied with the way we prepare our Budgets. We have adopted programme budgeting and through this, we focus more on outputs and targets. We have said many times that when we are preparing Budgets, it is always good to know that we have provided resources to achieve specific outputs and targets, so that as we move forward, we know how far we are in terms of the implementation of those specific outputs and targets.

I have in mind the police housing units. Every financial year, we have set aside money to construct 20,000 police housing units. To date, we have only done 1,500 police housing units. Why should we continue appropriating more resources to the same target when it cannot be achieved in a financial year? These are some of the programmes in which we could reduce the targets and at the end of the day, reduce the Budget deficit. This could also help this country to provide more resources to important institutions like the Independent Policing Oversight Authority (IPOA), which then will be able to oversee the police in terms of the way they are doing their work and make sure that issues of human rights are properly addressed.

The other issue that I want to address is energy. When you look at this country, the target was to achieve 5,000 units in terms of energy. Over time, we have not even done a quarter of that. What is even more annoying and surprising is the fact that when you look at the BPS, it does not mention coal as a source of energy.

(Loud consultations)

Hon. Speaker: Order Members!

Hon. Mulu: This is more so in my county. If we are talking about cheap source of energy and then such an important policy document is prepared and there is no mention of coal as a source of energy, that is an issue of concern. The Government committed to heavily exploiting coal in Kitui County, so that at the end of the day, we can get a cheap source of energy and at the same time help in industrialisation which will in the long-run create employment.

It is important for the Government to continue exploring ways of exploiting coal as a source of energy. As a Budget and Appropriations Committee, we must appreciate the Parliamentary Service Commission (PSC) because yesterday, it was brought to our attention that in the BPS, there was no mention of the payment of gratuity to Members of Parliament, employees of constituency offices and county offices which are managed by the Senators. I really want to appreciate the Commission for bringing this to the attention of the Budget and Appropriations Committee where as a result, resources have been allocated to make sure that these important payments are made to the respective persons.

Hon. Speaker: Member for Kitutu Chache South.

Hon. Onyoka: Thank you very much, Hon. Speaker. I would like to pass my congratulations to the Chairman of the Budget and Appropriations Committee who has tirelessly, for the last two months, been going around and chasing many of us to attend the Budget discussions on how the resources of our country are going to be shared and what the Executive has asked us to do.

Issues that have been raised in the BPS are outstanding. The Members of the Budget and Appropriations Committee have done an outstanding job. I also want to thank the Executive, namely, the Cabinet Secretaries, who come over and over again to discuss with us matters regarding the BPS and particularly how the resources are going to be distributed around the

country. In the process of looking at what the BPS discusses, there are certain gaps which I think we need to start looking at. For example, the Jubilee Government has frequently said that a number of roads were going to be tarmacked. In fact, the number goes up to about 10,000 kilometres.

I wish the CS would come up with a clear description and definition of the roads to be tarmacked. We must allocate resources for these roads for the simple reason that, year in, year out, we spend resources murraming roads and when it rains we murram them again. We have to be brave and decide whether we are going to tarmac our roads even if it is just five kilometers per every constituency. That is something we must do because it will create jobs at the local level and optimism in our country. It will ensure that we deliver what we should.

Secondly, I am happy that the Ministry of Education, Science and Technology and the Department of Defence have been allocated enough resources. We hope they will use these resources effectively and ensure that we get value for money.

Finally, just the way my colleague has talked about the Parliamentary Service Commission (PSC), Members of Parliament need to wake up and realise that by the time we reach June this year, chances are that nobody would be talking to us in this House. It is better we follow up on our matters so that by January, when we come back, we ensure that these resources are there, that is, the money for county government officers and MPs. This is because by July, there would be nobody to answer to your questions; most probably until September.

The Cabinet Secretary (CS) must consider seriously that the Members of this House are very passionate about the National Government Constituencies Development Fund (NG-CDF) and would like to ensure that the resources that have been allocated to go to secondary schools and all the other facilities are available. I want to thank them for ensuring that at least NG-CDF funds are now with the NG-CDF Board and the only money that needs to be interrogated is that allocated to secondary schools in our constituencies.

With those many remarks, thank you Hon. Speaker.

(Hon. Okoth consulted loudly)

Hon. Speaker: Honestly, what is happening? The Member for Kibra, you are causing some excitement there. Let us have Hon. Pukose.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker for allowing me to contribute to this Motion. At the outset, I thank the Chairman and Members of the Budget and Appropriations Committee for the efforts they put into this Budget Policy Statement. I happen to have appeared before the Budget and Appropriations Committee to read the statement for the Health Committee. They have done a good job because many of the recommendations that were done by the Departmental Committee on Health have been captured. The Ministry of Health needs to review the structure of its programs to ensure that some which have similar outputs and outcomes are placed under one programme.

We also looked at the Ministry of Health allocating funds to programmes that have already been devolved. We put it very clearly and I thank the Committee for that clarity. In the Ministry of Health, they put budgets of things such as promotion of health care and environmental health functions such as refuse collection and dams, solid waste disposal and other issues that have been devolved.

On several occasions we have engaged the Ministry and told them very clearly that going forward, the Committee will not support programmes that have been devolved. So, I want the

National Treasury to re-look the budget for the Ministry of Health because from our Budget Policy Statement we have made it clear that devolved programmes are not going to get funding. We want the Ministry of Health to look at this Budget Policy Statement, what the House has passed, the recommendations from the Committee and align their budget to those programmes.

The other issue is about National Hospital Insurance Fund (NHIF). In the past, money has been sent to the county governments, yet those facilities that have helped mothers deliver, even though they have put in their invoices, do not get that money directly. This is very important because when we allocate money for maternity services and the money is disbursed to the county account, it means that money does not end up in the various facilities and it will be very difficult for anybody to know whether the money is being utilized for maternity services. What we have done as a Committee, through NHIF, is to provide ante-natal care for the mother and post-natal care for both the mother and the baby so that they have a comprehensive care through the NHIF. So, giving this money as a special grant to NHIF is going to improve the efficiency of the services because the money is going to go directly to the mother who is the beneficiary.

Initially, hospitals would even put claims for those already employed and have NHIF support but for this one, the NHIF will recruit more people into the programme because we already have those who are on the NHIF programme by virtue of this person working.

Hon. Speaker, once that is done, the coverage for the NHIF for mothers going to deliver is going to increase and the money disbursed to various facilities. One of the recommendations from the Budget and Appropriations Committee is a special fund for health to be established. Governors together with the National Treasury must take cognizance of this, so that money meant for health is ring-fenced and given directly to health facilities. During the Motion in the morning, I also raised the issue of the current doctors' strike. Recently, the nurses agreed to go back to work but not the doctors. We cannot deliver health care services when the doctors are not there. It is important for this country to understand. You train a doctor for six years and there are many others who go for post-graduate studies for another five years after which they come back to give critical service to the society. So, the role of the doctor in health care needs to be looked into and these are people whom Kenyans' taxpayers money have been invested in. We should not let our doctors move out of our country.

As I conclude, the other issue is the role of NG-CDF, which I hope that the Committee is going to look into. Some of the aspirants happen not to understand the role of the MP, Member of County Assembly (MCA) and how devolved functions are done. The Budget and Appropriations Committee allocated money for the audit of this Constitution, but up to now that report has not been tabled to this House. When you go outside there you will find some of the aspirants accusing you of not carrying out functions that are not necessarily functions to be performed by MPs. They accuse you of not performing functions of MCAs. So, you wonder whether the person accusing you wants to be an MCA or an MP.

It is important that the Budget and Appropriations Committee tells us what we have achieved in so far as the money that we allocated them for the audit of the Constitution is concerned. It is very important. This House gave out money and also views as far as that audit is concerned, but the Report has never been tabled in this House. What happened to that Report and where are we moving from here? We are going into an election year with the same Constitution and other quarters are demanding that we need to do some amendments. However we have not got the Report on the audit of the Constitution. That is important to me. I support this BPS.

Hon. Speaker: It is not fair for you to get away with it because it also suggests that you have not been following developments.

Hon. Mutava Musyimi, perhaps, you can give some information.

Hon. Musyimi: Thank you very much, Hon. Speaker for indulging me. Allow me to inform my colleague, Dr. Pukose, and others who may hold the same view. I tabled the Report in this august House on behalf of my Committee and you, in your wisdom, directed that the Budget and Appropriations Committee considers the Report and brings its recommendations back to the House. We are working on the Report.

Hon. Speaker: I also got my copy. Hon. Pukose did not get his. They are normally available. Let us have the Member for Suba.

Hon. Ng'ongo: Thank you, Hon. Speaker for giving me this opportunity to make my contribution to the BPS. I want to start by thanking the Budget and Appropriations Committee. We had a meeting of almost three days at the Boma Hotel in Nairobi just to consider this very important document in line with our Constitution and the Public Finance Management Act. It should be understood by this House that the BPS for this year came a little earlier because of the possible election next year. Otherwise, we would be debating this document around February next year as per the requirement of the law.

I want to start by talking about some weak points in the BPS for the 2017/2018 Financial Year. First, over the years, especially the past three or four years, we have made projections on the economic growth and the Gross Domestic Product (GDP) growth. For over three years now, we have not been realising the projected economic growth. With the looming possible election next year like in all election years in this country, we have had slowed economic growth. Still, we have a Treasury that is too optimistic and projecting very high economic growth of well over 6 per cent. The question that one needs to answer is how realistic this economic growth projection is. In the event that we do not realise what is projected, the effects on the economy will include high borrowing because the deficit must be financed. At the same time, even if we are reporting economic growth of about 6 per cent like we did for this year, we need to ask ourselves who is benefitting from this economic growth.

The Kenyan population does not see this economic growth in their pockets, homes or on their tables. We need to ask ourselves whether we are profiting other countries like China which are putting some resources in this country and bringing labour to this country, part of which we do not even need. We need to review the contracts that we signed with the so-called development partners, so that we protect Kenyans. We cannot bring cheap labour to Kenya from China. We are helping the Chinese to take care of their economy at the expense of our economy. Many Kenyans are asking where this economic growth is because we are allowing other countries to benefit at our expense.

I also want to talk about the debt level in this country. There is a dispute among professionals like economists and financial analysts. According to the Treasury, we are well within the allowable debt level. Many economists including even the World Bank and the International Monetary Fund (IMF) have sounded warnings to this country that we need to check our level of borrowing. I do not even want to dwell on that. My concern is on the application of the money that we borrow. If we go out there to borrow, whether it is through the Eurobond, directly from other countries or locally, prudent financial management requires that you invest the amount you have borrowed in productive sector of the economy.

Recently, there has been debate about Eurobond and whether we got the money. I do not want to go that way because I know there will be politics around it. When we asked for the list of the projects that were financed through this borrowing, we were told that the borrowing was to go to general budgetary support. That means that you just borrow to finance any deficit that you

have. Then you are told that part of that borrowing went to finance things like the National Youth Service (NYS). The NYS was a good idea, but if we are borrowing to clean and sweep the streets of Nyalenda in Kisumu, Mathare North and Kibera, much as we want those places to be clean, it is not prudent financial management to borrow money to invest in sweeping our streets. Even if you sweep streets, how will that help grow the economy?

There is also something that I wanted to talk about. I have not even pointed to the corruption around the borrowed money. I want to talk about the infrastructural development in this country. We have started so many infrastructural projects across the country, a lot of them for political reasons. When we are debating as a National Assembly, we need to be realistic and think about the future of this country. It will get worse in this election year. It is not prudent for any person, or even a country, to start so many projects. You cannot start so many projects. I want to give an example. If today you start building your house in Nairobi, start building another one in the village, start building a *duka* or a shop somewhere in western Kenya or buy a car, it is not possible. It is not practical. That just shows how disorganised you are. We need to ask ourselves which are the strategic infrastructure projects to start. As a country, we have committed ourselves to many infrastructural projects whose economic value we have not analysed.

The Chairman talked about the link and connection between the investment in the infrastructure and the growth of the manufacturing sector. The reason we develop our infrastructure is to give capacity to the manufacturing sector. It is only through the manufacturing sector that we can generate resources to pay for the infrastructure that we are putting in place. If you look at the growth in the manufacturing sector, it is not in tandem with the growth in the level of investment that we put in infrastructure.

I also wanted to talk about the recently enacted cap on interest rates in the banking sector. I know there has been a lot of talk around the negative effects, but there is also the positive side. I want to urge the National Treasury to see how to come up with policies that will harness and take advantage of the possible positive benefits of this sector, one of which is that those who want to invest can now get loans cheaply. There will also be investments in other areas which are competing with banks like pension funds and even real estate. We need to encourage these other sectors to compete with the banking sector, so that those who are interested in investment do not lose out on getting money for investment.

I wanted to talk about the division of revenue that is the vertical sharing of revenue. The Constitution mandates the National Assembly together with the Senate to debate and agree on how much should go to counties and how much should remain at the national Government level to finance the national Government activities. Article 203 of the Constitution spells out what needs to be taken into consideration while making that decision. It defeats logic if you can grow expenditure for the national Government at 13 per cent yet you are growing expenditure for the counties at 6.7 per cent. The inflation rate for the country is projected at 6.5 per cent. So, what we are telling the counties is that we are not giving them any additional money for development, but we are only taking care of the inflationary pressures for next year. Is that what we want for this country? I do not think so. Look at the kind of functions that we have devolved to the counties more particularly the road sector. As Members of Parliament especially the National Assembly, we have a responsibility. What is our responsibility? If the roads in the rural areas are impassable, no leader will be protected. The electorate does not understand who is responsible for a particular road. If we have devolved these roads to the counties especially Class D roads, we need to allocate them resources. Why can we not as a country---

Hon. Speaker: Sorry, Member for Suba, I am told that the lights at the front are not working so you are not able to get--- It is not possible for the Speaker to wink to notify that---

Hon. Nakara. He is not there. Member for Laikipia East.

Hon. Kimaru: Thank you, Hon. Speaker. I am now on this other side of the divide. Even when I was on the other side, I was contributing constructively to the debate in this House. On matters principles, at times you have to stick by them. This time round, I support the Budget and Appropriations Committee Report on the proposed Budget on the management of resources and debt management.

It is noteworthy to say that the allocation to the devolved units is quite substantial. Again, we are seeing over Kshs291 billion being allocated to the devolved units. As we have said, and I know this is the feeling amongst most of us, devolution is a good thing. Across the country, we have seen the kind of transformation that devolution has made. If you look at a county like mine, we can attest to the fact that a lot of infrastructure that had not existed before due to lack of funds is being done. Development that had not been seen before in spite of the wastage is being done.

Devolution, through taking resources to the rural areas, has been very helpful in transforming these areas. We must guard this jealously throughout. I can see that Parliament and even the Government are keen in doing this. A lot of resources in terms of conditional grants have been given to hospitals. We already have Kshs4.2 billion in the proposed Budget for Level 5 hospitals. If this is put into good use, it will transform the lives of our people.

Village polytechnics across the country will get about Kshs2 billion. These institutions have been neglected. With this injection of funds, their status will rise and they will serve our people properly. In the past, through the CDF, we supported village polytechnics, but we cannot do this anymore. County governments have also not been very keen in ensuring that village polytechnics get sufficient funding. With the conditional grants that are sent to village polytechnics, we can be assured that their financing is secured.

We have Kshs4.5 billion for loaned health equipment. We were skeptical and feared that the equipment the Government brought to hospitals at the county level was not a good idea. However, for example, in my county, the equipment that was brought has been very beneficial. This is the imaging equipment, the modern theatre and the renal unit. The Government is in the process of establishing a renal unit in the Nanyuki Level 4 Hospital. This will help a lot. Our people suffer all the time and have to travel long distances. In my case, people have to travel to Nyeri Hospital. They cannot afford the fare leave alone the cost of the service. When we take these services to our people, they will help a lot. Across the 47 counties, we are going to have this equipment on a hire purchase arrangement. We can now see the county governments that will not pay for them. Already, Kshs4.5 billion has been allocated for that. Over Kshs4.7 billion of the Fuel Levy Fund will go to the counties, which translates to about Kshs100 million per county. That is going to be helpful.

As I finish, I must take note of the infrastructure, which my friend, Hon. Mbadi, alluded to. Infrastructure and roads in particular are going to get about Kshs170 billion. We have seen the Government commissioning tarmac roads. We cannot say that this is not a well thought out project. In areas where tarmac roads are being constructed, I have not heard any community saying that, that is a bad thing. In my constituency, for the first time ever, we are going to have a 40 kilometre tarmac road from Naro Moru Town to Ngobit Ward in Wiyumiririe. That road is going to be of very great help to my people.

The people in the area engage in farming and many times, they cannot transport their produce to the market. We have instances where sick people cannot get to the hospital. The fact that a lot of money has been allocated for infrastructure is a good thing.

The NG-CDF has been allocated about Kshs25 billion. This is a good thing. We are assured that the NG-CDF is going to continue. Having been the precursor of devolution and still contributing tremendously towards the welfare of our people it is, indeed, a good thing. We can rest assured that probably it is going to stay. It provides additional funds to the counties.

About Kshs3.4 has been allocated to the NHIF for maternity care. It cannot be gainsaid the benefit it will have. I am particularly interested in the Linda Mama Programme that has helped mothers get free delivery. With this money allocated to the NHIF, mothers who want to deliver will not be confined to Government hospitals. They can even get these services from private hospitals.

Thank you, Hon. Speaker for giving me time to make my contribution.

Hon. Speaker: Hon. Wamalwa, do you have something to say?

Hon. Wakhungu: Thank you, Hon. Speaker. I want to support the BPS. We know very well the BPS prioritises certain areas. As we move on, particularly in the Fifth Session, we need to align it to the election date as CORD prepares---

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

Hon. Speaker: What is your point of order?

Hon. Gichigi: Thank you, Hon. Speaker. I am looking at the Order Paper. This being a Special Sitting and seeing the business that is ahead of us, I have listened to the Members who have contributed in the last few minutes and it is like there is no opposition. I am moving under the Standing Order No.95 that the Mover be called upon to reply.

(Loud consultations)

Hon. Speaker: There was a lot of din and I did not quite understand you. Let me hear from the leadership. Hon. Midiwo!

Hon. Midiwo: Thank you, Hon. Speaker. What else can be more important than the Budget? On this Order Paper, one of the biggest issues which we must deal with is this Budget even if we do nothing else. We want to request you not to entertain us to do wrong to the Budget especially the Budget that is going to give us campaign money. We are going to contribute. Sitting here, we will also have our chance as the Minority Party to tell Jubilee what is with the Budget. We will also tell the nation. That is the right procedure. I do not even think it is right that you can call for the end of that debate procedurally. It is about the Budget. Unless speakers run out, Hon. Gichigi cannot imagine that the Mover would be called upon to reply, but maybe with just a little more experience, we will guide him.

Thank you.

Hon. Speaker: Yes, Hon. A.B. Duale.

Hon. A.B. Duale: Hon. Speaker, we have no problem. We can debate the BPS until cows come back home. You need to make a ruling that this is a Special Sitting, so that we will complete everything on the Order Paper. If that assurance is made, we have no problem. We can listen to as many views as possible. That has to be made clear because this is not an ordinary sitting where today's Order Paper items can flow to tomorrow. We have come back for an important agenda. We still have one from the Committee on Delegated Legislation and also the

Election Laws (Amendment) Bill. We want you to rule, so that we agree that we can sit until midnight and deal with all agenda items on the Order Paper.

We have no problem. We can criticise the BPS because that is the exclusive right of each and every Member in this House. However, that must be made clear depending on the time allocated to us.

It is true that I wrote a letter to you to recall the House. As the Leader of the Majority Party, I am a stakeholder in as far as the Special Sitting of today is concerned.

(Hon. A.B. Duale was heckled)

Hon. Speaker: Hon. Members, let us not shout. We would do better if we could transact business. Also, bear in mind that under the Standing Order No. 29, I am required to specify by notice in the Gazette, the place, date and time appointed for the Special Sitting of the House. Hon. Members, you have some other important business here, some of which also affects you. I do not know how you propose to tackle it. There are some other two crucial businesses that you have to transact here.

A special sitting is not an ordinary sitting. That is why we must exercise some element of economy on time. In the meantime, before I put the Question, let us allow Hon. Wamalwa to finish his contribution.

Hon. Wamalwa, continue with your presentation.

Hon. Wakhungu: Thank you, Hon. Speaker.

Of course, we know there are many other activities which are at hand that we have to address but with due respect to Hon. A.B. Duale, we should move on as per the Order Paper. It is critical that we pass the Budget Policy Statement. It gives the key priority areas that we must focus on. It is unfortunate because elections are coming in August and we have to align this to the elections. Much of this is coming from the Jubilee Government. It is unfortunate when we, in the Coalition for Reforms and Democracy (CORD), take over in August next year, we will be implementing a Budget that has been prepared by the Jubilee Government. We must, in future, align the Budget Calendar with the date of elections.

Going to the Budget Policy Statement, particularly the issue of division of revenue, it has been something of a controversy. We are talking about vertical division of national revenue. Today we approved the nominees for appointment to the Commission on Revenue Allocation (CRA), who are coming to do this job. How I had wished the issue of the National Government Constituency Development Fund (NG-CDF), which is critical, was looked at. This is an element we have to focus on in terms of horizontal division of revenue after we have done the vertical division.

We know that health is a devolved function. We have the doctors striking. Kenyans are dying. There was a Collective Bargain Agreement (CBA) where the Government had agreed with officials of the doctors' union that they would pay them money at this particular time, but looking at this BPS that particular CBA has not been mentioned anywhere. Our people are dying. Where is the money going to come from so that doctors and nurses can be paid? This is something that is supposed to have been highlighted in the BPS. That tells you that the Government is, maybe, not serious.

(Hon. (Ms.) Muia shouted at Hon. Wakhungu)

It is unfortunate Hon. Ndambuki, maybe out of ignorance, to note that. If you look at Schedule Four of the Constitution, you will appreciate that when it comes to training of doctors, it is a national Government function.

(Applause)

Do not bring your ignorance here. Look at Schedule Four of the Constitution. It is very clear when it comes to matters of health, much as they are devolved. Level 5 and Level 6 hospitals are under the national Government. When it comes to training those doctors and the nurses, it is under the national Government. So, Hon. Ndambuki, please go and read the Constitution. Do not mislead this House.

Ignorance is no defence. It is important that the Jubilee Government addresses the issue of the CBA. The issue of the CBA is something of the national Government, not the county governments. It is important that we look for a solution to the issue of the CBA. Our people are dying. The doctors are crying. The CBA has nothing to do with the county governments. It has something to do with the national Government. That is why I want the Hon. Member to know that. We are also here to educate each other.

With those few remarks, I support.

Hon. Members: Put the Question! Put the Question!

Hon. Speaker: Who is the Question? Do you want the Mover to reply?

Hon. Members: Yes!

Hon. Members: No!

Hon. Speaker: Okay, Hon. Members there is still a lot of business to transact here. I will now put the Question, that the Mover be called upon to reply.

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

The Noes have it.

Hon. Members: Division! Division!

Hon. Speaker: Very well that is a Division. Ring the Division Bell.

(The Division Bell was rung)

Hon. Speaker: Order. Resume your seats.

Hon. Speaker: Hon. Members, resume your seats. Hon. Members, I order that the Bars be drawn and the doors be closed.

(The Bars were drawn and doors closed)

Unless there are Members who may be in the rooms behind! Order, Member for Suna East! You must have respect for the Member for Seme. The Member for Seme is allowed to take his seat. Hon. Members, I assume that this being a Special Sitting, everybody came here with their cards.

(Loud consultations)

Hon. Members, at least, I know that the Member for Kitutu Chache South had indicated that he was having difficulties. Hon. Outa, you also do not have your card? Hon. Members, those who do not have their cards can come up. Order, Hon. Members! Member for Kitutu Chache South, do you want to vote manually?

(Loud consultations)

Order Members! The Serjeant-at-Arms will move around to ensure that there are no cards which have no owners.

Hon. Members, log out, please. Log out your cards. Hon. Members, please, let us not have arguments.

(Loud consultations)

You are not in Tharaka Nithi!

Hon. Members, the Question is that the Mover be now called upon to reply. You have 60 seconds to log in. Hon. Members, do not log in yet.

(Several Members gathered at the Speaker's seat)

Hon. Members, you cannot come here to make it impossible for me to communicate.

(Hon. Kipyegon consulted loudly)

Hon. Ng'eno, let us have no argument.

(Several Members stood at the aisle and along the gangways)

DIVISION

The Members loitering all over, order! Hon. Members, vote now.

(The Speaker consulted Hon. Cheboi)

(Question put and the House divided)

(Question carried by 144 to 90)

AYES: Messrs. Murgor, Kimaru, Wambugu, Serem, Mutambu, Kipyegon, Kihagi, Serut, Waiganjo, Nakara, J.M. Nyaga, Waluke, Sakaja, Baiya, J.K. Ng'ang'a, Limo, Lomwa, M'uthari, Manje, Shill, Nanok, Bowen, Emanikor, Karithi, (Ms.) B.N. Nyaga, Messrs. Ichung'wah, Losiakou, Bitok, (Ms.) Korere, Messrs. Sang, Kamanda, (Ms.) Leshoomo, Messrs. Wekesa, Lomunokol, (Ms.) Otucho, (Ms.) Mbugua, (Ms.) Seneta, (Ms.) Munene, Messrs. Robi, Were, A.B. Duale, Wangwe, J.K. Chege, Mohamed Abdi, Eric Keter, ole Sakuda, Injendi, Mati, (Ms.) Mathenge, (Ms.) Ngeny, Messrs. Gaichuhie, Ngikor, Shinali, K.K. Kinyanjui, Ngunjiri, Lati, (Ms.) Kajuju, Messrs ole Ntutu, Nderitu, Bii, (Ms.) Tobiko, Messrs. Mwangi, Akujah, (Ms.) R.

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K. Nyamai, (Ms.) Shebesh, Messrs. Letimalo, Njenga, B.K. Bett, (Ms.) Muia, (Ms.) Changorok, Messrs. Makenga, Gatobu, (Dr.) Pukose, Tonui, ole Kenta, Theuri, (Ms.) S.W. Chege, Irea, Messrs. Koech, Chepkong'a, Gichigi, Ndiritu, Mung'aro, Lentoimaga, Tiren, Katoo, (Ms.) Kiptui, Messrs. Karani, Kombe, Kariuki Stephen, Nakuleu, (Prof.) Sambili, (Ms.) Sunjeev, Messrs. Sane, Mustafa, Mwaura, (Ms.) T.G. Ali, Messrs. (Dr.) Munyaka, Kiptanui, Ndirangu, Cheptumo, Kipkemoi, Abdi, Rop, Mohamed Abass, Sudi, Gitari, Bowen, Kuria, Kanini Kega, Cheboi, (Dr.) Shaban, Messrs. Ichung'wah, ole Lemein, Abdinoor, Kinyua, Kiaraho, Musau, Rai, (Ms.) Mitaru, Messrs. Kang'ata, (Ms.) A.W. Ng'ang'a, Messrs. Njagagua, J.N. Chege, Musyimi, Chumel, (Ms.) R.N. Wanyonyi, (Ms.) Muhia, (Ms.) Mbarire, (Ms.) Shebesh, (Eng.) Mahamud, Messrs. Alfred Keter, Barchilei, (Prof.) Sambili, (Ms.) Emanikor, Messrs. Kariuki Ndegwa, Waweru, (Ms.) Korere, Messrs. Gikaria, Arama and M.D. Duale.

NOES: Messrs. Mwadeghu, Onyonka, (Ms.) Kedogo, Mr. Kobado, (Ms.) Keraa, Messrs. Nyenze, Kaluma, Lempurkel, Outa, (Dr.) Simiyu, Messrs. Midiwo, Ababu, J.O. Omondi, Oyoo, Wandayi, Aden, A.O. Ahmed, Oyugi, Masadia, (Ms.) Chae, Messrs. A.T. Anyanga, Simba, Momanyi, Andayi, Mulu, Ganya, Geni, Wakhungu, (Ms.) Ombaka, Messrs. Omulele, Anyango, Maanzo, Ochieng, (Ms.) Ghati, (Ms.) F.I. Ali, Messrs. F.K. Wanyonyi, (Ms.) F.M. Mutua, Messrs. Odanga, Ogalo, G.W. Omondi, Ogolla, (Ms.) Nyasuna, Messrs. Mwanyoha, Mukwe, (Dr.) Nyikal, Messrs. Opiyo, Olum, Mlolwa, Ndiege, Owuor, (Ms.) Lay, Messrs. Kajwang', Okoth, Moi, Muluvi, Ng'ongo, Memusi, Onyura, (Ms.) Odhiambo-Mabona, Messrs. Sumra, Chea, (Ms.) Ibren, Dr. Oginga, Mr. Aluoch, (Dr.) Nyongesa, Messrs. King'ola, Wangamati, Otaalo, Bedzimba, Mbui, (Ms.) Mumo, (Ms.) Nyamunga, Messrs. Bunyasi, (Ms.) Shakila Mohamed, (Ms.) Gure, Messrs. Onyango, Anami, Mule, Ramadhani, Kasuti, (Ms.) Musyoka, Messrs. Bosire, Wetangula, Wamunyinyi and (Ms.) Juma.

ABSTENTION: Nil.

Hon. Speaker: Order Members! The following is the result of the voting. I have with me the printout for the Electronic Voting.

(Loud consultations)

I am using the language which is in our Standing Orders.

Hon. Member: We did not see the electronic results broadcast.

Hon. Speaker: If you did not, you do not know what you are doing. The results are as follows:

Electronic voting: Ayes 105; Noes 76;

Manual voting: Ayes 39; Noes 14;

Total Ayes: 144;

Total Noes: 90.

(Hon. (Ms.) Shebesh, Hon. (Prof.) Sambili, Hon. (Ms.) Korere and Hon. (Ms.) Emanikor voted both electronically and manually)

Hon. Members, the result of the Division is that the "Ayes" have it.

(Question carried by 144 votes to 90)

You may open the doors and draw the Bars.

(The doors and bars were opened)

Mover.

(Question put and agreed to)

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

Hon. Speaker: What is your point order, Member for Suna East?

Hon. Nuh: On a point of order, Hon. Speaker. I stand under Standing Order No. 30(3) and (4), which states:

“(3) Notwithstanding paragraphs (1) and (2), the House may resolve-

(a) to extend its sitting time, or

(b) to meet at any other time on a sitting day; or

(c) to meet on any other day, in order to transact business.

(4) A Motion under paragraph (3)(a) shall be moved at least thirty minutes before the time appointed for adjournment.”

Hon. Speaker, I am raising this Standing Order because this is a House of rules and procedure. This is a serious matter that requires your determination, consideration and pronouncement. There is no Member of this House who has stood up and moved a Motion 30 minutes before 6.30 p.m.

Hon. Members: Yes.

(Loud consultations)

Hon. Speaker: Order Members! Order! The Member for Suna East like any one of you has a right to be heard in silence.

Hon. Nuh: Hon. Speaker, I stand under Standing Order No.30. We are creating a tradition which is going to be used by successive Parliaments. No Member moved a Motion to extend the time of the House 30 minutes before 6.30 p.m.

I want your ruling on this matter whether the House can continue sitting and debating this matter. Hon. Speaker, there are some Members who are making noise here and saying I am National Youth Service (NYS). The thieves are known. Waiguru and her group are the ones who stole that money and one of them is seated in front of me here. Hon. Speaker, give a ruling on this matter.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Gichigi, do you want to respond to that?

Hon. Gichigi: Thank you, Hon. Speaker. Hon. Junet has raised a valid point but on the wrong day. The Special Sitting is just that. Ordinary rules of the Standing Orders do not apply during a Special Sitting.

(Loud consultations)

Hon. Speaker: Hon. Gichigi is still on his feet and like Hon. Junet, he will also be heard in silence.

Hon. Gichigi: I want to submit that the issue of time, as we know it in the Standing Orders, during the normal session does not apply today.

Secondly, today is also unique in the sense that we did not start the normal session at 9.30 a.m. but at 12.00 O'clock. The only time we can be said to be out of time is midnight because 12.01 a.m. will be the next day.

Hon. Speaker: I know there are many Members who want to contribute on this. Let us have Hon. Kaluma. He has not opened his mouth today save when he was smiling.

Hon. Kaluma: Thank you, Hon. Speaker. I am grateful for your patience over the matter. I stand before you under Standing Order No. 29(3). For the benefit of Members who never carried their standing orders, it states:

“The Speaker shall, by notice in the Gazette, notify the Members of the place, date and time appointed for the special sitting of the House.”

I also stand before you under Standing Order No. 30(2) which deals with time. It deals with general hours for clarity and it states thus:

“Unless for the convenience of the House the Speaker or the Chairperson (as the case may be) directs earlier or later interruption of business, at 6.30 p.m. or (if it is an Allotted Day) at 7.00p.m., on the occasion of an afternoon sitting and at 12.30 p.m. on the occasion of a morning sitting, the Speaker or the Chairperson of Committees shall interrupt the business then under consideration and if the House is in Committee the Chairperson shall leave the Chair and report progress and ask leave to sit again.”

My understanding of those Standing Orders together with the provisions that Hon. Junet read is that the argument my brother Hon. Gichigi is bringing, are arguments you have to use to apply for extension of time before 6.00 p.m.

Hon. Speaker, the fact of the matter is that on a strict reading of those Standing Order provisions, there is no business we can legally and validly transact. I urge that you so rule and permit the Members to go back to the functions they were undertaking. I thank you.

Hon. Speaker: Yes, Hon. Duale.

Hon. Members: NYS! NYS!

Hon. A.B. Duale: I will be heard. You can make noise.

Hon. Speaker, today is a Special Sitting. Standing Order No. 29(1) categorically states that either the Leader of the Majority Party or the Leader of the Minority Party will write to you and provide---

Hon. Members: NYS!

Hon. A.B. Duale: Your boss could not intimidate me, so you cannot intimidate me.

(Loud consultations)

Raila Odinga could not intimidate me and so you are small people!

Hon. Speaker, I have a copy of the gazette notice.

Hon. Speaker, there is nowhere the gazette notice indicated time. Secondly, I would like to tell the Chairman of the Orange Democratic Movement (ODM) that we are not in an ODM meeting, but we are in the Chamber.

Hon. Speaker, this is a Special Session. We do not have a session tomorrow. We also did not have a session yesterday. We will not have a session next week unless somebody writes to you. We are in this Chamber this afternoon and this evening to transact the business that was

gazetted until it is over within the reading of today, and today ends at midnight. It is good to sort out this issue in the Chamber. It is not good to hide behind the timeline of 6.30 p.m. Why are you hiding? Let us sort out this matter as legislators. Why do you want to cheat Raila Odinga that we used the 6.30 p.m. timeline?

Hon. Members: No! No!

Hon. A.B. Duale: Hon. Speaker, I withdraw.

Hon. Speaker: Order Members! You have now done enough to each other. The heckling you have done to one another is enough.

Hon. A.B. Duale: Hon. Speaker, I want to finish my contribution. I withdraw what I have said. If you read the Standing Orders---

(Several Hon. Members stood in their places)

Hon. Speaker: Resume your seats! Hon. Members, now that you have finished that bit---

Hon. A.B. Duale: Hon. Speaker, I withdraw and apologise. Standing Order No.29(5) states:

“Whenever the House meets for a special sitting under paragraph (1), the Speaker shall specify the business to be transacted on the day or days appointed and the business so specified shall be the only business before the House during the special sitting, following which the House shall stand adjourned until the day appointed shown in the parliamentary calendar.”

Whether it is 6.30 p.m. or 7.30 p.m., according to Standing Order No.29(5) --- Even if you want to hide behind 6.30 p.m., we are legislators and we represent the people of Kenya. We must sort out this matter. We must deal with it. I rest my case.

Hon. Members: On a point of order, Hon. Speaker, Sir.

Hon. Speaker: I can see the emotions, but as you realise, I have the capacity to go until 6.00 a.m. tomorrow. So, do not worry. I will allow you to ventilate. Hon. Midiwo.

Hon. Midiwo: Thank you, Hon. Speaker. We know you have worked the whole day today and I know you have the capacity to go on until 6.00 a.m. tomorrow except that the law does not allow you to work longer than now. I want to tell you what the law says.

The Leader of the Majority Party has read Standing Order No.5. These are some of the words he is throwing around. Standing Order No. 29(5) states that whenever the House meets for a special sitting under paragraph (1), the Speaker shall specify the business, and the House shall only transact the business in the Gazette Notice.

Hon. Speaker, this Standing Order does not say that the House shall sit until what is in gazette notice is completed.

(Loud consultations)

Daktari that is the one I have just read. You do not even have a copy of the Standing Orders. So, Hon. Member, let us sort ourselves out. I am sure you do not know what it says.

If you go to Standing Order No.30---

(Loud consultations)

Hon. Speaker: Hon. Midiwo is on the Floor. You have the Floor.

Hon. Midiwo: If you go to Standing Order No.30---

Hon. Speaker: Hon. Members, please, I implore you, use temperate language.

Hon. Midiwo: Why are we abusing each other on Christmas Eve? The Speaker will rule, anyway. We had pleaded when we started. Let good order prevail. Let us stop abusing each other on national television and on Christmas Eve.

(Loud consultations)

Hon. Duale had even withdrawn and apologised. Hon. Mbadi, the only guide we have---

(Hon. Ng'ongo consulted loudly)

Hon. Speaker: Member for Suba, what is wrong? Allow Hon. Midiwo to contribute. Shall we hear the Member for Gem?

Hon. Midiwo: Hon. Speaker, the section of Standing Order No.30 which was read---

Hon. Speaker: Maybe you should also give Hon. Outa an opportunity to read us some Standing Order. Which one do you want to read?

Hon. Midiwo: Exactly!

(Loud consultations)

Hon. Speaker: You are not allowing the Member for Gem to finish.

Hon. Midiwo: Maybe, we need to give him a copy of Standing Order as a Christmas present.

But seriously, Standing Order No.30 talks about the hours of meeting. These are the only hours that apply if the gazette notice is not specific. That is the only hour, unless, 30 minutes before time there is a Motion before the House which is considered to extend. A Special Sitting must conform to the Standing Orders. I would be really shocked having been here for 15 years that Hon. Duale, who I know is sincere, claims that our day ends at midnight. A day ends at midnight, but our days in this Assembly are regulated by Standing Order No.30. It is just good order. What Hon. Duale is trying to do--- We have had a long day. It is true we know his intentions, but it will have to be done procedurally. Even today at 1.00 p.m., you pronounced yourself. These are your words: "I know that the session ends at 1.00 p.m. but I will allow 30 more minutes." You used Standing Order No.1. Those were your words. That means you were referring to Standing Order No.30 (1). That is what you invoked. In good reasoning, any other time for debate cannot be cooked. I beg you that nothing will go wrong, if we do not talk about these shenanigans of Duale. Time has cut us so, please, let us go home for Christmas. I beg you.

Hon. Speaker: Member for Kikuyu.

(Hon. Wandayi spoke off-record)

Hon. Wandayi, you will all speak if you want. You will speak until cattle or cows come home to roost. Is it the chicken or the cows? Let him say his bit then I will come over to this side. Hon. Opiyo Wandayi, is your point based on some supreme law unknown to anybody here or you want to make reference to the same Standing Orders we know? Allow the Member to speak.

I might not even give you the next chance. I might want to give somebody who has not opened his mouth.

Hon. Members: *(Inaudible)*

Hon. Speaker: That one is very open. Proceed.

(Laughter)

Hon. Ichung'wah: Thank you, Hon. Speaker---

Hon. Oyoo: I have not opened my mouth.

Hon. Speaker: Member for Muhoroni, I have been seeing your mouth open for a long time. You cannot say that you have not opened your mouth.

Hon. Ichung'wah: Thank you, Hon. Speaker. I want to be very brief and just take the House back to Standing Order No. 29(5) that Hon. Jakoyo Midiwo has read. Unfortunately, our senior colleague, Jakoyo, is reading that Standing Order very selectively. The Standing Order says, "Whenever the House meets for a special sitting under paragraph (1), the Speaker shall specify the business to be transacted on the day or days appointed (not time) and the business so specified shall be the only business before the House during the special sitting, following which the House shall stand adjourned until the day appointed shown in the parliamentary calendar."

In the strict interpretation of that Standing Order, the House only stands adjourned upon completion of the business that it was supposed to transact.

(Members of the Minority Party heckled Hon. Ichung'wah)

Allow me to finish. The strict interpretation of that Standing Order, therefore, is that the business for which this House was gazetted to sit has to be concluded. Therefore, I beg that, in relation to what the hon. Member for Suna and NYS, Hon. Junet Mohamed said, you rule that until the business that you gazetted is transacted and concluded, the House shall not stand adjourned.

I want to concur with the Leader of the Majority Party that the House cannot adjourn before the end of the day or days appointed and gazetted. I want to beg that this is a very simple issue for you to rule on. You rule on it before midnight so that we conclude this business and go for Christmas before midnight.

Hon. Speaker: Member for Ndhiwa:

Hon. Oyugi: Thank you very much, Hon. Speaker. I would like to refer you to Part VI of our Standing Orders which talks about the calendar, sittings and adjournment of the House.

What Hon. Gichigi and the Member for Kikuyu have tried to canvass is good. But if you look at Standing Orders, you will find that Part VI is supposed to be read in a continuum. You cannot pick the parts that you want. That is why it talks about calendar, sittings and adjournment of the House.

If you look at that part of the Standing Orders in a continuum--- I would like to refer to Standing Order No.29 which is what all the Hon. Members have referred to. Standing Order No. 29(5) says:

"Whenever the House meets for a special sitting under paragraph (1), the Speaker shall specify the business to be transacted on the day or days appointed and the business so specified shall be the only business before the House during the special sitting, following which the House shall stand adjourned until the day appointed in the parliamentary calendar."

Most important is what follows under Standing Order No.30. That is the reason I said that that ought to be read in a continuum. Standing Order No.30(1) says:

“Unless the Speaker, for the convenience of the House otherwise directs---”

I would like to take a pause there. In the morning before we convened the *Kamukunji*, you actually directed that we try to convene at 11.00 O'clock. That was your discretion. You can at some point use discretion to direct. So, at this moment, you have not directed as you did in the morning. But what is important is that the hours of business unless you direct is at 9.00 O'clock and 2.30 p.m. Hon. Speaker, you have not directed.

Standing Order No.30(3) says:

“Notwithstanding paragraphs (1) and (2), the House may resolve---”.

This House has not resolved because no one moved a Motion for the House to resolve. So, we would have resolved to extend time. That was practically possible. We could have resolved to say we will go up to 12.00 midnight or tomorrow morning, but we did not do that. Since no one moved a Motion that you extend the sitting time, I really think we cannot have other business transacted because we are well out of time. That is what the law says.

I thank and appreciate you.

Hon. Speaker: Hon. Members, everybody wants to inform the other.

Yes, Hon. Cheptumo.

Hon. Cheptumo: Thank you, Hon. Speaker.

We have been on recess and a Special Sitting was convened. What was the spirit? I want to say what I want. What it means is that there is serious business to be discussed in this Special Session. That is why the gazette notice was very clear on the agenda of this Session; the specific items to be discussed. If it was an ordinary sitting, the conclusion of the agenda of this sitting could not have been necessary.

Hon. Speaker, as you consider this issue, I want you to take into account the fact that this Session was convened to deal with very important and specific agenda.

Hon. Speaker, we cannot come all the way and be limited by time. The matter is so clear by reading the mood of the House. I have been here since morning ready to deal with the issue of election finance regulations. My Committee sat yesterday to be able to present the issue to this House because the *Kenya Gazette* is very clear. Hon. Speaker, I want to plead with you that, please be guided by the spirit of convening the special session for this House. We cannot come here and be limited by time. This is because what is before the House is more important than the time.

I also want to agree with my colleague, Hon. Duale, that there is no provision of time in the gazette notice. So be guided by the contents of the gazette notice and the spirit of convening this Special Sitting.

Thank you, Hon. Speaker.

Hon. Speaker: Let me hear the Member for Kisumu Town West. I believe that is the name of your constituency.

Hon. Aluoch: Hon. Speaker, it is Kisumu West. The issue that we should be addressing is definition of “sitting hours” for a Special Sitting. It pains me that as we address that important issue, we resort to booing and insulting each other. At some point, I felt so bad and wanted to walk out because I thought I was in the wrong crowd.

What we are doing here is setting a precedent that will be used long after we are gone. So, we should be serious as we approach it. As we talk about the definition of “time” for a Special Sitting, I have gone through Standing Orders No.1 to 267 and there is no provision for

sitting hours of a Special Sitting. Because there are none we have to resort to Standing Order No. 30 which is the only one in the Standing Orders which specifies sitting hours.

I have been here since morning and I am belabouring a point which I know you are familiar with and that is why at the end of the morning session, on your own volition without being prompted, you directed the House that we would extend our sitting after 1.00p.m. You did that because you understood the timing as defined in Standing Order No. 30. If it was the intention of the House to specify other times apart from what is in Clause 30, then the Standing Orders would have been specific.

A sitting day as defined under the Standing Orders falls under Standing Order No. 30(2) and the timings as set there are very clear. I am sorry many of us are arguing on this point not because of what is in the Standing Orders but because of what we think we should be doing here. I urge you in dealing with this very important issue to look at the Standing Orders and deal with it. Standing Orders define a sitting day as ending at 6.30 p.m. There is nowhere else in this book where it states that on a Special Sitting day you can extend by request.

As much as it may be convenient for some Members of this House to extend or not, let us do so according to the Standing Orders. I kindly urge you that as you make a ruling on this very important issue, to please have special recourse to Standing Order No.30, so that we do not go beyond the time set. I wanted to raise this issue earlier on but there was a Division in progress. The Standing Orders say that if the time appointed lapses at the time when a Division is in progress, then you stop until the Division is over. Now the Division is over and we should go home.

Thank you, Hon. Speaker.

Hon. Speaker: Everybody wants to read the Standing Orders. I have looked at mine so many times. Let me hear the Member for Kigumo.

Hon. Kamau: Thank you, Hon. Speaker. I beseech Members who are with us today to listen to me. Kenya is listening to us and looking at us. Our actions here today can easily put this country in a very bad position. Our actions here today can burn this country tomorrow.

Therefore, what we have before us here squarely lies on Standing Order No. 29(3) and (5). Standing Order No.29(3) states thus:

“The Speaker shall, by notice in the Gazette, notify the Members of the place, date and time appointed for the special sitting of the House.”

It is not explicit on the end time but the time that the meeting starts. Standing Order No. 29(5) states that during the Special Sitting, the time will lapse after the debate has actually been finished. I want to disagree with my colleague Hon. Olago Aluoch. If it is not provided for here in the Standing Orders then we revert to Standing Order No.1 whereby the Speaker must decide.

Hon. Speaker, my view is that the Hon. Speaker should immediately decide, move forward and finish this matter. We should not be arguing on these small issues here. The gist of the matter is the Motion before us and that is what we should bring here. When we are debating, let us be calm. Kenya is looking at us and we must ensure that we lead this country in the right path.

Hon. Speaker: Let me hear the Member for Rongo.

Hon. Anyango: Hon. Speaker, this morning you diffused a situation by calling an informal *Kamukunji* during which it was recognized that even if we try to use a technicality to solve a serious political question, we may not get an appropriate solution. Even now as we are arguing that Standing Order No. 30 does not give exemption to special sittings and the hours are limited and notices for extension should have been accordingly followed and they were not

followed, we are still not addressing and focusing on the real problem. The reality is that we have an attempt to bulldoze a legislation that still requires consultation.

(Applause)

So, it does not matter how long we argue here. The majority can still have their way but we will have passed a legislation that is so highly contentious and may hurt our political economy. We should accept the reality, which is the next Order on delegated legislation, it does not matter whether it is considered or not, it is dead matter. The regulations are not there and the law cannot be applied. So, whether we do it or not, it is dead because we are going to reject it.

(Applause)

The next item which colleagues are trying to ensure we handle today, you gave a ruling on it this morning. You gave a ruling in the morning that the Chairman of the Departmental Committee on Justice and Legal Affairs was to substantiate whether these issues were adequately discussed in the Committee and whether there were minutes that indicate that adequate consideration has been given to the issues. That substantiation has not been given yet, possibly somebody will raise it so that it is given when we get to that agenda item.

My position is this: Standing Order No.30 does not exempt special sittings, whether it is the President addressing us, unless you move for extension or we meet under the gazette notice for a day like we are doing today. If we are focused on solving the problem on this legislation, we should take the opportunity to consult further on these amendment laws and you can call another special sitting after that consultation. Otherwise, we are not serving ourselves well by bulldozing legislation on which a larger consensus than we have today is necessary because it will affect us all.

I could go further and say that elections in Africa are rigged, not just in Kenya. The risk of rigging in Africa is higher than the risk of rigging in Europe or America. It is important that we look at this legislation adequately. Even if we have to call another special sitting, we can do so on this agenda. We do not need to hurry on something that will affect us all. We did so with party-hopping and so many Members now regret that they had to accept it. I would like to address the Leader of the Majority Party. Please, avoid going into history as the one who bulldozed the wise legislation in this country during your period of service.

Please, we should adjourn according to Standing Order No.30. If the majority would like us to come up with more legislation, they will request for another special sitting on that particular agenda. If it is this law, then it should be discussed in detail.

Hon. Speaker: Hon. Members, even as you address me, you are reading Standing Order No. 30, but you are not addressing a specific point. The Speaker can direct an earlier or later sitting time. What is your understanding, including the Hon. Member for Kisumu West? Besides, all of you are addressing me on Standing Order Nos. 29 and 30. None of you seems to go beyond that. Why have you not looked at Standing Order No.256? It is so clear. The things that you are asking me to do are all provided for. Do not just address me on those two Standing Orders. Can I get a Member moving, for the sympathy of the Speaker, under Standing Order No.256? Do you have my sympathy? Let us have the Member for Endebess.

Hon. (Dr.) Pukose: Hon. Speaker, Standing Order No. 256 is on exemption of business from Standing Orders.

Standing Order No 256 (1) states:

“Subject to paragraphs (2) and (3), a Motion may with the approval of the Speaker be moved by any Member, either with or without notice that the proceedings on any specified business be exempted from the provisions of Part VI (Calendar, Sitting and Adjournments of the House), Part VIII (Order of Business), Part XVII (Limitation of Debate), Part XIX (Public Bills), Part XX (Private Bills), Part XXI (Committee of the whole House), Part XXIV (Financial Procedures), Part XXII (Select Committees), Part XXIII (Public Petitions) and Part XXVII (Public Access to the House and its Committees) of these Standing Orders.

I therefore move.

(Loud consultations)

Hon. Speaker: No Member has moved. You do not require notice. But, nobody is moving for exemption of business from the provisions of the Standing Orders particularly Standing Order No.29 and 30 on hours of sitting.

Hon. (Dr.) Pukose: I have said that I have moved. I ask Hon. Kajuju to second.

(Loud consultations)

Hon. (Ms.) Kajuju: Hon. Speaker, this is a Special Sitting. A Special Sitting enjoys the discretion of the Speaker. That is why we have Standing Order No.256 so that you can apply your discretion depending on the business that is before the House. Standing Order Nos.29 and 30 clear the business that is set in the Order Paper for that particular day. So, I beg you to use your powers under Standing Order No.256 to exempt the provisions of Standing Order Nos.29 and 30 in this particular provision.

Thank you, Hon. Speaker. I beg to second.

(Loud consultations)

Hon. Speaker: Hon. Pukose, is your Motion that business appearing in the Order Paper be exempted from the provisions of Standing Order No. 30 on hours of sitting? Is that the Motion?

Hon. Members: Yes.

Hon. Speaker: Hon. Member for Suba.

Hon. Ng’ongo: Thank you, Hon. Speaker. Let me appreciate your guidance to the House and direction on Standing Order No.256. I agree that, that Standing Order allows us an opportunity to exempt the business of the House from other Standing Orders. But, that should have been done within the time provided for business.

(Loud consultations)

Hon. Pukose has just rushed onto your advice without considering that already as we speak, we are past the hour. If he wanted that to be done, he should have done it within the time. We cannot purport to transact any business including the business to decide whether to exempt that particular Order from the Standing Order No.30 or not when we are already past time.

Hon. Speaker, allow me to indicate that Standing Order No.27 which is regular session of the House comes before Standing Order No.29, then Standing Order No.30.

Hon. Speaker, the argument here and the intention of these Standing Orders was that Standing Order No.30 covers Standing Order Nos. 27 and 29 and any other previous Standing Order. There was nothing so difficult for this House, when they were making these Standing Orders, to exempt special sittings.

Hon. Members: NYS! NYS!

Hon. Ng'ongo: I hear some people talking about NYS. I am not your President who appointed a lady whom we think had some relationship with him to go and mess up the NYS. It is your President who appointed his girlfriend to the Ministry. Do not talk to me about NYS. I am not the one who appointed Waiguru to go and embezzle funds. Ask your President what interest he had in Waiguru. Do not ask me again. Did I appoint Waiguru? He is the one who appointed Waiguru and he knows why he appointed her. Ask your President. It is not me!

Hon. Members: NYS! NYS!

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

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

Hon. Shill: Hon. Speaker, in fact, I am dismayed. It is very hurting that the other side of the House purports to be following the law and the Standing Orders yet this morning they contravened all those laws and orders by stopping you from coming into the Chamber. What kind of things are they speaking about? The way they are behaving is hooliganism and they are always disrupting this House. So, you really have no business listening to them.

Hon. Speaker: Hon. Ababu Namwamba.

Hon. Ababu: Thank you, Hon. Speaker. First of all, let me applaud your patience. Today, you have been overly patient. I want to make two quick points. Before I do that, I just want to plead on the point made by the Member for Rongo that decorum and integrity of this House is paramount. We are setting a precedent---

(Hon. (Ms.) S.W. Chege approached the Chair)

I wish I could have your attention.

However much time we spend ventilating on this matter, you are going to have to make a pronouncement either way. The pronouncement you make is going to be a precedent and a reference because this is a House of records. So, whichever way you rule, may you have at the back of your mind that you will be setting a point of reference for the future debates in this House.

I want to make two quick points. The first point is in reference to Standing Order No. 256. Indeed, Standing Order No. 256 allows you the latitude to exempt business from Standing Orders. Whenever we read any Standing Order, we must pay keen attention to both the letter and the spirit of that Standing Order and we must not read Standing Orders selectively. Allow me to just pick one specific provision in that Standing Order that I would invite hon. Members to pay keen attention to. That is the very last part of that particular Standing Order.

It states as follows:

“(4) A Motion under this Standing Order shall state the object of or reason for the proposed exemption and-”

That is where I wish to invite us to pay attention.

“(a) may be moved at any time and any other business then in progress may thereupon be interrupted---”

With due respect to all hon. Members in this House, I really want to plead that we pay keen attention to the business we are seeking to transact after we conclude this matter.

Hon. Speaker, what that clause, without any ambiguity indicates is that as at the time when this Motion is moved, business must be in transaction, which then presupposes that such a Motion can only be moved during the regular time of sitting of this House. We can shout at each other and insult each other until the chickens come home to roost, but the rules are the rules. We are either a House of rules or we are a House of anarchy that is going to be guided by insults and lack of decorum.

Hon. Speaker, whereas Standing Order No.256 offers an opportunity to the Chair to exercise a bit of latitude, it can only happen when this House is seized of business within the regular time.

Hon. Speaker, that time has already lapsed. With the lapse of that time, the opportunity to apply Standing Order No.256 has also expired. It is not applicable and that is just the law. That is just the Standing Order.

Hon. Speaker, let me conclude by drawing your attention back to Standing Order No.29. As you make your ruling, I want to invite you to consider a point raised by Hon. Kimani Ichung’wah which I think will tie with my point that a determination of this matter must consider whether provisions for a special sitting are exempted from application of Standing Order No.30. Is a special sitting exempted from application of Standing Order No.30? I am inviting the Speaker to rule on that. There is a point which, Mr. Speaker, you must consider. Would you regard a special sitting as being exempt from application of Standing Order No.30?

Secondly, I want to talk about the meaning of the last sentence in Standing Order No.29 (5). Allow me, for the avoidance of doubt to read it for the record. It says:

“Whenever the House meets for a special sitting under Paragraph (1), the Speaker shall specify the business to be transacted on the day or days appointed and the business so specified shall be the only business before the House during the special sitting, following which the House shall stand adjourned until the day appointed in the parliamentary calendar.”

Hon. Speaker, I invite you to consider whether that sentence, “following which the House shall stand adjourned until the day appointed in the parliamentary calendar” provides a window to transact any business already notified until the conclusion of that business. I invite you to consider those three points:

One, whether Standing Order No.30 applies in toto for special sittings; two, whether the words “following which the House shall stand adjourned” exempt or would provide an opportunity for this House to continue to transact the business of a special sitting until conclusion of that business; and finally, the point I started with, that is, whether Standing Order No.256 can apply when the time allowed for such a sitting has already expired.

Hon. Speaker, those are the points I invite you to consider. As I do that, let me conclude by saying that the Act we are seeking to amend is a matter that this House has had opportunity to set a precedent.

On 28th February, 2008, the House that preceded this one enacted the National Accord and Reconciliation Act. This law was sanctified by reason of the process or the procedure that led to the enactment of that law. It was a child born out of consensus. It was a child born out of coming together of opposing forces.

The law that we are handling is one that has emerged from circumstances comparable to those. Just in a like manner, the 10th Parliament proceeded with so much caution and consideration any time we had to handle anything touching on the National Accord and Reconciliation Act of 2008.

Similarly, we must proceed with caution and consideration in handling this law. This is because this is not an ordinary piece of legislation. So, whatever comes out of this process and what you are ruling, may we be so guided because this shall always be a House of record and rules.

I submit, Hon. Speaker.

Hon. Speaker: Hon. Members, I think I have now heard so many of you. The Murang'a Women County Representative, you have the Floor.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Speaker. We have been deliberating on this matter since morning and we have heard several Members reading Standing Order Nos. 29, 30 and 256. I urge you to give us a ruling because even if we debate and read all the Standing Orders, we must have a ruling at the end of the day. It is already 8.00 p.m. and if it gets to midnight with this argument, then we will have reached the end of the day. That means we will have lost the debate of a very important amendment we need to pass.

Hon. Speaker, I request you to make a ruling. I also want to tell Members here that the same amendments we are trying to move will still go to the Senate. We do not know whether the Senate will go for a Special Sitting or how long the amendments will be there. So, instead of fighting, just give us a ruling so that we can agree whether to adjourn or continue with the business of the day.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I agree with the Member for Murang'a County that whether we refer to the Standing Orders upside down we will just be saying the same thing. The issues that we need to agree to in my mind are very clear. One, is sitting hours and whether a Special Sitting is exempted from the provisions of Standing Order No.30. Looking at the gazette notice that was issued, there is no indication about the hour even though Standing Order No.29 directs that the Speaker shall specify the time, place and date but the gazette notice directs that the sitting will be at 9.30 a.m. and at 2.30 p.m. for purposes of transacting the business indicated.

So, that is clear. The time specified there was 9.30 a.m. and 2.30 p.m. I am clear in my mind that a Special Sitting whatsoever called is not exempt from the provisions of Standing Order No.30 regarding the hours of meeting. That is a fact but, I kept challenging the Member for Kisumu West that in Standing Order No.30 there is discretion given to the Speaker.

For the convenience of the House, the Hon. Speaker may direct, earlier or later, interruption of business. Notwithstanding all the eloquence, none of you has addressed me on that particular aspect, except to make a general mention of what happened during the morning sitting during which I directed the sitting to proceed beyond 1.00 p.m.

In exercise of that same discretion, I have confirmed--- They say what is good for the goose must be good for the gander. I have confirmed that we commenced our morning sitting at 12.05 p.m. today. The gazette notice had indicated that the House was to convene at 9.30 a.m. and because there must be fairness at all times the House, therefore, did not sit at the time that had been directed in the gazette notice. We compensated the time by 30 minutes. When we should have sat for two-and-a-half hours in the morning, we compensated for 35 minutes according to the records here. I have to be fair. It is up to you to decide what you want to do with this. Now that we never sat at 9.30 a.m. as had been expected and we took our usual one-and-a-

half hours lunch break, which I believe was deserved, there is need, therefore, to recover the lost time.

(Applause)

Just like I did at 1.05 p.m. today, I direct that the House may sit or continue to sit for a further 55 minutes after which the House shall stand adjourned. How you want to utilise the 55 minutes--- It has been calculated very well.

Hon. Members: From what time?

(Loud consultations)

Hon. Speaker: It is from now. Whatever the time it is now, that is the time I direct. You have 55 minutes. How you utilise that 55 minutes--- Hon. Members proceed. You have 55 minutes within which to transact business. You cannot benefit from wrong doing.

MOTIONS

ADOPTION OF REPORT ON ELECTION CAMPAIGN FINANCING REGULATIONS, 2016

THAT, this House adopts the Report of the Committee on Delegated Legislation on its Consideration of the Election Campaign Financing Regulations, 2016, laid on the Table of the House today Tuesday, December 20, 2016 (Morning Sitting), and-

(a) pursuant to the provisions of Sections 18 and 19 of the Statutory Instruments Act, 2013 and Standing Order 210(4) (b), rejects the Draft Election Campaign Financing Regulations, 2016 as they contravene Section 5 of the Election Campaign Financing Act, 2013 and Section 13(a) of the Statutory Instruments Act, 2013; and,

(b) resolves that the Justice and Legal Affairs Committee introduces relevant legislation to amend appropriate sections of the Election Campaign Financing Act, 2013 particularly sections 5 and 18 to give suitable timelines for compliance to enable the Independent Electoral and Boundaries Commission (IEBC) submit fresh regulations for approval.

Hon. Speaker: Let us have Hon. Cheptumo, the Chairman of the Committee on Delegated Legislation.

(Loud consultations)

Hon. Cheptumo: Hon. Speaker, I beg to withdraw the Motion before the House because of the seriousness of the Motion listed after this, so that we can deal with it.

I beg to withdraw the Motion listed as Order No.12.

Hon. Speaker: Let us have Hon. Kajwang'.

Hon. Kajwang': Thank you, Hon. Speaker. I am sitting in an unusual position and so it took you time to recognise me.

Hon. Speaker, you have just made a ruling in which you anxiously heard us both on law and facts. You have made a decision. The only thing which is commendable is that you have returned us to sanity as a House of procedure. You swore to protect the Constitution. You have not only protected the Constitution but the Standing Orders of this House. When the Chair of a Committee, in which I am a ranking Member, rises on a Motion which is before the House and a matter which is not his as Cheptumo, but as the Chair of the Committee, without reference to the Committee---

I rise on a point of order to ask your intervention on whether it is in order for a Chair of a Committee, in this current dispensation in which Committees are the bulwark of the business that we do, on his own volition, to have the discretion to come to the Floor of the House and purport to withdraw business which has been transacted and for which a report has been put before the House. I request a ruling on whether that is procedural.

We had precedent before and it created issues. I remember at one point when I was serving in the Departmental Committee on Justice and Legal Affairs--- I respect my Chair. The fact is and the records will show that the Chair rose to drop amendments which were in the Truth, Justice and Reconciliation Commission (TJRC) Report and for that reason it has never been prosecuted up to now.

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

Hon. Speaker: What is your point of order?

Hon. A.B. Duale: Hon. Speaker, let us not start gerrymandering. This morning, the Chair of the Departmental Committee on Health withdrew a Motion. It was after the leadership made up of Hon. Jakoyo and I realised that we wanted more time. Here, we have a Chair who, under the Standing Orders, is mandated to move a Motion. It is not the first time. We do not want to waste any more of the 55 minutes. We want you to rule so that we move on to the next agenda.

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

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

Hon. Aden: Thank you, Hon. Speaker. I concur with *Mheshimiwa* T.J. Kajwang' on this particular issue. I want to urge our colleague, the Leader of the Majority Party, not to mislead the House. This morning the Chair of the Departmental Committee on Health was asked by the House to drop her demand because it was improper. It was challenged by the Chair of the Departmental Committee on Defence and Foreign Relations. It was raised as an issue by a Member on the Floor of this House. Based on that, the agenda which was being driven by the Chair of the Departmental Committee on Health was dropped. It was not out of her voluntary wish. An issue that has been brought before this House by a Committee with a report cannot be withdrawn by the Chair without consultation and concurrence of the Members of that particular Committee. It is improper and it has ill motives to remove that particular Order from the House at this particular point in time.

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

Hon. Speaker: Hon. Members, let us dispose of this. It is simple. Hon. Members, Standing Order No. 51 reads as follows:

“A notice of Motion may be withdrawn by the Member who gave notice, but notice of the same Motion may be given again either by the same or by any other Member.”

So, it is simple. Hon. Cheptumo, have you withdrawn your Motion?

Hon. Cheptumo: Yes.

(Motion withdrawn)

Hon. Speaker: Okay, proceed. There is nothing to debate.

Next Order!

Hon. Speaker: What is your Motion, Hon. Kajwang'?

Hon. Kajwang': Hon. Speaker, arising from the ruling that you have ably given, I Francis Tom Kajwang', a ranking Member of the Committee on Delegated Legislation hereby give notice of the following Motion:

THAT, this House adopts the report of the Committee on Delegated Legislation on its consideration for the Elections Campaign Financing Regulations, 2016 laid on the Table of the House today Tuesday, 20th December 2016 in the morning sitting-

(a) pursuant to provisions of Sections 18 and 19 of the Statutory Instruments Act, 2013 and Standing Order 210(4) (b), rejects the Draft Election Campaign Financing Regulations, 2016 as they contravene Section 5 of the Election Campaign Financing Act, 2013 and Section 13(a) of the Statutory Instruments Act, 2013; and,

(b) resolves that the Justice and Legal Affairs Committee introduces relevant legislation to amend appropriate sections of the Election Campaign Financing Act, 2013 particularly sections 5 and 18 to give suitable timelines for compliance to enable the Independent Electoral and Boundaries Commission (IEBC) submit fresh regulations for approval.

I request Hon. Junet to second the Motion.

Hon. Speaker: Hon. Kajwang', the rules about giving notices of Motion still apply. So, you may give notice but remember that it has to be approved.

(Laughter)

Which one? I approved the one he moved. It does not mean my approval to withdraw. In fact, a Member does not even need the approval of the House to withdraw.

Next Order! What is your point of order, Hon. Wang'a?

Hon. (Ms.) Nyasuna: Thank you, Hon. Speaker. When the Chairman of the Committee on Delegated Legislation spoke earlier, he asked this House what the spirit of this Special Sitting is. He answered himself by saying that he was very well prepared to move the Election Campaign Financing Regulations. This is not a House of poker; this is not a House of deceit; this is not a House of *karata*; this is not a House of *potea pata*, but this is a House of rules and order.

The Chairman of Delegated Legislation is a serious lawyer and a very senior one at that. I do not think he should allow himself to be used to deceive this House and to manipulate this House. We represent the people of Kenya on the Floor of this House. We represent people and they want the best results for themselves. This House and you should not be taken for a ride. No ride should be taken on you. We must stand by the rule of law. We must be true to the spirit of service. We must be true to the prayer that is in the Standing Order which is to the service of humanity.

Your speakership is being taken for a ride. Your speakership is being tested and is being taken for granted. The people of this country are being taken for granted. We will not stand by

and allow that to happen. This is a House of rules. It cannot be allowed that any Member of this House---

(Several Members shouted and whistled)

Hon. Speaker: Hon. Members, let us first of all get orderly. Hon. Members, we are on Order No. 13.

(Hon. (Ms.) Nyasuna blew a whistle)

What is happening?

(Hon. Members shouted at each other)

Can Members be seated?

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

Hon. A.B. Duale: Hon. Speaker, I beg to move a Procedural Motion pursuant to the provisions of Standing Order No.30(3)(a):

THAT, this House resolves to extend its sitting today until conclusion of business and exempt the Motion on extension of the sitting of the House from the provisions of Standing Order No.30(4).

I ask Hon. Chepkong'a to second.

(Question proposed)

(Question put and agreed to)

Hon. Members: Division!

Hon. Speaker: Hon. Members, there is a Division and everybody should take their seats. Ring the Division Bell.

(Division Bell was rung)

(Hon. (Ms.) Nyasuna blew a whistle)

(Hon. Stephen Kariuki pushed Hon. (Ms.) Nyasuna)

(Hon. Members sang a song)

Hon. Speaker: Order, Members! *Ondokeni nyote sasa!* I am also not going to take instructions. Order Members!

(Several Hon. Members whistled)

ADJOURNMENT

Hon. Speaker: Hon. Members, noting the situation in the House, I hereby invoke provisions of Standing Order No.112 and determine that there is grave disorder in the House and adjourn the sitting of the House forthwith.

(Applause)

Order Members! Order, Hon. Mbadi! The House stands adjourned until Tuesday, 24th January, 2017, at 2.30 p.m.

The House rose at 8.27 p.m.