

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 21st February 2019

The House met at 2.30 p.m.

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

PRAYERS

MESSAGE

PASSAGE OF BILLS BY THE SENATE

Hon. Speaker: Hon. Members, pursuant to the provisions of Standing Order No.41, I wish to report to the House that I have received three Messages from the Senate regarding the passage of the following Bills as listed below:

- (i) The Physical Planning Bill (National Assembly Bill No.34 of 2017);
- (ii) The Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018); and,
- (iii) The Kenya Roads Bill (National Assembly Bill No.47 of 2017).

The Bills were passed by the Senate on Thursday, 14th February 2019, with amendments. The Senate now seeks the concurrence of the National Assembly to the said Bills in accordance with the provisions of Article 112(1)(b) of the Constitution. I now direct the Clerk to circulate the amendments to all Members in accordance with Standing Order No.145.

In this regard, the Senate amendments to the said Bills stand committed to the following Departmental Committees for consideration:

- (i) The Physical Planning Bill (National Assembly Bill No.34 of 2017) – Departmental Committee on Lands;
- (ii) The Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018) – Departmental Committee on Lands; and,
- (iii) The Kenya Roads Bill (National Assembly Bill No.47 of 2017) – Departmental Committee on Transport, Public Works and Housing.

The Committees are expected to submit their reports before the amendments are considered by the House. I wish to remind the House that the National Assembly will only consider the amendments made to the Bills by the Senate, and not any other part of the Bills.

PETITIONS

ENACTMENT OF LEGISLATION ON NATIONAL HEALTH REFERRAL AND TRAINING HOSPITALS

Hon. Speaker: Standing Order No.225(2)(b) requires that the Speaker reports to the House any Petition other than those presented through a Member. I, therefore, wish to convey to the House that my office is in receipt of a petition from members of the Kenya Medical Practitioners', Pharmacists and Dentists Union and Boresha Maisha.

The petitioners request the National Assembly to enact legislation to provide for operation and regulation of national health referral and training hospitals and the establishment of the Health Service Commission whose mandate shall be to address recruitment, deployment, remuneration amongst other human resource aspects. The petitioners aver that the Constitution confers upon the national Government the functions relating to the national referral health facilities and health policy respectively.

Further, Article 43(1) of the Constitution guarantees the right of every person to the highest attainable standard of health. Notwithstanding this, the petitioners contend that the state of healthcare of many Kenyans remains deplorable and that the health system is facing numerous challenges including inadequate medical personnel, poor remuneration, impoverished hospital infrastructure, inadequate medical equipment and funding. The petitioners, therefore, pray that the National Assembly enacts legislation:

- (i) to provide for a framework for transfer and reversal of the health function back to the National Government in terms of Article 187 of the Constitution;
- (ii) to provide for a legal framework for operations and regulation of national health referral hospitals, in addition to elevation and designation of the existing 11 Level 5 hospitals into national referral and training hospitals;
- (iii) to ring-fence health funds at the county level; and
- (iv) to amend other relevant laws as contemplated in Article 252 of the Constitution, so as to assign functions and powers to the proposed Health Service Commission.

Pursuant to the provisions of Standing Order No.227, the Petition stands committed to the Departmental Committee on Health for consideration. The Committee is requested to consider the Petition and report its findings to the House and Petitioners in accordance with Standing Order No.227(2).

Let us have the Member for Embakasi West.

NON-ISSUANCE OF TITLE DEEDS TO LAND OWNERS OF EMBAKASI WEST CONSTITUENCY

Hon. George Theuri (Embakasi West, JP): I, the undersigned, on behalf of residents of Embakasi West Constituency, draw the attention of the House to the following:

THAT, Article 60 of the Constitution provides that land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive, sustainable, and in accordance with the principles of security of land rights;

THAT, residents of Embakasi West Constituency have been experiencing injustice with regard to issuance of title deeds, an exercise which was launched by the Government and the Nairobi County Government in 2018;

THAT, in August 2013, the Government, through the Ministry of Lands in conjunction with the County Government of Nairobi, issued more than 4,000 lease agreements to the residents of Embakasi West. However, to-date, these residents have not been issued with title deeds, even after the concerned residents complied with all mandatory requirements including payment of conveyance fees;

THAT, delays in issuance of title deeds have caused great anxiety and concern not only to residents of Embakasi West Constituency but to the entire of Eastlands area;

THAT, failure by National Government through the relevant agencies and the County Government of Nairobi to update the concerned residents on the status of the process has led to uncertainty;

THAT, efforts to resolve the matter with the relevant authorities have been futile;

THAT, the matter in respect of which this Petition is made is not pending before any court of law or constitutional body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee of Lands:

- (i) Causes an audit of the process with a view of providing a status report on the process;
- (ii) Ensures that the petitioners' plight is addressed; and,
- (iii) Makes any other order or direction that it deems fit in the circumstances of the case.

Hon. Speaker: Hon. Members, before we proceed, let me recognise the presence of students and pupils from the following institutions in the Speaker's Gallery:

- (i) Kibera School for Girls from Kibera Constituency, Nairobi County;
- (ii) Mbuguti Primary School from Gatanga Constituency, Murang'a County;
- (iii) Presbyterian Teachers College from Chuka/Igambang'ombe Constituency, Tharaka Nithi County; and,
- (iv) Gichumbu Primary School (students and parents) from Gatanga Constituency, Murang'a County.

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

I note that the Member for Kiminini wishes to make some comments on the Petitions.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD – K): Thank you, Hon. Speaker. I want to comment on the Petition that has just been presented by Hon. Theuri, the Member of Parliament for Embakasi West on matters of land.

As we all know, land matters are very emotive and land is a factor of production. We know very well that the tenure of the National Land Commission (NLC) has just come to an end. One of their mandates was to look at the historical injustices. Many Kenyans live like squatters. This is not just an issue in Embakasi West. In places like Trans Nzoia County, we have a very big problem. I saw the report of the NLC in the media. I do not know whether that report has officially been submitted on the Floor of the House, but they mentioned that one of the reasons they never managed to achieve their targets was that there was a clash between the Ministry and the NLC. As a House of legislation, it is high time differentiated the roles of these two institutions so that there is no overlap that causes delays when it comes to issuance of title deeds.

I request the relevant Committee to move speedily. We have tabled so many petitions that have been referred to the Departmental Committee on Lands. Your earlier ruling of the 60-day period within which a Committee should consider a petition and present a report has never been respected. We do not even know the whereabouts of this Petition after this. We table petitions and they just sit in the Committee. The 60 days elapse and we do not hear anything. When it comes to the issue of land in particular, I request the Committee to try as much as possible to move speedily. I hope the Chair of the Committee is here. I can see my friend, Hon. Pukose, knows the problem that the people of Trans Nzoia are facing. This matter should be handled speedily.

Hon. Speaker: We will not keep rewriting the Standing Orders. The provisions of Standing Order No.227(2) relating to the 60-day period within which to consider a petition will apply with all the necessary modifications, if any, that this House may give. Unless an exemption has been granted through a resolution of the House, when 60 days elapse, the petitions which have been referred to Committees also lapse. I made that clear last year.

Petitions are not supposed to stay for years on end in the Committees. That is the only way we can transact our business. Looking at the Order Paper today, the Motion that will be moved as Order No.8 is because we are trying to address some of those issues about backlog with regard to legislative proposals. I, therefore, urge the Committees to also expedite and work within the timelines provided for in the Standing Orders.

Member for Endebess, do you want to comment?

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. I support the Petition. Land matters have a lot of historical injustices. In the 11th Parliament, I presented a case of Cholim Cooperative Society. These are people who got land through Government in 1989. In 2013, their land was gazetted as part of the forest rendering them landless. Cholim Cooperative Society members have suffered and their houses and mango farms have been demolished. Yesterday, my colleague presented a Question to the Cabinet Secretary (CS) for lands.

The same issues were addressed in the 10th Parliament through the same Departmental Committee on Lands. Reports were tabled. The unfortunate thing is that at times Parliament lapses and these reports are not debated and acted upon. Kenyans have a lot of faith in Parliament. Whenever we go out there as representatives, they expect us to assist them. They expect us to sympathise with them and make sure their day-to-day lives are looked into.

Part of the Big Four Agenda is food security. Some of these people have no food. They are not even able to take their children to school because our own Government agencies demolish their houses and destroy their livelihoods in the name of part of their land being part of the forest. I urge that these petitions are expeditiously looked into and even previous petitions which had been looked into by similar Committees. There is no need of duplicating the work of Parliament by creating other committees to look into the same matter. For instance, this matter I am talking about had been looked into by other committees. They went there, used parliamentary resources, got the views of the people, came back here and tabled a report. Another Committee of the 11th Parliament tables the same report and their findings are similar.

Hon. Speaker, I urge that you give direction such that if there is a report that had been done by a House Committee of a similar nature, the current Committee can seize that matter, table a report in this House, it is debated and the House either accepts or rejects it. We can then have a House resolution on the same matter instead of making these people wait for other parliamentary Committees to look into the matter every now and then.

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

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Speaker for giving me a chance to comment on this very important matter. It is critical to note that currently, the NLC is not fully constituted as it has no commissioners. It is inconceivable that under the current Constitution, there is no other body which can do the work of the NLC because it is done by that body. It seems that those problems which have been presented by Hon. Theuri or other land issues going on in the country, including compensation, may not move until we have another Commission in place. It could be important for the House, through the concerned Committee, to initiate the process so that we have another Commission in place as soon as possible.

Hon. Speaker: Hon. Maanzo, it is the business of this House to discuss and resolve issues of concern to the people. Members of this House, I believe, were all along aware that the term of the former commissioners would come to an end on Tuesday this week. I have not heard anybody raise an issue, but that is a matter of serious concern to Kenyans. I have not heard anybody rise here to claim that we need to know the roadmap towards the appointment of new commissioners. So, we cannot now start lamenting that there is nobody else who can do it. It is true there is no other body which can perform those functions, because the Constitution has clearly designated those functions to be performed by NLC. Indeed, it is up to this House to decide what to do with regard to the issues that must be dealt with by NLC.

The Member for Kilifi North, what is it you want to say?

Hon. Owen Baya (Kilifi North, ODM): Hon. Speaker, according to the law, the new commission is supposed to come in place 14 days after the other one leaves. That is what the law says. The President initiates the process of selecting the new commission. So, I think there is nothing that is lost. What is interesting is how the law is put; that we can only have a new commission 14 days after the other one leaves. That is when the President can start the process of identifying a new one. That committee wanted this process done earlier.

Hon. Speaker: Hon. Baya, you know you are flogging a dead horse, because it is immaterial what the law says. We ought to have foreseen that there was going to be a vacuum and moved with speed to rectify even that law which creates that vacuum. It is still the function of this House. So, the challenge is to all of us.

(Hon. Owen Baya interjected off record)

No, you cannot propose it from where you are seated. You know what I am saying. You are at liberty to initiate amendments to the NLC Act to facilitate faster process of putting in place new commissioners.

The petition is referred to the Departmental Committee on Lands to deal with it in accordance with the provisions of Standing Order 227.

Next Order.

PAPERS LAID

Hon. Speaker: Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to lay the following papers on the Table of the House:

Reports of the Auditor-General on the Financial Statements in respect of the following constituencies for the year ended 30th June 2017 and the certificates therein—

- (a) Samburu North;
- (b) Gatanga;
- (c) Nyeri Town;
- (d) Kikuyu;
- (e) Bomet East;
- (f) Juja;
- (g) Mandera East;
- (h) Dagoretti South;
- (i) Mumias West; and

(j) Ndaragwa.

Hon. Speaker: I hope the Members will take interest in that. The reports will go to the Special Funds Account Committee to consider.

Next Order.

QUESTION BY PRIVATE NOTICE

Hon. Speaker: We will start with Question by Private Notice. Question No. 031/2019 by the Member for Njoro Constituency. You must place your card. No, you are not on record.

Question 031/2019

INCREASED CASES OF INSECURITY IN NJORO CONSTITUENCY

Hon. Charity Chepkwony (Njoro, JP): Thank you very much, Hon. Speaker for granting me this time to ask my question.

(i) Is the Cabinet Minister aware of increased...

Hon. Speaker: We do not have people called Cabinet Ministers.

Hon. Charity Chepkwony (Njoro, JP): Sorry.

(i) Is the Cabinet Secretary for Interior aware of the increased cases of insecurity in Mau Narok, Mauche and Nessiut Wards in Njoro Constituency?

(ii) Could the Cabinet Secretary consider establishing more police stations in the area, increasing the number of police officers, and providing additional patrol vehicles and other facilities and equipment to curb insecurity in the constituency?

(iii) What steps is the Ministry taking to ensure lasting security and peaceful co-existence among the communities in Narok and Nakuru counties, and in particular, those living along the border of the two counties?

Hon. Speaker: The Question is referred to the Departmental Committee on Administration and National Security. Next Question is ordinary question by the Member for Busia County.

ORDINARY QUESTIONS

Question 002/2019

SHORTAGE OF TEACHERS IN PUBLIC SCHOOLS

Hon. Florence Mutua (Busia CWR, ODM): Thank you, Hon. Speaker. I take this opportunity to wish every Member a happy new year. My Question is to the CS for Education:

(i) Are there plans by the Ministry to address the shortage of teachers being experienced in public schools across the country?

(ii) Could the Cabinet Secretary provide the current teacher-student ratio in every sub-county and the action being taken, if any, to achieve the recommended teacher-student ratio in all schools across the country?

Hon. Speaker: I think it is an acknowledgement that the Member has not been in the House since last week when we resumed. So, you are perfectly in order to wish Members a happy new year on 21st of February.

(Laughter)

(An Hon. Member interjected off record)

We cannot deal with that. That is for young people to deal with elsewhere. The Question is referred to the Departmental Committee on Education and Research. The next Question is by the Member for Nakuru Town East, Hon. David Gikaria.

Question 032/2019

NON-PAYMENT OF NYS SERVICE PROVIDERS

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Speaker. I beg to ask Question No. 032/2019 to the CS for Public Service, Youth and Gender Affairs:

(i) Why are the persons who took part in activities under a National Youth Service programme undertaken between 17th May 2016 and 12th August 2016 yet to be paid their allowances?

(ii) Are there plans in place by the Ministry to ensure that the said persons are paid the said allowances?

Hon. Speaker: The Question is referred to the Departmental Committee on Labour and Social Welfare. Next Question is by the Member for Runyenjes.

Question 034/2019

REHABILITATION OF MUTUNDURI-KAVUTIRI-KIANJOKOMA ROAD

Hon. Eric Njiru (Runyenjes, JP): Thank you, Hon. Speaker, for giving me a chance to ask Question No. 034/2019. The Question is directed to the CS for Transport, Infrastructure, Housing and Urban Development:

(i) Is the Cabinet Secretary aware that Mutunduri-Kavutiri-Kianjokoma Road is in an impassable state?

(ii) What measures is the Ministry undertaking to ensure that the said road is rehabilitated?

Hon. Speaker: It is referred to the Departmental Committee on Transport, Public Works and Housing. Next is Question by the Member for Tharaka, Hon. Gitonga Murugara.

Question No.035/2019

ELECTRICITY CONNECTIVITY IN THARAKA NITHI

Hon. George Gitonga (Tharaka, DP): Hon. Speaker, I beg to ask the following Question to the Cabinet Secretary for Energy:

(i) Is the Cabinet Secretary aware that only a paltry 9.5 per cent of households in Tharaka Constituency have electricity connectivity?

(ii) Is the Cabinet Secretary further aware that over 95 per cent of both primary and secondary schools in Tharaka Constituency are not connected to the National Grid, contrary to the Government policy on electricity connectivity?

(iii) Are there plans by the Ministry to ensure that more households, schools and other institutions are connected to electricity in Tharaka Constituency?

I thank you, Hon. Speaker.

Hon. Speaker: Very well, the Question is referred to the Departmental Committee on Energy to prioritise for the Cabinet Secretary (CS) to respond.

The last Question is by the Hon. Member for Bomet Central. Hon. Ronald Tonui

Question No. 036/2019

FUNDS ALLOCATION UNDER KURA IN BOMET COUNTY

Hon. Ronald Tonui (Bomet Central, JP): Thank you, Hon. Speaker for giving me this opportunity. Hon. Speaker, I beg to ask the following Question to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

(i) How much money has been allocated for roads under the Kenya Urban Roads Authority (KURA) in Bomet County for the past five years?

(ii) Could the Cabinet Secretary provide the list of the roads constructed or rehabilitated during the said period, indicating the amount of funds allocated for each road and details of the contractors?

(iii) Could the Cabinet Secretary provide details of the companies that bid and quotations issued for the said works?

I thank you, Hon. Speaker.

Hon. Speaker: Very well. This is referred to the Departmental Committee on Transport, Public Works and Housing.

Next Order.

STATEMENT

BUSINESS FOR THE WEEK COMMENCING 26TH TO 28TH FEBRUARY 2019

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to make a Statement on behalf of the House Business Committee (HBC).

Pursuant to the provisions of Standing Order No.42 (2) (a), I rise to give a Statement on behalf of the HBC for the week beginning Tuesday, February 26th 2019.

The Committee met on Tuesday this week at the rise of the House to give priority for business that will be considered. Next week, the House is scheduled to consider the following Bills at the Second Reading:

The Statute Law (Miscellaneous Amendments) (No.20 Bill (National Assembly Bill No. 13 of 2018) and the Office of the County Attorney Bill (Senate Bill No. 3 of 2018).

The House will also consider the following reports if not concluded today:

- (i) The Report on Bills from the East African Legislative Assembly (EALA).
- (ii) The Report of the Audited Financial Statements for Constituencies in Kisumu County.
- (iii) The Report of the Departmental Committee on Health regarding the matter of alleged irregular specialist recognition of Dr. Swamira Soni by the Kenya Medical Practitioners and Dentists Board.

Hon. Speaker, the following Bills will be considered at the Committee of the whole House next week:

- (i) The Insurance (Amendment) Bill (National Assembly Bill No. 21 of 2018).
- (ii) The Kenya Accreditation Bill (National Assembly Bill No. 17 of 2018).
- (iii) The County Governments (Amendment) Bill (Senate Bill No.11 of 2017) and the County Governments (Amendment) (No. 2) Bill (Senate Bill No. 7 of 2017).

Therefore, I urge all Members with amendments to these Bills to submit them to the Office of the Clerk as soon as possible.

Hon. Speaker, the HBC has also scheduled putting of the Question on the Constitution of Kenya (Amendment) Bill, National Assembly Bill, for next week Wednesday afternoon. I, therefore, encourage Hon. Members to turn up in large numbers.

Hon. Speaker, I will repeat that it is the constitutional amendment Bill on gender parity. The Question will be put next, Wednesday afternoon. So, I expect everybody, including the gracious ladies not to go for the status conference. Please, be available and help me mobilise our male colleagues. I expect the whips to do their work. Hon. Junet, Hon. Washiali, Hon. Mbarire and Hon. Chris Wamalwa, you are now under instruction from the leadership to stay and ensure you mobilise the required two-thirds to pass that Bill in the interest of the people of Kenya. So, the Question will be put on that Bill on Wednesday next week in the afternoon.

Hon. Speaker, I also expect the Departmental Committee on Health and the Budget and Appropriations Committee to submit their reports on the consideration of the Presidential Memorandum on the Health Laws (Amendment) Bill, 2018 and Report on the 2019 Budget Policy Statement respectively, by 28th February, 2019, being the last day as stipulated in the Standing Orders and the law. This will allow the House to consider the said reports within the set timelines.

Hon. Speaker, in accordance with the provisions of Article 42A(5) and (6), I wish to convey that having consulted with the Chairperson of the Departmental Committee on Environment and Natural Resources, the Cabinet Secretary for Tourism and Wildlife will appear before the Committee on Thursday, 28th February 2019 at 10.00 a.m. in the Continental Building, 4th Floor committee rooms to answer Questions No.001/2019 from Hon. Catherine Waruguru and Question No.003/2019 from Hon. Bishop Kawira Mwangaza.

Finally, the HBC will reconvene on Tuesday, 26th February 2019 at the rise of the House to consider business for the remaining part.

I now beg to lay the Statement on the Table of the House.

(Hon. Aden Duale laid the Statement on the Table)

Hon. Speaker: Very well. I hope the message is loud and clear. Soon, we will be requiring that Committee titled “Constitutional Implementation Oversight Committee” to prepare a report to the House on the status of implementation of the Constitution. More particularly,

telling the House whether there are any of the provisions or requirements of the Constitution to enact certain legislations which have not been so far enacted.

While at it, I would want the Committee to specifically address itself to the requirements by the Constitution in Article 100 which is very explicit and states thus:

“Parliament shall enact legislation to promote the representation in Parliament of—

- (a) women;
- (b) persons with disabilities;
- (c) youth;
- (d) ethnic and other minorities; and,
- (e) marginalised communities.”

Hon. Jeremiah Kioni, the Chair of that Committee, is not in the Chamber but that message should be conveyed to him; that the House would want to know whether there is any other provision or law required to be enacted to implement the Constitution, which this House has not enacted. More particularly, the Committee should address Article 100. It is important because we may have been on a wild goose chase.

The Constitution has never required this House to pass or legislate about certain issues that you may be interested in. It is the legislation contemplated to be enacted in Article 100. So, if the House passes that legislation, I do not see any other law that... The others could be an element of aspiration and it is not bad for people to aspire. So, the House should be accordingly guided and that Committee particularly. If that has not been done, let us get the proposals from Hon. Kajwang’ so that you pass the legislation to provide for representation in Parliament, it is very specific.

The groups as listed include women and youth. If I may expound, the groups listed are:

- (a) women;
- (b) persons with disabilities;
- (c) youth;
- (d) ethnic and other minorities; and,
- (e) marginalised communities

Once this House has passed legislation providing for representation of those groups in Parliament, the rest can be dealt with in the streets.

Nevertheless, it is important for the House to heed what the Leader of the Majority Party has said. Please, mobilise yourselves to come in your droves on Wednesday, next week so as to express yourselves in one way or another on that particular legislative proposal moved by the Leader of the Majority Party. Article 100 of the Constitution requires that Parliament should pass that law within five years. So, that Committee should move with speed. We want to request Hon. Kajwang’ to step in and assist in ensuring this is done.

Hon. Junet Nuh (Suna East, ODM): On a point of order, Hon. Speaker.

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

POINT OF ORDER

FAILURE TO SUBMIT REGULATIONS GOVERNING OPERATIONS AT CENTRAL BANK OF KENYA

Hon. Junet Nuh (Suna East, ODM): Hon. Speaker. I rise to seek your indulgence on a matter which I have asked before in the House, but it is now becoming a national problem. We

passed the Finance Bill and made it an Act in September last year. However, it has not been acted upon up to now yet, it is one of the statutes and laws passed by this Parliament.

The financial system of our country is in problems. Parliament in its own wisdom wanted to provide means and ways of streamlining operations in form of having regulations being done by the regulators after which, they are brought to this House so that we can scrutinise them through the relevant Committees and pass them. What the Central Bank of Kenya (CBK) Governor is doing in the financial sector is unacceptable and illegal. You cannot just wake up... Even you Hon. Speaker, as you run this House, you do so in accordance with the Constitution and the Standing Orders.

When you see some of us stepping out of the Standing Orders, you remind us to follow them. For example, you say "Hon. Junet, follow the Standing Orders." If we do not adhere to the rules and follow regulations and the Constitution, then we are going to become a failed society. You cannot wake up one morning and do illegalities in the form of a circular to different financial institutions telling them they cannot do this or that. Things which are contrary to the laws passed in this House and no regulations have been brought to address those issues.

If we do not address ourselves as legislators to those issues, then we will have failed the people of this country. When I speak here, I speak under Article 1. The sovereignty belongs to the people, but they delegated it to me. The people of Suna East gave me the delegation to speak on their behalf to exercise their mandate and sovereignty. The CBK Governor is not above the law. He is an employee of the Kenyan people. We have requested him to appear before this House through the relevant Committees for more than 10 times. Every time he gives an excuse, either he is out of the country or has travelled.

If the CBK is not governed within the laws of the country, then we need to be informed. This is because the Constitution is very clear. Oversight is our mandate and we can oversee any State organ. The CBK is one of the State organs that operate in this country. If you do not want to be overseen, then you need to suspend the provisions of the Constitution that states that the CBK must be overseen by Parliament.

To conclude my submission, there are circulars the CBK Governor has issued to different financial institutions. I am not speaking because they are affecting me but, because they are stifling the conduct of business in our country. This is strangling the economy. We are now fighting corruption. We want to know where people are keeping their money because they cannot take it to the banks. If you want to know somebody who has stolen, just go to his home and you will find money under the pillow and mattress. That is because the CBK Governor has made it impossible for corrupt people to take their money to the banks and they are afraid.

That is because if you take more than Kshs1 million, you will be asked where you got it from. That is the right thing to do, but he should not make it so difficult for genuine people, who are doing genuine business. The mama *mbogas* of this country and the *Jua kali* people who are toiling their sweat, he should not make life difficult for them. The CBK Governor has literally turned banks into documentation bureaus or police stations. You go to the bank and you are asked for various documents. For example, where is your birth certificate, grandfather's, sister's or aunt's birth certificate?

When did banks become documentation bureaus? If I do not speak, I will have failed the Kenyan people as an MP. Banks play integral part in the financial system of our country. As a House, we are not supporting illicit trade or any kind of bad business. In fact, as a House, we will be the first to point out any person involving himself in illicit trade. We do not want money laundering or terrorism. We cannot support those kinds of things. When our genuine

businessmen, traders and *Jua Kali* artisans are being harassed, we cannot keep quiet. We must come out. This is why people have elected us to this House.

All of us belong to different sects. I am a Muslim and I think the Speaker is a Seventh Day Adventist (SDA)! I am not sure.

(Laughter)

I am not sure but I suspect it because I do not normally see you on Saturdays. I have been looking for you and assumed you must be in Maxwell SDA Church. Hon. Kajwang' here belongs to Legio Maria sect. I know the CBK Governor is *Opus Dei*, a Catholic sect. He lives within a budget of Kshs100 per day and stays in a one bedroom apartment. He does not need much money and that means he does not understand what people go through in terms of handling money. This is because if the money you require per day is Kshs300, if you see somebody bringing Kshs1 million, you will be shocked. You will want to inquire where it is from and suspect that person is a thief who has stolen the money. This is because your budget is Kshs300 per a day and that is where the CBK Governor belongs.

In fact, I have been told his term is coming to an end in March. This House should not renew his tenure again. He should go back to the International Monetary Fund (IMF) where he was working for 20 years. Look at what is happening in the country. There is no liquidity. There is no money in the market. They are saying they are targeting politicians because they are going to withdraw a lot of money from the banks.

We only withdraw money during campaigns. There are no campaigns. We are not campaigning for anything. I do not need money. Now, the Kshs10,000 which my constituency office uses to buy newspapers and water, the *Opus Dei* man is saying we must write a cheque to the newspaper vendor in the street. How can I give a newspaper vendor a cheque of Kshs10,000? In the first place, does he even have a bank account? Looking at the time when President Kibaki was the president of this country, banks were hawking money in the streets because there was a lot of it. Look at what *Opus Dei* has done to our economy. If you go to the bank now, you will be very lucky if you get Ksh10,000 loaned to you by any bank. Banks have refused to lend money because they think you will not pay it back since the economy is bad.

Hon. Speaker, let me not belabour the matter. I want to draw the attention of this House in a bipartisan manner. We must deal with the CBK Governor, whether you are in the National Super Alliance (NASA), Jubilee Party, Independent or whether you belong to any sect like *Opus Dei* or even *tanga tanga*.

(Laughter)

Hon. Speaker: Hon. Members, obviously, Hon. Junet took advantage of the fact that it appeared like most Members were enjoying his statement. However, just to caution you that you can raise issues about an institution but I think, in fairness, also let us leave out personalities because we can deal with the institutions. Hon. Junet wants to know my faith. Please, that is not for now. Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, first, I want to confirm you are an Anglican. You are not a Seventh Day Adventist. The matter raised by Hon. Junet is very serious. We are here to represent people. We have no personal interest. The law has given the Cabinet or people of the stature of the Governor of CBK the power to bring regulations. When he did that action in the Finance Bill of 2018, and the Departmental Committee on Finance and

National Planning is here... We have put a provision that based on what is happening, the CBK should produce and submit to the House regulations on that business within 30 days. It is now more than five months from September last year. In my opinion, the Chair of Departmental Committee on Finance and National Planning is failing in his duty. We are dealing with the CBK, but the indictment is on the Departmental Committee on Finance and National Planning. Why, up to today, have they not received those regulations and then submitted them to Hon. Shollei, who is the Chair of the Committee on Delegated Legislation?

When I received my mortgage, Barclays Bank asked me to explain where that money was coming from. I told them it was from my employer. Where was it coming from? It was through an RTGS. The people I represent go to livestock markets and they have to carry cash. People from Embu, Mwingi and Nairobi go to the biggest livestock market in Garissa. Traders cannot withdraw money to buy cattle. Citizens who sell their animals cannot deposit money. When you sell your three camels, you are asked where you got the money from. The most fundamental thing I have seen in this country is that this same House, in the 10th Parliament, passed the anti-money laundering law. We passed the financing of terrorism legislation. This same House established what is called the Financial Reporting Centre with a Director-General whose business is to report on any illicit, suspicious, drug-related, corruption-related money or money laundering. We have a whole institution and I am sure the Departmental Committee on Finance and National Planning gives them a budget. There is something called “know your customer.” My bank, which I have been banking with for the last 20 years, knows what is going on in my account. So, what the Governor is doing is not even good for a growing economy like Kenya. The victims are the small and medium businesspeople. Those people do business through speculations. They look for the best price in town and they must carry cash. Today, you cannot borrow money from banks. Liquidity in the banks is stifled.

Hon. Speaker, I want you to give time to the Chair. Why is the CBK Governor not complying with the Finance Act of 2018? Before I finish...

Hon. Joseph Limo (Kipkelion East, JP): On a point of order, Hon. Speaker.

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

Hon. Joseph Limo (Kipkelion East, JP): Hon. Speaker, the Leader of the Majority Party has mentioned a very important issue, but is he in order to mention that the Chair of the Departmental Committee on Finance and National Planning has failed, when he has brought the law? The issue of implementation of the law does not lie with the Departmental Committee on Finance and National Planning. It lies with the Committee on Implementation, if he is not aware. I respect the Leader of the Majority Party but today, maybe, because of the weight of the matter, he has actually slipped. Therefore, I want to correct that we have never failed. In any case, we were sharp enough to bring the law.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. I apologise to my good friend.

Hon. Speaker: In the fullness of time, we will know where the blame lies.

(Laughter)

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, where the Chair of the Departmental Committee on Finance and National Planning has failed is that he has been writing to the Governor of CBK for six months. He should tell us why he is not appearing before them. Today, if I want to go to Ruaraka – and Hon. T.J Kajwang’ has a serious segment of the Muslim

community – and I want to do a *harambee* for a mosque and the money belongs to me, I can be asked to account for it. I will account for the money coming in but not the money that I have saved since the day I was 18 years old. The bank uses my money. When I am not using it, they loan it to other people. When I withdraw my own money, part of which is even mileage claims and salary, I am told to fill a form. Hon. Speaker, you need to save us. If money is coming, you can be told to explain. But the money that you have in your account today is your own money.

Hon. Speaker, I think you need to give us direction. This tendency where people want to disregard Parliament... I am sure the Governor is watching. This is the same House that approved him. It is this House that approved Governor Njoroge. It is this House that he will bring an amendment to for the CBK Act. We even represent Kenyan banks. So, we really want to know from the Chair of the Departmental Committee on Finance and National Planning before you give direction. Mr. Chairman, the Standing Orders are very clear. Can you tell us why the Governor of CBK has refused to appear before your Committee and have you declared him a hostile witness? Have you summoned him? Have you used the Constitution? If he does not come, then you have to issue summons as per the Constitution. You have to take it to the Inspector-General and the Director of Public Prosecutions (DPP) and he will be arrested for not honouring parliamentary summons. It is very clear. The Governor of Kakamega was arrested after he refused to honour summons of the Senate. Tobiko wrote and said he must be arrested. So, you need to take that step and go to Noordin Haji and ask him to arrest and bring him before Parliament.

Hon. Speaker: Hon. Members, I can see Hon. Limo wants to reply because he is the one who is directly mentioned. Yes, Hon. Limo.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Speaker, for giving me this opportunity. When I was standing on a point of order, I was only correcting the slip of the tongue of the Leader of the Majority Party. Otherwise, what has been raised by Hon. Junet here is very important. In the last session, that issue was actually resolved by our Committee by amending the law so that whatever CBK is doing is legalised. As we speak, what the CBK Governor has done is to commit an illegality. Even if you take somebody to court now that he has committed some irregularity in the banking sector or he has paid somebody without that person filing some forms, that person will not be jailed because those regulations do not have the force of the law.

They have never come to this Parliament to be legalised through the Committee on Delegated Legislation. Let the banks listen through the Kenya Bankers Association (KBA). The regulations and those memos that the Central Bank of Kenya is issuing are illegal. Any court in this country cannot use them to arrest anybody on illegality. The bank managers are being harassed without a law.

(Applause)

We gave the Governor of CBK a second chance to bring those regulations to Parliament to be legalised, but he has failed. Instead, he engages Parliament in cat-and-mouse game. The Committee summoned the Governor of the CBK in the last Session several times to appear before it to address issues touching on the economy, including those regulations. He failed with reasons that he is out of the country. I confirm that we summoned the Governor of CBK to appear before us on 12th February 2019. He failed again. We issued him the last invitation. If he fails to appear before the Committee, we will summon and sanction him using the Constitution. This House is not one to be played around with.

I confirm to this House that he confirmed that he will appear before us on Tuesday, 26th February 2019. If he does not appear before the Committee, we will take action using the Constitution. I want to tell the CBK that this House has the same powers as a court of law. We will not relent. We will take action. There are issues in banks. People are being harassed. This affects the liquidity in this country and the economy is not growing. Almost 70 per cent of the stalls in town have been closed. People are not accessing money and doing business the way they used to. The worst case in a bank is where you fill forms to say where the money is coming from and then after that, you are given another form to say where you got the funds from. Every time you deposit money, you fill a form. Therefore, how can you ask somebody where he got the money and it has been lying in that bank?

The worst-case scenario is when you are transferring money from your account to another one. You are harassed again and asked where you got the money from, whom you are paying, give the identification card of the person you are paying and you are transferring the money to your account. It does not make sense. I want to thank the Members of my Committee because they have been very firm. I want to assure this House that my Committee will take serious action. Count on us. If the Governor of CBK fails to appear before our Committee next week, we will take serious action. We only ask this House to watch when we will take action.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, it is like you have decided to suspend business.

(Laughter)

I appreciate, Hon. Members. I have the Constitution on my fingertips. Article 95(2) says that the National Assembly deliberates on and resolves issues of concern to the people of Kenya. This is a serious matter. If you desire to do it, you can suspend the Sitting and discuss this matter only. I am actively alive to that. We can agree that you do not take too long to contribute. Can we take two minutes per Member?

Hon. Members: Yes.

Hon. Speaker: The Swahili say: *Panapo wazee hapaharibiki neno*. Member for Nambale.

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Speaker. This is an extremely important set of issues which are being discussed. I see them in two parts. I am in sympathy with the need by the Departmental Committee on Finance and National Planning to summon the Governor to explain any range of policy issues at any time. I am disappointed because the Governor has not responded to that. That is what I find serious about today's discussion.

What I find less attractive is the fact that we are dealing with complex subjects. Some of those who have raised them do not seem to appreciate the full manifestation of them. We are now in the Budget Policy Statement cycle. We have a good opportunity to discuss the level of liquidity that we think ought to prevail in this economy, as we go forward in the next year. That is within our reach as we discuss it now. If we will summon the Governor next week, I hope that issue on the level of interest rates and tightening of money flows which are affecting us, as ordinary citizens, will be discussed. What I think is unfortunate, coming from this House, is that nobody appreciates the near norm in the economy which we had. Money laundering was the norm of the day. Ordinary citizens were carrying millions of shillings in bags in a day. Money laundering was the order of the day. Nairobi had become a national centre for illicit transfers.

These are things you are aware of. Let us address them not only with the Governor of CBK, but also with the National Treasury. Let us do that in a balanced manner.

I appreciate that refusing to appear before the Committee when you have an urgent issue is not very important. Let us try to deal with macro-economic questions that are important to stabilise this economy without balancing the discussion...

Hon. Speaker: Chair of the Budget and Appropriations Committee.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. As much as I have heard what the Member for Nambale has said, the Leader of the Majority Party was very clear. There are laws that we have passed in this House, including the Financial Reporting Centre, the Anti-Money Laundering Bill and other Acts of Parliaments. What is important is what Hon. Junet has called you to react to.

You have said that you are alive to the provisions of our Constitution. What I would like you to guard jealously is the provisions of Article 94 of the Constitution which says that no person, including the Governor of CBK, or body, other than Parliament, has the power to make provisions having the force of law in Kenya, except under authority conferred by this Constitution or by legislation. This House does not act in vain. We acted in September last year. We passed an amendment in the Finance Bill to make provisions where the Governor of CBK would enact regulations that he would table in this House within 30 days. We know him and how he acts. That is why there have been very spirited attempts to intimidate the Judiciary. Instead of making regulations and tabling them before this House, he cobbled some people called Wajibika Society. They went to court and asked it to nullify the provisions of the Bill that we made here. I know that they have lost the case in court.

Hon. Speaker: I will give you one minute.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. I was saying that it does not take away the responsibility of the Governor to comply with the law as enacted by this House in September last year. The provisions of Article 94 of the Constitution say that as the Governor of CBK or CBK as a body, he has no powers to make any laws or to make anything that has the force of the law except by bringing those regulations to this House.

The Departmental Committee on Finance and National Planning should censure the Governor of CBK. The Chair talked about regulations. There are no regulations the Governor is using. He is using circulars and memos that have no force of law. Therefore, Hon. Speaker, I beg that you use your powers to ensure that you are not only conforming to the Constitution, but also make sure that those who are charged with the responsibility of implementing laws that we pass in this House perform their work so that this House is not seen to be acting in vain.

Hon. Speaker, I beg that you act.

Hon. Speaker: Whether they are circulars, memos or regulations, anything that has the force of law and, if it is being followed and if it is a requirement being imposed upon customers purporting to have force of law, unless it has been sanctioned by Parliament, it cannot be allowed. Those are the clear words of Article 94 of the Constitution. It will be null and void. It is important for both Committees on Implementation and the Departmental Committee on Finance and National Planning to be alive to those provisions.

Member for Alego-Usonga. I see you are burning to say something because of your background in banking.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you Hon. Speaker for giving me this opportunity to ventilate on this important issue. I agree that it is serious and important. I come from the financial sector. Lately, I have seen Central Bank of Kenya punishing commercial

banks on matters to do with the National Youth Service (NYS). The regulations came out because of the NYS scandals.

The CBK is Government banker and carries out commercial banking services for Government and when funds leave Government to commercial banks, it is through the authority of Government to CBK. So, sometimes, I fail to understand why CBK runs after banks when funds have left CBK and have been authorised by Government signatories who sign at the CBK. This is an issue I have taken offence with the CBK.

There are some regulations that have been implemented by the CBK and yet, they have not been passed by Parliament. That is something we must check. I agree with Hon. Junet that the Governor has been acting out of law. I also agree that the CBK Governor has not appeared before us, the Departmental Committee on Finance and National Planning, although we have made several attempts. I think he is arrogant. This House must not act in vain.

My last point is that we must understand that we operate within the international financial system and some of these regulations might come and we may be forced to comply with some of the international standards and practices. If they come, we may be forced not to make it easier.

Hon. Speaker: Remember as you engage in these exercises, apart from the general power under Article 125 of the Constitution, you also have the recent Powers and Privileges Act passed in 2017. You can look at it. Do not say that you have been summoning people and they do not appear before you in Committees. It then looks like you also passed a law that you are not using. That is the law that has clear provisions about what you should do.

Member for Nandi Hills.

Hon. Alfred Keter (Nandi Hills, JP): Thank you, Hon. Speaker for giving me this opportunity to talk about this matter that affects most Kenyans. Most small-scale enterprises are about to collapse because the regulations, guidelines or the circulars have affected banking transactions. As we are aware, most bankers at the moment do not do some transactions. They are facing a lot of challenges. Last week, we had a case where someone was accused of transacting with a terrorist or a suspected terrorist. The bankers are not detectives. They do not work for the Directorate of Criminal Investigations (DCI) or the National Intelligence Service (NIS). They serve all Kenyans. The mandate of getting to the bottom of the customers' background to establish whether they are criminal in nature or not, is left to the investigative institutions.

In the 11th Parliament, I sat in the Committee on Delegated Legislation. I remember all the regulations came before us and we scrutinised them in terms of whether they are in tandem with the law and provisions of the Constitution. I believe that no body or institution can make regulations which have force of law without getting the approval of Parliament. They are illegal and that is why we have an economy that is getting worse each day. We have no money in circulation. Most Kenyans, bankers and businessmen are complaining.

Hon. Speaker: Member for Mathare.

Hon. Anthony Oluoch (Mathare, ODM): Hon. Speaker, I had raised the intervention in relation to the first matter you directed to the CIOC. Allow me to say a word in a minute.

Hon. Speaker: What?

Hon. Anthony Oluoch (Mathare, ODM): I had raised an intervention in relation to the first issue you spoke about before Hon. Junet Mohamed introduced the current one.

I want to confirm that in relation to the directions you gave to the CIOC, indeed the matter on Article 100 of the Constitution is before that Committee and I will bring the matter to

the attention of the Committee. It is a matter we are seized of. I wanted to make that confirmation.

Thank you.

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

Hon. Caleb Kositany (Soy, JP): Thank you Hon. Speaker for giving me this opportunity. I want to thank Hon. Junet for bringing up this matter. In fact, I had already written a letter that was to come to your attention.

The issues that have been raised are serious. The other day, there was an incident of a friend whose child was going to Australia and they had transferred money from their company account into their personal account that they were using to acquire visas. When they got visas, this person went to the bank to access the money to pay fees since they were travelling the following day. They could not access the money and they were running out of time simply because of those circulars.

Kenyans are suffering. We are now back to mattress banking. It is time, Hon. Speaker, you made a decision to guide us. As the Leader of the Majority Party has said, we have no personal interests. We are representing the people who sent us to this House. If they are suffering, we have to air their views.

The Governor of CBK is known to be a person - although you said we should not discuss personalities but on this one, we cannot avoid it - who is not an investor. I do not think he even has a bank account. I do not think he does any Mpesa transactions. If he lives on only Kshs300 a day, he is not the right person to sit where the business of this country is transacted.

Thank you, Hon. Speaker.

Hon. Speaker: It resonates to something I have seen called *Okoa Jahazi*.

(Laughter)

Member for Kathiani.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker. I sit in the Committee on Delegated Legislation. This is a problem that is not specific to this particular officer. It is a something that happens in our ministries. Many times we get roadside declarations, circulars or memos that purport to issue instructions on how businesses should be conducted and yet, they have not been given to this House through proper regulations. I believe that there is a loophole that should be addressed. We know that the House not only passes Bills, but also gives ministries opportunity to make regulations and gazette them. Unfortunately, what is happening now is that when they decide to make circulars, they do not present them to us. Unfortunately, that is a loophole we need to deal with.

The Statutory Instruments Act and the Constitution are very clear. When it comes to issues to do with declarations, circulars and memos, they are basically supposed to be brought to this House. We need to find a way by which circulars that have effect of law that make people behave in certain ways are brought to this House. That is not happening and it is a big problem. I have noted that for a while.

Thank you for the opportunity.

Hon. Speaker: I can see some people are raising hands. Deputy Majority Whip.

Hon. (Ms.) Cecily Mbarire (Nominated, JP): Thank you, Hon. Speaker. For the first time, I am glad that a former MP of this House, Hon. Amina Abdalla, brought a Bill that came up with the Committee on Delegated Legislation. From that Committee, we have realised that a

lot of regulations and circulars of Government are against the law. It is up to us as Parliament to make sure that whatever the Government does is within the laws of Kenya. More importantly, we should not act in vain as a House. Therefore, in this particular matter, we look forward to the 26th meeting. Kenyans are tired of being harassed when they go to get their money in the banks. It cannot be that everybody who has money in an account is a thief. It is wrong. If you act from that premise, then we may as well get out of the banks and keep our monies under the pillows and mattresses. I hope we can deal with this matter conclusively because it is affecting our economy in a big way.

In fact, the first question we need to start asking is this: Is the Governor of Central Bank of Kenya aware of the effect of some of the policies he is coming up with? Is he aware that the policies are affecting the economy of Kenyans who are actually the people who make it possible for us to raise more taxes every day? That is why our revenue is falling and we are unable to meet our revenue target.

Hon. Speaker: Member for Gem.

Hon. Elisha Odhiambo (Gem, ODM): Thank you, Hon. Speaker for giving me this opportunity. I want to reinforce what my colleagues have said. It beats matters of prudence for an ordinary Kenyan who has done business with a county government to go to the bank and the bank asks him where he got the money to do business. It is very sad. That is why the Exchequer has a problem doing collections. If, indeed, we allow all Kenyans to bank their money and withdraw it, we can easily trace those Kenyans who are not able to pay taxes. We do not have problems supporting our Budget. At the moment, we are doing the Budget as the National Assembly. The budget that we have and the money that the Exchequer is releasing to the ministries must meet the needs of those ministries. However, in the Financial Year 2018/2019, money that was released was less than what was budgeted for. It does not make sense. It is important, on this issue, that we take a position as the National Assembly not to allow people who do not know the benefits that a businessman brings to run banks. There are many people who are not businessmen in this country. Only those of us who do business know the importance of supporting this country by paying taxes.

Hon. Speaker: Member for Mvita.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Speaker. I wish to remind Members of this Committee that in our last report, one of the recommendations that were adopted by this House was that every single departmental committee should be able to form a sub-committee to liaise with the Committee on Implementation on a number of things. If this is going to start taking effect, problems like this will cease.

Secondly, I sympathise with my brother, the Chair for Departmental Committee on Finance and National Planning. We should be at a level where if someone is called a number of times to appear before a committee and he fails, unless they give a very valid reason, no one in the committee should protect them. On things like these which are affecting the economy of the whole country, it is a big shame when we are struggling to try and ensure that our people... This is a working nation, but the same systems are grinding the people to a halt.

Thank you.

Hon. Speaker: Hon. Eseli.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Thank you, Hon. Speaker for giving me this chance to give an alternative voice. I do not think we are going to transfer the mistakes of National Treasury to the Central Bank of Kenya. We borrowed too much and stole it. It did not come into the economy to stimulate it. So we are not generating enough to the Exchequer, but

then we are here blaming the CBK Governor. If you recall, in this House, when we were vetting the Governor of CBK, I was the only voice that warned Kenyans that this guy is used to spartan life and he might not understand the rest of us, but people insisted and passed his name.

(Laughter)

That does not mean we blame him for no mistake of his. In any case, if the money is there and it is yours genuinely and you have been asked to state where you are taking it, just say where you are taking it and then you will withdraw it. They will not stop you from taking it. They will just ask you where you are taking it. If you want to bank a lot of money in cash and they ask you where you have got it, if you are selling camels, say it and show them that you actually sold camels. What is the problem? What we are trying to do is to catch those guys who stole the money out of our economy and they are busy laundering it somewhere. I do not think we should blame the CBK Governor on this. Let us blame ourselves. We created something that is now eating us. We cannot blame the CBK Governor on this one. Despite him being an *Opus Dei*, on this one, I will defend him for once.

Thank you.

Hon. Speaker: Hon. Members, merely because Hon. Eseli may have said something that you do not agree with does not mean he has made any mistake. There is nothing out of order. Merely because you do not agree with a particular view does not mean anything is out of order. Wait for your chance to come and say your contrary view. Do not just say, "Point of order". You just want to get time to express your point when you could have got it normally. Hon. Gitonga.

Hon. George Gitonga (Tharaka, JP): Thank you, Hon. Speaker. This afternoon, we are defending the law. We are defending the Constitution. We are also defending what the statutes provide so that every institution and every person in Kenya abides by the law. Directives given by the CBK, whether prudential guidelines, letters, memos or whatever form they take, which have some force of law, must always be brought to this House for purposes of being approved and given that impetus so that they can work as the law. That is what Section 2 of the Statutory Instruments Act provides. Therefore, Members are this afternoon telling CBK that instead of going out there to have caucuses and come up with some regulations which are not regulations *per se* which affect the way Kenyans operate their bank accounts, bring regulations here. That is illegal and must be frowned upon. In fact, I undertake as a Member of the Committee on Delegated Legislation to look at what the CBK is passing to other banks in form of declarations or whatever it is calling them. We will be requesting that they bring them here so that we look at them. If they are not prudent, or if they are not for the benefit of Kenyans, we will annul them.

Thank you.

Hon. Speaker: Hon. Members, let me give an opportunity to the Member for Kisumu West, Hon. Olago Aluoch.

Hon. Olago Aluoch (Kisumu West, FORD-K): Thank you, Hon. Speaker. The Governor of Central Bank may have been keen to fight money laundering, but he has hurt 90 per cent of Kenyans who are innocent against the 10 per cent who are guilty. This House passed two Acts, namely, the Financial Reporting Centre Act and the Anti-Terrorism Act. These are provisions that could contain suspicious transactions. The Governor is now intimidating bank staff. If you go to the bank now, the staff do not want to deal with you because they may be arrested. We did not flag this out. If the Governor knew what he was doing is the right thing, why did he not bring

it to Parliament for committee to pass it? Why make it look like a memorandum which has force of law behind it? As Parliament, let us consider whatever the Governor did as a legislation which is subsidiary and let us leave it to the Committee on Delegated Legislation to handle it, so that we can save the Chair of the Departmental Committee on Finance and National Planning. Thank you, Hon. Speaker.

Hon. Speaker: Finally, the Member for Tiaty. He is not present, but his card is on. It would be unfair if I do not hear the Member for Narok North, he chairs the Committee on Implementation.

Hon. Richard ole Kenta (Narok North, ODM): Thank you, Hon. Speaker. First of all, I would like to agree with my colleagues that what is happening in the Central Bank and other commercial banks saddens everybody. It is affecting commerce and making every Kenyan look like a drug dealer or people who are not doing the right thing. It should not be allowed. I have heard Members talk about the Committee on Implementation. I do not understand what they mean because no regulation has been passed to us. The committee concerned has not advised us that they are unable to supervise the Central Bank. I believe that such kind of extension is premature. However, I can assure this House one thing that any committee that liaises with us and lets us know that they have failed in their job or were not listened to, we are ready and willing to ensure that this House does not act in vain. We have done it before and we shall do it again. The only thing I am worried about is that some committee chairmen and Members have become the gatekeepers for the Executive. I remember there was a time when we summoned a Cabinet Secretary and a vice-chair of a committee came and said: "You cannot question this Cabinet Secretary because we are the ones in charge". We told him that we were either going to discipline him or...

Hon. Members: *(Inaudible)*

Hon. Richard ole Kenta (Narok North, ODM): He is a very noisy man and you all know him. So, it will be impossible for us to pursue each resolution of the House without the said committee chairs advising us accordingly. We will all fail as a House. So, we are ready and we shall ensure that we make sure this House does not act in vain. It has done that before. Thank you, Hon. Speaker.

Hon. Speaker: Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. I was just thinking like a doctor. You know the Governor of Central Bank must have acted on a law. Maybe out of all these arguments, there might be something we are missing. So, the 26th meeting is very important for him to explain to us on what powers he is acting and enforcing the law that he is making sure that everybody does not withdraw more than Kshs1 million. The Constitution provides that any law must go through public participation. We have never seen an issue on the maximum of less than Kshs1 million that anybody should withdraw per day. If you are going to withdraw more than Kshs1 million, you must fill a form. On what regulation is he acting? What law has he borrowed? If all the other banks are obeying without challenging him, then there must be something we are missing. So, it is important that our researchers and everyone else looks at the law he is acting on. As a House of law and rules, we must ensure that we guard the Constitution.

(Hon. Kassait Kamket raised his hand)

Hon. Speaker: Member for Tiaty, you cannot raise your hand. I just gave you a chance and you were busy canvassing with the Member for Samburu West. Maybe you have some issues. Continue consulting with her. The chance is lost; you cannot now start raising your hand. Let me hear the Member for Kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Hon. Speaker, I have a point of order. I want to seek your direction pertaining the Statutory Instruments Act. I listened to you carefully and I raised this matter sometime back and you said that in line with the Statutory Instrument Act, when regulations are there, they can be implemented pending a determination of the House. If I listened carefully, if a circular was issued from the Central Bank, it could circulate the regulation. This is my interpretation. The Central Bank is a regulator. It regulates the banking industry. The Governor is a knowledgeable person. He cannot just wake up and implement something which is not in law. So, if you mention that the Statutory Instruments Act can be implemented before Parliament acts then, from that context, he might be correct. We should, therefore, demand for the regulations to be expedited and brought to the House.

(Hon. Members consulted loudly)

I am on a point of order. I am seeking direction, please, listen. It is for the Committee on Delegated Legislation to look for that regulation, so that they can do a determination. If they nullify it, it stops, but if they have not determined yet, it is important to continue as per your earlier communication. I seek your guidance.

Hon. Speaker: Hon. Wamalwa indicated that he was on a point of order. When a Member is on a point of order, you cannot claim to want to rise on a point of order because the two will clash. But I think it is a matter of sequencing. What comes before the other? It is only when regulations have been published, that under the Statutory Instruments Act, some window is opened so that they can be implemented, and anything done on the authority of such regulations when they have been published in the gazette, unless annulled, will deem to be within the law. But that is upon gazettment and publication. So, the question is: Has anything been published, gazetted? There are things called cheques, cheque books and now it looks like people have to go with writing pads to explain things. You are telling Kenyans that when you are coming alongside your cheque book, come with an exercise book to write a story that this amount I will give to a mosque, this other I will give to a church and the other one, I will go to buy some bananas, if you are from Kisii, like a Member who has just walked in a while ago. He must have sufficient funds to buy bananas. So, you need an exercise book as you withdraw to explain that this amount will buy mangoes, if you are from Tharaka, and such like things. So, when has this become law? Something like that has the force of law. It is that which necessitated the provisions in Article 94. Anything that has the force of law becomes a requirement; if you cannot do this unless you do the other. Since it seems to have the force of law it must, therefore, have the sanctions. Article 94 makes it absolutely unconstitutional for anybody, person or authority to make provisions having the force of law except Parliament.

That is why the Statutory Instruments Act came in to implement that. Since we have been told by the Chair of the Departmental Committee on Finance and National Planning that they have scheduled a meeting for Tuesday, Hon. Junet, why do you not revisit this matter after we get a report from the committee on how this matter has been resolved or handled? I am sure the country is anxious to know about these issues. It is not wishful thinking. These matters have been

discussed in many forums and Kenyans are anxious to know whether we passed a law that requires them to carry foolscaps to write stories about how...

If you get money from the Parliamentary Service Commission (PSC) and you want to withdraw it, first of all, you have to explain where it came from and yet the bank knows that you are an employee of the PSC. How would you carry foolscaps to explain that you serve as a Member of Parliament and you get this much? Where are the minutes that resolved that you get this kind of money? Is it a mortgage? Where is the employment letter? All these requirements are inconveniencing not just Members of Parliament, but a very large segment of the Kenyan society. I will not be surprised by what Hon. John Olago Aluoch said that 90 per cent are the ones suffering. He may have had very good intentions, but the regulations must be sanctioned by the law-making body under the Constitution.

Member for Tiaty, I gave you a chance. The problem with the Member for Tiaty is that he has even been an employee of Parliament, so he has a lot of knowledge about this. You can see he is moving from one place to another. When I gave him a chance, he was busy; he was being hosted by his neighbour.

(Laughter)

I will give you one minute.

Hon. Kassait Kamket (Tiaty, KANU): Thank you, Hon. Speaker. I was just consulting on a very important matter.

Hon. Speaker: You have only one minute.

Hon. Kassait Kamket (Tiaty, KANU): Hon. Speaker, even as we wait for the Committee on Finance and National Planning to summon the Governor, by only the virtue of the Governor of the Central Bank of Kenya not following the law, can we say that in the meantime, banks and any other Kenyans take judicial notice that the rules that were issued by the CBK are null and void until the regulations are legalised by this Assembly?

Hon. Speaker: Unfortunately, the House does not transact business that way. You know the Member for Tiaty was the Speaker of Baringo County Assembly. In the National Assembly, it is never done like that. There must be a Motion so that the House can resolve. This was a point of order raised by Hon. Junet. We do not operate that way. It does not matter the numbers you have; you must also follow the law.

Finally, the very last one, Member for Baringo North.

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Speaker. I chaired the Committee on Delegated Legislation in the 11th Parliament. Before 2013, I just want Members to know this point because it is important, no institution was required to publish and bring before Parliament any regulation. From 2013, when we passed the Statutory Instruments Act, it became mandatory that any institution vested with the responsibility of making regulations under the statute that institution is operating under must bring those regulations to the House after publishing them. It is not in vain that that law is in place and that the regulations should be brought here. This is so that we can comply with the Constitution to give effect to those regulations to have the force of law. That is the first point.

Secondly, I believe that under the CBK Act, there is a provision therein that empowers the Governor to make regulations and rules. That is common in all statutes. There is always a provision to enable an institution to make regulations. So, I think the Governor is within the law

to make the regulations, but he is outside the law if he does not present those regulations to the House.

Hon. Speaker: I think that is the long and short of it all. Prior to the enactment of the Statutory Instruments Act in 2012, not 2013, they would do that. But after that law came into force, every regulation-making body is required and obligated to follow in the manner that Hon. Cheptumo has just said.

Since I have not seen this Member for a long time, I want to give him a chance to say whatever he may wish to say so that I can hear his voice this Session. Member for Tinderet. Is he the Member for Emgwen? Just rise in your place. Are you the Member for Emgwen?

Hon. Alexander Kosgey (Emgwen, JP): Yes, I am the Member for Emgwen.

Hon. Speaker: Very well. Then you can sit. I have heard you. Hon. Kosgey, I have heard you, but you may say something if you desire.

Hon. Alexander Kosgey (Emgwen, JP): Hon. Speaker, since you have called me without my asking, I think I should only be kind enough to answer. I am the Member for Emgwen. I am Alex Kosgey. It is not Tinderet. That is my colleague, Mhe. Melly.

On this issue, let me just say that I support what everybody has said today. What the CBK has done is not in line with normal laws and regulations. They are actually making businesses suffer. They are making it very hard for people to transact and do business. The Departmental Committee on Finance and National Planning should take the CBK Governor to task and ask him what he intends to do with this country and how he intends to move business forward.

Mhe. Olago Aluoch said quite correctly that 90 per cent of Kenyans are suffering just because he is trying to look for 10 per cent of the people. It is possible to track the 10 per cent without making everybody suffer. If there is a criminal driving on the road, the way to have the issue addressed is to have the police figure out who the criminal is and deal with that particular person and not to set up a roadblock and subject every single car to a complete search because that creates a big traffic jam. That is what is currently happening with the CBK and businesses. So, I really support the comments that have been made here and I look forward to what the committee will do.

Thank you very much, Hon. Speaker.

Hon. Speaker: Very well. Of course, those roadblocks cause traffic jams and snarl-ups. Hon. Kosgey, well spoken.

Members, let us leave it at that. Hon. Limo has explained that they have a meeting scheduled for Tuesday next week. Today being Thursday, let us allow him time. If he wants, he can get the HANSARD copies of what Members have said so that he can make it available to his clients on Tuesday when they appear so that they can get the feeling of Members and the views expressed today by Members. I think it would be useful.

Hon. Members, I believe every Member has a copy of the Supplementary Order Paper. The reason was just to make some small corrections to some schedule that is attached to the Order Paper. There is nothing earth-shaking. Please, proceed.

Next Order

MOTION

RESOLUTION TO PUBLISH SPECIFIED INDIVIDUAL MEMBERS' BILLS

Hon. Speaker: Let us have the Hon. Leader of the Majority Party. Hon. Junet and Hon. Aluoch, I would have wanted to hear your views because it is very crucial though I know you could be having some other constituency issues.

Hon. Aden Duale (Garissa Township, JP): He is going to the bank to fill the foolscap before 4.00 p.m.

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

THAT, aware that Standing Order 114 (Introduction of Bills) provides for the procedure for introduction of Bills by Members or Committees; acknowledging that the said Standing Order also provides that, where a legislative proposal is submitted to the Speaker, and where the Speaker is of the opinion that the legislative proposal is not a draft money Bill in terms of Article 114 of the Constitution, the Speaker shall (i) direct that the proposal be referred to the relevant Departmental Committee for prepublication scrutiny in case of a legislative proposal not sponsored by a Committee or (ii) direct that the proposal be published into a Bill, in case of a legislative proposal sponsored by a Committee; cognisant of the provisions of Standing Order 114(3)(b) which require the Speaker to refer a legislative proposal with money-bill aspects to the Budget and Appropriations Committee for consideration; recognising that, following the recommendation of the Budget and Appropriations Committee, the Speaker ordinarily refers legislative proposals originating from individual Members to the relevant Departmental Committees for prepublication scrutiny, and that the Departmental Committees should consider the proposals within twenty-one (21) days and recommend whether or not the proposals should be proceeded with; noting that, since the commencement of the Twelfth Parliament, more than eighty (80) legislative proposals have been drafted and submitted to the Speaker upon which, thirty three (33) have been cleared with respect to money-bill aspects and their progress has been stifled by the inordinate delay in the relevant Departmental Committees; this House orders that the thirty three (33) legislative proposals contained in the Schedule, whose money-bill aspects have since been cleared, and were pending before the relevant Departmental Committees by the end of the Second Session be published into Bills in accordance with the provisions of Standing Order 120 (Publication of Bills) and thereafter be referred to the relevant Departmental Committees in accordance with the provisions of Standing Order 127 (Committal of Bills to Committees and public participation) upon being read a First Time.

Hon. Speaker, that is the gist of the Motion. Wednesday morning is a very important day in the calendar of the House. Since we were sworn in August, no Private Members' Bill has been brought forward. The problem has been the delay in the Budget and Appropriations Committee, whose Chair I want to thank because in dealing with this Motion, he has cleared over 30 Bills.

Again, as Hon. Chris Wamalwa said this afternoon, committees have taken their sweet time even in dealing with petitions. We have realised that Bills are being delayed in committees. That is why we felt that this Motion, if adopted by the House, the over 30 Private Members' Bills can be published, introduced and subjected to committees after the First Reading.

That is why every Wednesday we spend all of our time "urging" the Government. There was one Motion this Wednesday on "*Futilia Mbali Ada ya Hospitali*". Parliament, under Articles 93 to 96 of the Constitution cannot act in vain. It must have teeth. The teeth in legislation is a

Bill where, if the House agrees, then the President assents to it and Members can have it as part of their CVs and refer to it whenever they write books.

Hon. Justice Njoki Ndung'u is remembered everywhere in Kenya not because she is a Judge of the Supreme Court, but because she brought the Sexual Offences Bill. Hon. Joe Donde is remembered for the Interest Rate Capping Bill and many other leaders. So, we felt that we should give this provision.

Standing Order 114 outlines the procedure for processing Bills. It has in-built timelines and processes geared towards ensuring that public participation and the production of Bills are not just as we do in factories. With regard to Bills, just like the way commodities are produced in a factory, this House has provided timelines and processes. To this end, there are Members who love going to talk shows to blame your office, mine and that of the Leader of the Minority Party as the ones responsible for sitting on Members' draft Bills.

Hon. Speaker, that is far from the truth. We have no powers to do that. In fact, when a Bill is published, it goes to the House Business Committee (HBC), where we schedule it for debate. I saw a Member say that I was sitting on his Bill on coffee and tea. Why should I do so? I do not grow coffee or tea. If it were a Bill on camels, I would have some interest. With regard to coffee, the only time I take coffee is when I am in my office. So, I have no interest.

It is even good to say this for the benefit of the public, that what you see on social media such as letters written to the Speaker, are not Bills. Those are similar to when you ask for permission to be away from the House. So, do not cheat the public. Do not look for cheap glorification. You write a letter to the Speaker, before he reads it, the moment his secretary stamps it and maybe the Speaker is in the Chamber, he will read it on the social media.

We need to be very careful and give the House enough time. The House has also been deprived of time for Private Members' Bills. Wednesday mornings are being dominated by ordinary Motions. At a time like this in the last Parliament, we would have had 15 Private Members' Bills. The HBC was struggling to give it priority. We are publishing the 33 Bills because the committees have delayed them. Hon. Kamket is here and for the last nine months, his two Bills have been lying at the Budget and Appropriations Committee. One of them is the Equalisation Fund Bill, and I hope the Budget and Appropriations Committee Chair will give him reasons for the delay.

I think it is good and I agree with you that the HBC takes this route of disposing of Members' Bills. That is why we have a very robust legal department, a budget office, a good team at the legislative office and a very strong Clerk. Please, let us create more business and forget about this matter of urging. I mean how can the House spend three hours urging? In fact, we should introduce Motions that resolve so that they can be sent to the Budget and Appropriations Committee to look at their money aspect and if the Speaker feels that we can handle them, then he approves them.

Everything we do in the House must have direct implication in law on behalf of the people of Kenya. That is why this afternoon we spent a lot of time discussing the CBK Governor, a nominee who was approved by this House. I am sure the 30 Bills will be dealt with in the next few days.

With those many remarks, I want to thank the Chair of the Budget and Appropriations Committee. In fact, he has worked tirelessly with his Committee and has given us 30 Bills which, if the House approves this Motion, will be published over the weekend and when they mature, will be introduced for First Reading.

The other chairs can now keep the Bills if this Motion passes. For example, if you were looking at Hon. Wandayi's Bill on labour and Hon. Gideon Keter's Bill on youth council, all these Bills will be published and we will introduce them. I am sure the HBC, chaired by the Speaker, is always fair and will not succumb to any pressure. So, we will give Members their free time.

I beg to Move and ask the Chair of Budget and Appropriations Committee to second.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. Let me thank the Leader of the Majority Party for moving the Motion. I beg to second it. As he has clearly stated, I want to clarify that, indeed, what the Budget and Appropriations Committee has cleared is a total of 41 legislative proposals out of which, 33 are listed here for publishing.

I support the Motion. Let me remind you that in the last Session, last year, I tabled in this House an updated Report, which we have made customary in the Budget and Appropriations Committee. Often, we are confronted with questions by Members, even in the streets and along the corridors of Parliament. As the Leader of the Majority Party has said, people ask us why we are sitting on their Bills and legislative proposals. Many of these are usually letters written to the Speaker and circulated on social media. Even before we see them and forward them to the Parliamentary Budget Office for determination on the money Bill effect, people are already asking who is sitting on their Bill.

Therefore, I want to urge the Members to first take time to understand the provisions of our Standing Orders and Article 114 of the Constitution. They should also understand the process of a Bill right from the time they do it as a legislative proposal to the time of publication. Therefore, from the update we gave last year, I will also be tabling the second update for this House to know the status of all the legislative proposals that have come before the Budget and Appropriations Committee. I can tell you that from January 2018, when the Budget and Appropriations Committee came into operation up to last week, Tuesday, 12th February when this House opened, a total of 141 proposals have been received for money Bill determination as per Article 114 of the Constitution. In the course of the two weeks we have been in Parliament, more have come in. Out of all these proposals, 84 were determined to have money Bill effect and out of these, 65 were referred to the Budget and Appropriations Committee for recommendations in line with Article 114(2) of the Constitution.

The 65 proposals referred to the Budget and Appropriations Committee, 41 have been considered and recommendations made to you and forwarded to departmental committees. I agree with the Leader of the Majority Party that many of the departmental committee chairs are doing Members a lot of injustice by being unable to process and expedite these legislative proposals in time.

I will point out a case. For example, I drafted the National Disaster Management Authority Bill in the 11th Parliament and revived it in the First Session of the 12th Parliament. However, from June 2018, it has been before the Departmental Committee on Administration and National Security. I appeared before them at the end of June 2018 and up to date, there is no word on what happened and why it is just hanging somewhere. However, it was cleared by the Budget and Appropriations Committee and the Office of the Speaker, but the departmental committee has not expedited it even after I appeared before them.

I also had a proposal on labour relations. We are now confronted with the strike by our good nurses. Some of the proposals in the labour relations Bill dealt with issues of labour relations and how to allow people to picket, demonstrate and have strikes or be off-duty. But for people like the police, nurses and doctors, who offer critical services, they must work like it

happens in the United Kingdom (UK). That, as medical personnel, one cannot be away from duty station for a specified period of time or on strike without any regulation. Again, this Bill has been before the departmental committee for a long time.

I am happy with the action taken by the Leader of the Majority Party and the HBC that these Bills can come before the House and on Wednesday, Members can spend time on them. You will also realise that because of many Motions “urging”, Members discovered that Motions basically become more of talk shops and many of them do not come to the House on Wednesday morning. But when you have substantive Bills before the House, good business that people can transact, you will find many more Members before the House on Wednesday morning.

I also want to update the House that out of the 65 Bills which the Budget and Appropriations Committee has considered, seven proposals are undergoing analysis in the Parliamentary Budget Office. Out of these, only four proposals were received last week. I am sure our Parliamentary Budget Office is working full time to expedite them. Another set of about 14 Bills have been cleared by the Parliamentary Budget Office. They are now before the Budget and Appropriations Committee. We shall be scheduling time immediately we are done with the Budget Policy Statement (BPS) next week. If the House agrees with us to adopt the BPS Report, the following week we will embark on clearing the 14 proposals probably within the next two or three weeks, so as to finish with them.

Hon. Speaker, indeed, has mentioned the two Bills by Hon. Kamket, namely, the Constitution of Kenya (Amendment) Bill and the Equalisation Fund Bill. He should be happy to note that Bill No.26 on the list is one of his Bills which we cleared. Also, the Constitution of Kenya (Amendment) Bill was cleared. I also want to mention to Members, as the Chair of the Budget and Appropriations Committee, that one of the things which inform delays within the committee, for instance, the case of the Constitution of Kenya (Amendment) Bill and the Equalisation Fund Bill by Hon. Kamket, is the determination of the money aspect. The money Bill effect is so significant that we cannot, as a committee, make a decision without reference to the National Treasury.

The National Treasury has in the past taken inordinately long periods of time before getting back to the committee and we resolved last year that we will only give the National Treasury a maximum of 21 days because we are given by our Standing Orders at least 21 days to communicate to the Speaker. We have sat down and made this clear to them. We will also give the National Treasury 21 days from the time we consider anything that is significant for them to get back to us. Indeed, let me report that last week on Thursday, we considered many of these Bills that had been with the National Treasury for long and gave their memoranda on what their thoughts were, some of which we have considered and allowed to proceed. This House will make a determination on them even with reservations from the National Treasury. There are others that we concurred with the National Treasury that the effect is so significant that we may not be able to accommodate it within the current budgetary framework or even the medium-term framework. Therefore, on some we have declined and those decisions again have been relayed to the Office of the Speaker.

Hon. Speaker, let me say that as the Budget and Appropriations Committee, we will continue to consider all legislative proposals as they come, but I want to seek the indulgence of the House for, at least, this period. This is the busiest season for the Budget and Appropriations Committee. As I said, this week and next week, we are all engaged on the BPS matter. I am sure many of us are engaged in our departmental committees on the BPS matter. So, at a time like this, we suspend legislative proposals hearing until after the BPS. From next week but one after

the BPS, up to the time we start work on the Supplementary Budget and the Annual Estimates, again, we shall have no other business other than considering Members' legislative proposals.

Therefore, I want to give the House our assurance that we will expedite all these proposals as they fall due. The vice-chair is also here and many Members of the Budget and Appropriations Committee are here. Finally, there are a number of proposals that Members, including myself, have requested to be stood down for various reasons and again that is allowed.

With that, I beg to second the Motion and urge Members to adopt and pass it, so that we can get meaningful business to transact on Wednesday morning.

I beg to second.

Hon. Speaker: Hon. Members, I think I need to say this. When you look at the schedule, the Departmental Committee on Administration and National Security... Of course, I do know even most of the Questions are still directed to that Committee, but I think they have to devise a mechanism of dealing with all the issues, including legislative proposals from the Members. I see a list of eight Bills and I know these are not the only ones pending before that committee. Surely, it should be an indictment. Of course, you as a House are the creators of the committee. You are also the owners of the Standing Orders. It is your own Standing Orders that have given the committees an opportunity to do prepublication scrutiny within a period of 21 days.

So, what this Motion is saying is that we do away with the prepublication scrutiny because the Bills have been with the committees for inordinately too long. Since June and August last year up to now, there is no report. They have been cleared for money Bill effect, but they are still there. They are being scrutinised. I do not know, this scrutiny must be very interesting. I am sure the Member for Ruaraka could easily tell us how they scrutinise for so many months. It is very interesting. Therefore, what this Motion is asking the House is: "Please, do away with this." The Speaker cannot vacate that and the Motion is styled "notwithstanding", so that we are not doing away with the provisions of Standing Order No.114. We are just saying that in respect to this, the House resolves that we do away with that. If you pass this Motion, these 30 Bills will proceed to publication because in any event, after the First Reading, the Standing Orders require that they will now be referred to the same committees to undertake public hearings and participation. We hope the committees from now, the scrutinising... It looks like sometimes it gets dark and you are not able to scrutinise. So, we now want to bring you enough light so that when it gets dark, the House has resolved that small problem for you. So, you can deal with the rest.

This is all that this Motion is seeking to ask the House to do. However, of course, chairs should not feel that any powers are taken away from them. Remember you were also given that power by the same House. The House can temporarily take away that which it had given you. So, do not feel like you are being unnecessarily denied a job that is given to you by the Standing Orders. The people who gave you the job are now saying you have sat on your job for some time and we think we want to make progress. There are points made by the Leader of the Majority Party about what happens. Lack of business on Wednesday mornings is also a matter of concern. So, even as I propose the Question, Hon. Members, I want you to be alive to what, indeed, has been stated by both the Mover and the Seconder as the reason why this is being done. However, of course, it is a wakeup call to committees because there are several other legislative proposals that we have forwarded to the departmental committees for prepublication scrutiny after being cleared by the Budget and Appropriations Committee. So, please, now that we are removing these ones, if the House passes this Motion, you better embark on those others and act within the Standing Orders.

(Question proposed)

Let us have the Member for Kisumu West.

Hon. Olago Aluoch (Kisumu West, FORD-K): Thank you very much, Hon. Speaker. As I support this Motion, I commend the Leader of the Majority Party for this innovative application of Standing Order No.114. This is going to remove what was stopping Bills from moving as quickly as they should. If passed, this Motion is also going to assist in enhancing the productivity of this House and the general performance.

As I was looking at the Motion, I thought about the number of committees which are not able to process Bills not because they have more than they need to handle, but because of laxity of their chairpersons and Members.

I sit in the Departmental Committee on Justice and Legal Affairs and my Chairman, Hon. Cheptumo, is here. We are proud because at the time we were breaking for the last recess, we had cleared work on our desks. We did not have any pending work at all. We asked the Chairman, Hon. Cheptumo, to bring this to the attention of the Speaker because we had only one or two committees in this House that had performed as is required. We are proud of that.

I have the privilege of serving in the Procedure and Rules Committee of the House. As I look at the Motion, I am getting other ideas on how we can re-look at our Standing Orders and see how best we can innovatively make the House move faster without sacrificing quality. This Motion will clearly help the House in moving fast. There have been complaints lately from some Members of this House, particularly the young and new Members, that their Bills are not processed as fast as they should. This will help in easing that pressure from the young Members of this House. It will make their Bills move fast.

I support this Motion fully. Thank you, Hon. Speaker.

Hon. Speaker: The problem with the Member for Tiaty is that he has logged in his card, but he is not there. He is too nomadic. Member for Tiaty.

Hon. Kassait Kamket (Tiaty, KANU): Thank you, Hon. Speaker for giving me this opportunity to contribute. I rise to support this Motion. I am a victim of the inordinate delay to publish Bills that are brought to the National Assembly that many colleagues, Kenyans and I consider very important. Therefore, I support this Motion 100 per cent.

I want to seek clarification from the Chair on what happens when the Cabinet Secretary delays to give his views on a Bill. Standing Order No.114(4) says:

“The Budget and Appropriations Committee shall consider only the money-bill or financial aspects of the proposal and submit a report to the Speaker within twenty one (21) days of receipt of the proposal.”

Standing Order No.114(5) says:

“A report under paragraph (4) shall contain:

(a) the views of the Cabinet Secretary responsible for finance, if any;

The most important words are the last two words: “if any”. I was among the first Members to bring the Constitution of Kenya (Amendment) Bill, but it has been with the CS, National Treasury, for a long time. I do not understand the reason. If the CS of the National Treasury does not have any views on that Bill, it is not necessary for it to delay there any longer. I believe with the passage of this Motion, the Bills that are hanging like the Constitution of Kenya (Amendment) Bill and the Equalisation Fund Bill shall see the light of day and given

justice by the Members of this National Assembly. I wanted to seek clarification on my Bills and the Chairman has clarified.

I thank you, Hon. Speaker.

Hon. Speaker: Member for Kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Speaker. This is a very important Motion. I want to thank the Leader of the Majority Party for bringing it. Wednesday mornings are normally meant for Private Members' business. You must do a lot of research to bring a Bill in this House. It needs a lot of time. It is very frustrating when you bring a Bill only for it to be taken to the committee and then it is delayed because of laxity. I did about six legislative proposals. It is now six months and we have only done one Bill. I cannot trace my five Bills.

I also want to thank the Budget and Appropriations Committee. They have been trying to be as effective and efficient as possible. I want to thank Hon. Ichung'wah, for that. My suggestion on the way forward is that if a Bill has been determined and the money aspect is not there, it should not waste time to go to the Budget and Appropriations Committee. That will help to ease the workload that is there.

Secondly, the Chair of the Budget and Appropriations mentioned that they are considering the Budget Policy Statement right now. However, we also have some Bills which are very critical. The Chair of the Budget and Appropriations Committee should develop some framework, so that he can know how to work in parallel. Hon. Ichung'wah has done very well. He indicated that he is too busy right now because he is working on the Budget Policy Statement and he cannot follow matters of legislation. My humble request is that he should try to work in parallel. There are some Bills which are of importance by their very nature because they contain things which need some urgency. He can exercise some discretion. As he continues to work on the Budget Policy Statement, he can consider one or two Bills on a need basis. That will be very good other than just waiting for a long time.

We shall discuss Justice Njoki Ndung'u's law, the Sexual Offences Act, which she brought on the Floor of the House, Hon. Joe Donde's Bill and many others on Wednesday in the morning. With the introduction of Question Time, Members are doing away with Bills because Questions seem easier. The challenge with Questions is that when the CS appears before the relevant committee, there is that element of clarity. The opportunity to seek clarification is not there. It is not the Question Time that we had during the days of the parliamentary system. As we look forward for reforms in the Constitution, it is high time we went back to the parliamentary system. It will help in representing our people. The CSs should come to the Floor of the House. This will help in expediting the resolutions of the problems pertaining to our constituencies.

I know there are critical issues when it comes to the referendum debate, but the major issue will be the referendum question. As legislators, we represent our constituencies which have different issues. We are not getting answers with precision. For instance, you go to a chair of a committee, who is not part of the Executive, and whatever he gives you is written down for him. He does not even know much about the issue you want resolved. So, it becomes very difficult when you are seeking clarification.

As we move on, it is important to develop a performance management tool for chairpersons of committees. There is a positive correlation of the performance of a committee and the kind of a chair it has. Majority of the Bills which are pending come from the Departmental Committee on Administration and National Security. Where is the chair? Where is the leadership of that particular committee? Some chairpersons of committees are sleeping on the

job. This House should not accept chairs who have been imposed on them. Let us get leadership based on competence. If a chair cannot perform and he is not around, let us give the free will to the Members of that particular committee to elect another person who has the competence and what it takes. One must show some enthusiasm. Majority of the chairpersons are sleeping on the job and this is causing a lot of delays.

I want to salute the Chair of the Committee on Implementation. Doing a comparative analysis with the previous one, of course, Hon. Kenta, has tried. Parliament cannot legislate in vain. I brought a Motion here to come up with Kijana Wamalwa University of Science and Technology and it was passed. It has been promoted to become a national university. It is high time, as we move on, to have the name changed. The chair, who is here, must move with speed so that the name is changed from “Kitale National Polytechnic” to “Kijana Wamalwa National Polytechnic” as we wait for it to become a university. Parliament cannot be legislating in vain. We should not waste a lot of time doing research and coming here to legislate. That does not mean we do not have other work to do.

Hon. Speaker, I thank you very much. If all departmental committees are unable to effectively do prepublication scrutiny, what about public participation? It is a big challenge. As I speak, we do not have a law that guides public participation. I have done one and it should be coming for First Reading very soon, so that we can have a clear framework when we do public participation. We do not have any law that operationalises Article 118 of the Constitution on public participation. We have seen many shortcuts taken in legislation. At the county assemblies, it is even worse. A governor organises some sections of people and says that public participation was done. We need a clear framework so that we can know the threshold when we speak about public participation.

Thank you, Hon. Speaker. I support.

Hon. Speaker: Do I see the Deputy Whip of the Majority Party showing interest?

Hon. (Ms.) Cecily Mbarire (Nominated, JP): Not on this one.

Hon. Speaker: Not on this one. Then let me have the Member for Ruaraka. Has he left?

Hon. T.J. Kajwang' (Ruaraka, ODM): No. I am here. Thank you, Hon. Speaker. I must speak to this as a Member of the Committee on Rules and Procedures.

This is one of the most vibrant, progressive and innovative Motions that has been presented to us by the HBC to unlock the clog in the movement of individual Members' Bills. If there is anything that needs to be supported, it is Private Members' Bills because that is the business for which Members come here. In fact, in a presidential system, if Members' Bills were to move in the pipeline, there will be no need for Bills to come from the Cabinet. Members would be sponsoring legislations here and they will be considered and we would be in charge of the legislative-making process. The fact that there is a clog in the pipeline frustrates Members. So, it has become very difficult for Members to be encouraged to issue any proposals they want to make into legislation.

Hon. Speaker, allow me to make two points.

(Hon. Patrick Mariru consulted Hon. Speaker)

I want to catch the Hon. Speaker's eye if the Member between me and the Speaker would allow me. I want to make one point which I think will help the Clerk's Office in appreciating how these matters could be done. Standing Order No.114, which has been drawn to our attention, begins in Paragraph 2, that the business begins from the Clerk of the National Assembly because

the Hon. Speaker refers the proposal to the Clerk with a memorandum thereon. Thereafter, the Clerk looks at the proposal whether it concerns counties or not, special or ordinary Bill and whether the proposal is a draft money Bill in terms of Standing Order No.114 and whether the proposal has conformed to the format of the law. I suggest that when a Bill has come from the Clerk with comments back to the Hon. Speaker, the Clerk will clearly say whether it is a money Bill or not. For Bills the Clerk recommends that they are not money Bills and where the Hon. Speaker concurs with the Clerk that it is not a money Bill, I suggest that such Bills should find their way directly to the departmental committees without having to go through the process of the Budget and Appropriations Committee, which takes a long time again and clogs the pipeline. That is one part of them if we were to push, we would move quite a substantial number.

The second one is this thing called scrutiny. This thing has been confused by many chairpersons and their committees. They think that it is determining the merit of a Bill.

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

[The Temporary Deputy Speaker (Hon. Patrick Mariru) took the Chair]

In another language, that may not be known to all others, it is called *prima facie*.

Thank you, Hon. Temporary Deputy Speaker. One only needs to determine issues as have been stated in Standing Order No.114(2), that a Bill is talking about something that is sensible, it is formatted in a correct manner perceived by law, it does not concern counties and it is not an ordinary or a special Bill. The problem is that they want to determine the merit of the Bill and scrutinise it as though it has gone for public participation.

It gives me ideas as a Member who sits in the Committee on Rules and Procedure. We probably need to put in the Standing Orders the threshold that prepublication should have so that within the 21 days, a committee should churn them out. We should mention certain things that need to be done. If within 21 days it has not been churned out, I suggest the HBC should have authority from the Standing Orders to do what they are doing today. This is very important and I see the Deputy Whip of the Majority Party is here on behalf of the leadership. If a departmental committee is unable to deal with prepublication scrutiny in 21 days, then the HBC should have the authority in the Standing Orders to do what it is doing today, namely, bring them here and as a House we resolve that the matters can be pushed forward.

This should not only be done on this. There are several others that are pending. Even the Budget and Appropriations Committee, first should strictly do this within 21 days, so that they can tell us if it is a money Bill or not. They should not go to the merit, of discussion of the Bill, because Standing Order No.114 mandates the Hon. Speaker together with the National Treasury to make comments on how to deal with money Bills. So, the Budget and Appropriations Committee should be tied within a period of time, failure to which, the HBC should be allowed to do what they have done today, namely, to bring us a Motion so that we can pass it. Members will be encouraged and will feel very nice in making legislative proposals because they will know that they will see the light at the end of the day.

Thank you very much. I support the Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Mugambi Gichuki. He may have taken leave. Hon. Lesuuda Naisula.

Hon. (Ms.) Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion and to thank the Leader of the Majority Party for

the timely consideration and for being supported by our able Chair of the Budget and Appropriations Committee.

As it has been noted by my colleagues, on Wednesdays, Members bring Private Members' Bills and Motions. We have seen over time that we come to this House just to urge the Government, but once we deliberate on the Bills, they are more binding to the Executive in the things the Members would like to see done. It is very important to note that Members have taken their time to research on Bills.

(Hon. Peter Kaluma consulted loudly)

Hon. Temporary Deputy Speaker, the consultations are bit too loud.

The Temporary Deputy Speaker (Hon. Patrick Mariru): It is Hon. Opondo Kaluma, who is exiting. Please, Hon. Opondo Kaluma, we can now tell that your consultation has gone down. Earlier on, it was quite high.

Hon. Lesuuda.

Hon. (Ms.) Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Temporary Deputy Speaker. Members spend a lot of time researching on Bills. Most of the time, the Bills are about matters that concern the lives of Kenyans, and more so, our constituents. It demoralises, discourages and frustrates the Members when they have to move from one office to the other to find out where their Bills are. They know that the Bills are with committees and within 21 days, they should be published, so that they can be debated in the House. We have passed many Motions, which we have seen Members convert into Bills, so that they can be binding. It is unfortunate that up to now, we have not deliberated on these matters. It will also encourage Members who would like to bring amendments to Bills which other Members have worked on instead of working on other Bills. It is very important that we make progress.

I would like to salute the Chair of the Budget and Appropriations Committee. Despite the committee having a lot of other important matters to deliberate on, like issues of the BPS, it has always slotted and given priority to Private Members' Bills to ensure that they clear the backlog. This is important and it would be more effective. Just as it has been suggested by the Member for Ruaraka, we should incorporate into the Standing Orders a mechanism that we can use to deal with these Motions to ensure that if a Bill is not brought to the House after 21 days, it can be published. That way, departmental committees will work harder.

As I conclude, departmental committees should get these Bills when they are doing public participation. We hope they will not be sitting on Bills again and we find ourselves in the same situation.

I support so that we can continue to have more constructive and binding deliberations in this House, especially on Wednesday mornings when we are supposed to be discussing Private Members' Bills.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I also rise to support the Motion, which is basically seeking to assist Members to carry out the very important role of legislation as spelt out in our Constitution. As Members legislate, of course, they can do that through committees and many times by themselves out of their own research. So, they can come up with laws or even amend laws so that they can assist the public to carry out their businesses as expected. This Motion basically seeks to help Members to have their Motions brought here for debate in the shortest time possible.

I note that the money Bill aspect is the most critical because any time a Bill has monetary implications as stipulated in Article 114, it means that the Exchequer will incur an expense to make that legislation a reality. A lot of times, some amendments and some laws are meant to improve the lives of the people we represent, but they are not going to charge the Exchequer. It costs nothing to implement other than cleaning up how we do business. Once Bills have been cleared by the Speaker of the money Bill aspect and the Budget and Appropriations Committee has satisfied itself on the same, it makes absolutely no sense, in my opinion, for it to remain with the committee to scrutinise it before publication.

Committees can interrogate these Bills when they are read the First Time in the House. The proposal that I see here is that they be read the First Time and then presented to committees. Committees can interrogate these Bills to see what input they may want to make. It does not make sense for a Bill to remain with a committee yet it will end up there.

I support that we do away with that proposal. This Motion is on the 30 Bills that have already gone through some of the stages. There are a lot of Bills, according to what I have heard from my colleagues, that are still pending. Once we pass this Motion, we will have sorted out the 30 Bills. From what the Leader of the Majority Party said, many other Bills are still pending. Members are still wasting Wednesday mornings discussing Motions. I have presented several Motions. Almost every Member has brought Motions here. We have debated and passed them, but that becomes the end of them. Nothing is done. It is almost always impossible to implement. It is important that we consider, as we move forward, amending our Standing Orders, so that we can make it easy for Bills in the future.

I believe our committees have a lot of work. We are in the budget-making season and they are completely bogged down with issues. Maybe, we may need to consider the possibility of removing this clause from the Standing Orders. If we can do it for the 30 Bills, why not for the rest of the Bills that are yet to come here, going forward? I support the Motion, but I will support it to be a permanent situation. The problem of dealing with Private Members' Bills has always been there. From the time I came to this House, this being my second term, it seems like an impossibility for a Private Member's Bill to find its way into the House.

That may be the bottleneck. When we get rid of it, going into the future, we will have more Bills coming from Members. We will discuss Private Members' Bills on Wednesday mornings.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Martin Owino.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Motion.

There is a problem I would like to talk about, which is about clearing a drainage which is long. After the 33 Bills, so what? We are going back to the other ones which will be piling up. To be honest, we should remove the prepublication scrutiny stage because after that, a Bill will be coming back to the House for First Reading. I support what the Member has said. At that point, if there is anything, it can be cleared by the committees. It is very frustrating. When you prepare a Bill, you consider so many things. Mine, which is pending, is on community health workers. I have had to caucus with these people for the last seven months. Up to now, they are asking what happened to the Bill. It is both frustrating to the Members as well as to the stakeholders of the draft Bills. The delay has also put us in a precarious position. You chase a Bill as if you are chasing a voucher. It should be more professional than that. We need a permanent solution. This is band-aiding anyway. After the blood has been stopped, we need to

sober up and decide whether we reduce the time that we give to committees or we remove it altogether from the Standing Orders, so that we can move faster.

As it has been said before, Bills make people remember. I am sure that I may go into those books when I pass this Bill for Community Health Workers which is very critical for Universal Health Care (UHC) right now, but it is nowhere. It has not even reached the Budget Office after six months. This is very frustrating. I support it but let us work up the system so that these Bills can run and Members can move faster.

Lastly, it has been said here that there are some things that are coming up because these Bills are pending. Even things that would have been prevented are on our face because of this procedure which is logged up, so if we can fast-track them, this will help us with motivation to do even more because time is running out for us. But I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to this very timely and progressive Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Osotsi, it is not a Bill.

Hon. Godfrey Osotsi (Nominated, ANC): Sorry, Hon. Temporary Deputy Speaker. This Motion is very progressive as the other speakers have said. It is going to open opportunities for Members to play their rightful role of law making. The work of lawmakers is to make laws. As you know, it has been very difficult to push through a Private Members' Bill. We have over 80 Private Members' Bills that are pending. Only 30 have gone through the Budget and Appropriations Committee. We still have many others still on the way. I think the decision of the House Business Committee was very innovative but I think we can do a lot more by relooking at the Standing Orders. As the Hon. Colleague has said, we want a situation where we can avoid prepublication scrutiny because clearly it is becoming a hindrance to Members introducing their Private Members' Bills.

We also want to consider what Hon. Kajwang' has said. We need to look at the merits of this Bill. If I look at this list, I see a number of Bills which are amendments to the same law. If you look at Bill No. 4, it is seeking to amend the Public Service Commission Bill. Bill No. 7 is seeking to do the same. If you look at Bill No. 11 and Bill No. 10, they are actually amending the same law. Bill No. 12 and 13 are amending the same law. So, we risk a scenario of duplication. We also have Government Bills which are ongoing which are seeking to amend some laws. So, I think some form of consolidation needs to be done so that we do not end up duplicating this Bill. In other jurisdictions like the UK Parliament, you cannot introduce a Private Members' Bill that is going to duplicate a decision that has been made by Parliament on a particular Bill in that session. That has to be looked at.

I am concerned with the level of scrutiny that has been done on this list of 30 Bills. I remember in my committee, the Departmental Committee on Communication, Information and Innovation, we looked at Bill No. 12 and made a decision because it was seeking to introduce amendments on use of social media and cybercrime. As you may be aware, we have a new law that is in place - The Computer Misuse and Cybercrimes Act. I think this list must be looked at because I am sure some committees have already dispensed with some of these Bills that are indicated here.

The other thing is the operations of the Budget and Appropriations Committee. I think we need to have an appeal mechanism. We have a situation where you take your Bill to the Budget and Appropriations Committee, they look at it, they refuse to approve it because it is a Money Bill and the Member has no mechanism to appeal. We need to make some changes in the

Standing Order so that if I present my Bill to the Committee and it is not approved and I strongly believe it is the right thing to do, then as a Member I can make an appeal to the Budget and Appropriations Committee.

The other thing is the threshold of determining the extent of a Money Bill effect. I know there are some Bills which are Money Bills but the extent of the money bill effect is so low. You find a very good Bill is not approved because it is a Money Bill and yet the extent of money bill effect is very low. I think we need to look at that so that we do not end up not approving Bills which are otherwise very useful just because they have a slight money bill effect on it. Otherwise, I am sure that this Motion if passed, it is going to ensure that the Wednesday sessions are well attended. It is going to motivate Members and the level of performance will go up. I want to encourage that even as we head into a parliamentary system of governance, which I have heard many people are supporting, this is the way to go so that Members of Parliament are the ones to come up with Bills and we have less Bills from the Government side. Otherwise, we will be sitting here to work for the Executive. We sit, wait for them to bring Bills, we pass and that is all we do. We need to have a performance measurement process, so that by the end of five years, the 349 Members should have at least brought one Bill which has been passed. But that can only be done if we open up this space wider. I want to encourage that we relook at the Standing Orders and make it easy for Members to bring Private Members' Bill and possibly even have two days in a week for Private Members' Bill.

With those few remarks, I support the Motion. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall now have Hon. Simiyu Eseli.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I also wish to add my voice in thanking the House leadership for bringing this Motion so that we can speed up the time that Private Members' Bills come to the House. All the same, I have two questions. The Chair of Budget and Appropriations Committee said that they had actually passed 41 Bills, but here we have 33 Bills, where are the other eight Bills?

One of the major functions of a Member of Parliament is to legislate and that legislation does not restrict the Member of Parliament to just legislate on behalf of the Executive, the Members of Parliament must be able to bring their own Bills so that they can be properly legislating. Once we changed our governance system to a presidential system away from what we were before, then even this thing of having Motions in this House loses meaning. When we had Ministers coming in the House like in the 10th Parliament, when you brought a Motion, it influenced policy, in the sense that when you brought a Motion the Minister was obliged to respond to your Motion. Sometimes they went out of their way to try and amend a Motion that was calling for a resolution of the House to "urge", so that it became weaker. That way, we were able to influence policy. I can give an example of myself.

In that 10th Parliament I brought a Motion to ensure that the Higher Education Loans Board (HELB), starts paying for middle level colleges. From that time, that influenced the policy of Government. I also brought a Motion on Control of Malaria insisting that instead of people hiding under the mosquito nets, they should also do in-house spraying of anti-malaria. That is a Motion which influenced Government policy because the Ministers were in the House. Right now without Ministers being in the House, the only way we can influence Government policy effectively is through Private Members' Bill. This is very important. What we need to note is that it is not necessarily a delay by the committees. I have looked at what they have said about the Committee on Health and I know that the Kenya Food and Drug Authority

(Amendment) Bill by Hon. Pukose which is listed here but I have not seen it... But the other two, Hon. Millie Odhiambo's and Hon. Wangwe's, we disposed of them. So, if there has been any delay with them going for publication, it cannot be blamed on the committee.

I have also had a slight experience in this when I tried to bring a Bill. You really have to chase after it; it does not move unless you keep chasing after it. The bureaucracy of Parliament has increased to such an extent that unless you chase up things, nothing moves. Yet in the 10th Parliament, things just moved as much as they should. Right now, apart from the delay before committees for prepublication scrutiny, there are also a lot of bureaucratic delays within the system. So, even as we try to speed up bringing these Bills to the House, we also need to relook at our bureaucracy. Have we built such a large bureaucracy that soon it is going to start stifling our functions? We need to see if we can breathe some life into our bureaucracy so that these Bills can move faster.

Otherwise, Hon. Temporary Deputy Speaker, I wish to support. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Angatia.

Hon. Ayub Angatia (Lugari, ANC): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to also contribute to the Motion on the resolution to publish specified individual Members' Bills. I beg to support this Motion because it will give new impetus to the House in terms of processing Private Members' Bills. You recognise that we have three arms of government: the Executive, Legislature and Judiciary. All the activities that have been happening in Parliament here, the individuals who have been elected as Members of Parliament have not been doing their work effectively because of so many hurdles that are put in place through these legislative procedures where Private Members' Bills are not given priority in terms of processing. I thank the HBC for having taken this good initiative to give us some teeth.

When legislating on Private Members' Bill, we put in some work. We have been elected to carry out the function of legislation and not to support the Executive blindly. The Executive has been lording it over us. The priority has been that when it is a money Bill originating from the Executive it is given priority. When it is a Private Member's Bill, so long as it is a money Bill, it faces so many hurdles. I remember in the 11th Parliament, I proposed a Bill on how to amend the country's Constitution. I went through a very lengthy and tiresome process through the Budget and Appropriations Committee because it was a money Bill. At the end of the process, the proposed Bill died before we could conclude the process because it came at the end when Parliament was collapsing.

This move should be supported by all Members en masse so that we can have powers on how to process our own individual Bills. You bring here a Bill on issues that concern your electorate in the village but when the Government brings a similar Bill it is given priority. Then why are we here? Are we representing the Government or are we just rubberstamping the work of the Executive? We must show that we are working for the people who elected us. To work for them, we must speed up the process of legislating Private Members' Bills. That is our priority. How can we check on the Government when we give priority to Executive-sponsored Bills? You are told this is a money Bill and the Government does not have money or it has to wait. These are the hurdles that have been put in place to frustrate this House. We are an independent institution. This is a very good move that has been made by the HBC to give us more teeth to legislate for the *mwananchi*.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, there being no further interest in this particular Motion, we shall get to the next business. The next time this is

scheduled, the mover shall have an opportunity to reply and then the Question shall be put. Next Order.

BILL

Second Reading

THE SPORTS (AMENDMENT) BILL

(Hon. A.B. Duale on 20.2.2019)

(Resumption of Debate interrupted on 20.2.2019 – Afternoon Sitting)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, this was there yesterday, if I remember very well. Twenty-four Members had spoken to it. Those Members shall not have a second stab; they had theirs yesterday. Save for Hon. James Nyikal, who did not get to the full part of his time. So, Hon. Nyikal, you have a balance of nine minutes. Therefore, you have the Floor.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to continue with the discussion on this Bill. As I indicated yesterday, this is a very important Bill but there is a very serious caution that I wanted and I still want to raise. It is a Bill that otherwise we would have liked to see through.

As Members were discussing this Bill, what came out was that most of them had the impression that this Bill is actually establishing or supporting the Sports Fund. But the reality is this Bill is actually deleting the Fund in the Sports Act. Clause 5 of this Bill says that the principal Act is amended by repealing Part III. The whole of Part III is what deals with the Sports Fund, from its establishment to its membership and its operations. To that extent, when this Bill is passed, there will be no Sports Fund in the Sports Act.

This Bill establishes a new fund which will be known as the Sports, Arts and Social Development Fund. It is not clear in the Bill whether that is what is going to replace what is in the Sports Act. It is indicated just as a very short statement in the memorandum that this Bill is aligning the Fund with the PFM Act through a regulation. There are two regulations that are indicated in the committee report with regard to this. One is Legal Notice 194 which was brought to this House in October last year, which the House declined to pass. There is a second one which was also brought, Legal Notice 236 of 2018. It is not clear from either the committee's report or from the Bill itself whether that legal notice is actually in force.

Even if we assume that that legal notice is in force, this Bill does not provide to the House opportunity to discuss that legal notice which will otherwise house the Fund which every Member seemed to have been supporting. So, we are in a situation where we are deleting a very major function but it is not clear in the Bill itself where that function is legally going to be housed. If you look at the committee report, you find that the committee implies that this function will now be under Legal Notice No. 194. But that cannot be because the House turned it down and therefore it seeks to amend that legal notice. We may need guidance on this because the Bill does not set before us the legal notice to be discussed. So, the Committee can only recommend. We, therefore, cannot pass a Bill which is conditional on a recommendation of a committee that the legal instrument on which that function is now going to be based will be

amended. So, I find that we are acting in a way that we may pass a Bill and realise the function does not exist in the Sports Act. We are not even sure, as we are passing it, where it is going to be housed. We may need to be guided on that.

However, let us assume that it is going to be housed in the legal notice, either Legal Notice No.194 or Legal Notice No. 236, whichever the case may be. The legal notices, particularly Legal Notice No.194 has its own major shortcomings and in my mind, I would not like to support that kind of housing for this function of the Sports Fund. To begin with, the membership of the board that is created in the Sports, Arts and Social Development Fund is actually five Permanent Secretaries and three independent members who are appointed by the same PSs. Basically, it will be them doing it. Again, it provides that the same PSs that are in the board are the same appointing those independent members. The appointment of the Chair of the board is by the President from the three persons that have been appointed by the PSs. Ordinarily, the President would appoint from the general public. So, eventually it becomes purely a Government instrument all through. Further, it indicates that the PSs that are in the board can have representatives and so we may have a situation where it is purely a Government body. The people who are there are all appointed by the same authority.

Hon. Members felt that this is a good thing and it is going to support sports, but it is very different. What is in the Sports Act is clear. The fund is to support sports. However, the legal notices, which I am not quite sure of their legality, are proposing that not more than 35 per cent of the funds will go to sports and not more than 60 per cent will go to health. I appreciate the Committee's efforts to say that those should be amended so that it is not less than that percentage. That is something that we cannot do in this debate because the instruments are not before us for discussion.

If we are not careful, we are going to pass a Bill that will either leave us with nothing in support of sports or will leave us with an instrument that is weaker than we would have liked. We can then only hope that after it has been passed we look at that relevant instrument to amend it so that it actually achieves what we intended.

All the Members I listened to were extremely happy that this Bill will support sports and will make money available in sports. However, even this instrument, how does it propose to make not more than 35 or 60 per cent be disbursed? It is not clear how that money will reach the sports docket. What it seems to be indicating is that organisations will then make an application to this body so as to get money. It is not clear and yet we know that there is a lot of money that we are expecting from betting. Not only that, after we passed the Finance Bill there are other monies that came through the Value Added Tax and charges on telephone that were expected to be here. We need guidance. When we pass this Bill and move the fund from the Sports Act, where is that new fund that is proposed going to be lodged legally? I would like that to be clarified when the Mover will be replying. If it is not made clear, I recommend that we do not pass this Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, Hon. (Dr.) Nyikal. Your time is up but clearly you have made your point. Shall I remind Hon. Members that if you spoke to the earlier Motion and you would like to speak on this one you will need to still register interest so that I can see you on the screen?

Next shall we have Hon. Wamuchomba.

Hon. (Ms.) Gathoni Wamuchomba (Kiambu CWR, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. Indeed, I have been waiting and I did not know

that my card was not recognised by the previous gadget that I was using. I had interest to contribute to get previous Motion. However, I do appreciate the opportunity you have given me.

I rise to argue a few issues that will allow me to give my opinion on this Bill. I am not supporting this Bill for the following reasons: I feel that the industry of sports in this country is so heavy that every young man and woman is yearning to be a sportspersons. Those that have done it in earlier years have fallen into a hole. This is because they do as they are expected, take our country into the shining realms internationally but they are managed by other people who handle their cases and exploit them. I was looking forward to a Bill that would create a special fund that would take care of the interests of the sportsmen and sportswomen when they have legal tussles and when they are chasing and following up on their investments. This Bill does not fill that gap.

When I talk of legal tussles, I mean there are some people who appoint managers to manage them locally and internationally. They locate opportunities for the sportsmen. Most of the time, especially for the cases that I am familiar with, they are not able to remit the money that they are supposed to be paying the sportspeople. So, when they are in the process of looking for remedies and recover whatever they invested, they are not in position to get legal support. I was looking at a Bill that would come up with a suggestion on the creation of a special fund that is going to be used to support the legal costs associated with such processes. Since I cannot find that kind of articulation in this Bill, I feel that I should not support it until I see what I am fronting inside the Bill. I do not support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Next is Hon. Angatia Savula the Hon. Member for Lugari.

Hon. Jonah Mwangi (Lari, JP): *Inaudible*

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mburu, if you were keen enough you would know that Hon. Savula spoke on the earlier Motion.

Hon. Ayub Angatia (Lugari, ANC): This is a different Motion. Thank you for the opportunity. Let the noisemaker continue making noise as we do our work.

Thank you, Hon. Temporary Deputy Speaker, for allowing me to contribute on the Sports (Amendment) Bill (National Assembly Bill No.25 of 2018). I have read this Bill entirely and I am satisfied with the contents. However, I only have one issue with it.

There is an area on investment of surplus funds on clause 30(2) which reads:

“(2) The Board of Trustee may place or deposit with such a bank or banks as it may determine any monies held in the account established under Section 29 that are immediately required for the purpose of administration of the Fund.”

I read a sinister motive in this area, you remember very well there was a directive from the National Treasury that any surplus funds from any Government institution should be deposited at the Central Bank of Kenya (CBK). Why should the board of trustee have same powers in diverting Government money to private banks?

This is an avenue for corruption. We should amend this Bill by removing this section so that any surplus funds should be banked at the CBK. This is because if you leave the board of trustee to determine where to bank, they will start rent-seeking activities and negotiating with banks on issues of interest rates. This will create live issues of corruption. Otherwise, creating this Fund will enable the sporting activities in Kenya to be promoted. They will have a stable financial banking which will ensure we tap talent from every section of this corner and ensure sporting activities become beneficial to the youth of this country.

Thank you, Hon. Temporary Deputy Speaker, I beg to support. The noisemaker can now continue.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mwangi Mburu, Member for Lari.

Hon. Jonah Mwangi (Lari, JP): Thank you, Hon. Temporary Deputy Speaker. I do not know how Hon. Savula has sneaked in. On the outset, I support the creation of the Fund but my main worry is how the money will trickle down to the sportspersons in the constituencies. Before, I go to my main concern, I wish Hon. Wamuchomba would support this Bill. She can bring an amendment during the Third Reading on how the people who swindle sportsmen and women can return their money.

On my side, there is a point saying that the board has a right to get into partnerships with various organisations. I will bring an amendment that the board ought to get into a partnership with the NG-CDF boards so that this money goes down to the constituency. We do not want a Fund that is only operated in Nairobi. We want one that is going to reach the people on the ground. Members of Parliament are the ones who represent people on the ground. So, I will bring an amendment saying that a certain percentage of the funds collected, maybe 20 per cent, the board of trustee should have a partnership with the NG-CDF Board. The MPs should have a take on how our sportsmen, women and children will get this money.

As you know, if this money goes the NG-CDF way, it will enable us to support sporting facilities, talent academies and schools. We will also select talented children from various schools and facilitate them to reach national levels. In as much as I support the Bill, I will therefore, bring an amendment so that this board can go into partnership with other boards like the NG-CDF Board. Through the Chief Executive Officer (CEO) they will set guidelines on how the money will trickle down to the constituency level.

Thank you, Hon. Temporary Deputy Speaker. I am concerned because you did not register my interest in the previous Bill. I do not know what I should do, because my machine was already showing I had interest. So, I did not contribute on the previous Motion and I do not know how I am supposed to address this.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mburu, what are you talking about? That is a passed agenda, you are taking us back. You must register interest and I must see it on the screen. Not from your end but mine. Hon. Ngugi.

Hon. Joseph Nduati (Gatanga, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to make my contribution. Before I contribute to the Bill, I would like to congratulate the substantive Speaker for being a great sportsman. I know you won a medal in Burundi during the East African games in the 800 and 1500 meters races. I also want to congratulate the Chair of the Departmental Committee on Sports, Culture and Tourism for having won in 200 meters and 4 by 100 meters races.

This shows that MPs if well-funded, some of us can win medals in the Olympic Games. I wish in future we are able to invest here. On the outset, I support this Bill because it has provided for a comprehensive approach to funding the sports sector in this country. It has indicated how proceeds arising from sports lotteries and betting will be used to fund games in this country. Therefore, it is high time we invested in this sector. We have seen most of our youths nowadays are just idle in the villages. If they were to be engaged in sports this would go a long way in assisting them to move away from drugs.

The other challenge we have in this country is that most of our young people, instead of supporting our local teams, support European teams. I remember when we were young, for some

of us who loved soccer we used to support AFC Leopards, Gor Mahia, GEMA FC and Luo Union. During that time we knew all the players. Today, if you ask some of our youths to mention any local player you will be very shocked because most of them do not know them yet, this is a multi-billion sector.

As you can see in the European leagues, a lot of money is invested there and players earn a lot of money. If we were to do the same here for our local youth, I know they can achieve much. If you go to Eastlands, where Nairobi City Council had invested a lot in sports you will see a lot of talent which should cascade to all the counties and constituencies. I am sure this would support our youth. In Parliament, some of us are great sportsmen but we are also facing challenges. I want to ask the leadership of this Parliament to buy a field somewhere, so that some of us can go to exercise. As you can see most of the Members here are very big and are suffering from lifestyle diseases. May be, this would be a great way of having... Hon. Nyikal!

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Ngugi! You cannot speak directly to another Member when you are on the Floor. You can only address him through the Chair.

Hon. Joseph Nduati (Gatanga, JP): Hon. Temporary Deputy Speaker, he is consulting loudly, I cannot concentrate. As a doctor, he knows that when he makes noise concentration goes down.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Nyikal, please consult in low tones. Please proceed.

Hon. Joseph Nduati (Gatanga, JP): Hon. Temporary Deputy Speaker, as I was saying, here in Parliament we need to invest seriously in sports because we cannot have a small stuffy gym. A place one cannot exercise properly, while we utilise a lot of Government funds. It is high time as Parliament we also invested in sports.

(Loud consultations)

Hon. Temporary Deputy Speaker, why are people making noise when I am contributing?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Ngugi, no Member has capacity to make noise. They do not make noise. They consult.

Hon. Joseph Nduati (Gatanga, JP): They should consult quietly.

I also wanted to talk about sports tourism. It has now become a high earning sector. We are seeing even ordinary Kenyans travelling to various places in this country. Some of them are even going to neighbouring countries where they are participating in sporting activities which are well funded. I want to request this country and the chairman to incorporate sports tourism so that we can diversify the products we have in this country. Let us not talk about animals. If we organise good marathons in this country, I know Kenyans can earn a lot of money.

This weekend, we have cross country championships in Eldoret and I have seen the way governors in the North Rift have organised that particular sport. They are ferrying people to the place where that cross country is going to take place. This is something which we can replicate in our constituencies. We do not have to bring foreigners to this country. Even with our own resources, if we engage in sports properly, I am sure we will also earn money.

I come from Gatanga where we are very well known for music. Last year, using little funds NG-CDF, we managed to organise talent shows ending up at Carnivore Restaurant and we were able to raise funds which are going to support our youth. So, I am saying with the right support and proper funding of our sports, this country can go far.

I end by saying that I support this Bill. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next is Hon. Lesuuda Naisula.

Hon. (Ms.) Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Temporary Deputy Speaker. I also rise to support this Bill. From the outset, I want to say that the import of this Bill is actually clear. It is just to align itself to the Public Finance Management (PFM) Act 2012 where we know that the National Sports Fund was passed and it was not in accordance with the PFM Act 2012.

Having said that, it is important for us as a House to insist that we have seen many funds being established. We have funds like the National Social Security Fund (NSSF) and National Hospital Insurance Fund (NHIF). In some ways, they are helping and doing what they are supposed to do. If in this Bill we are saying that we want to ensure that there is a comprehensive approach to financing the sports, arts and social sector in our country, then indeed it should serve that purpose. When you look at how the monies will be generated from the Exchequer, we can also see that taxes will be raised from betting, lotteries and even Short Message Service (SMS). You can imagine how many messages we send every other day out there. If the money that is going to be raised will also come from SMS, it means that this Fund will actually have a substantial amount of money. If that is the case, then we need to see that this Fund actually trickles down to the lowest level.

What one honourable Member has said is very important. We should see how we can partner even with the already existing institutions like NG-CDF, which also at the lowest level ensure that we have sports. Sometimes even in our constituencies, we see that the things that one would really want to do at the constituency level with the kind of allocation we have for sports, it would not be substantial.

With the high rate of unemployment we have many young people using their talents in terms of arts. We have people who are good in poetry, acting, music and they are not supported sufficiently to pursue their dreams. So, if this Fund will ensure that these issues are looked into, we will also deal with the issue of unemployment which is a big problem for us in our country.

Secondly, we have seen a number of times our athletes and footballers not being able to participate in major tournaments after they have put in a lot of effort, exercise and time. When the time comes for them to travel and participate, they are told that there are no funds. Sometimes when they travel, the conditions they live in are deplorable and it is a shame for us even as a country yet when they go out there, they bring pride to us as a country. So, I support the Bill but with a rider that the Committee which will be overseeing this Fund has to ensure that it actually serves the purpose that it is intended for. We hope that we will get to see more young people being involved in issues of sports up to the lowest level and even tapping the talent at the grassroots level. We cannot belabour the importance of ensuring that sports and arts are sufficiently funded in our country.

I support the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): I suppose Hon. Osotsi has not expressed interest to speak to this because he had spoken to it. Clearly you are registering interest to speak in the next Order. I can tell there is no further interest.

Hon. Anthony Oluoch (Mathare, ODM): I am here.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Member for Mathare, it is not reflecting from where I sit. It should. Well, you have the Floor.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Deputy Speaker. I state from the outset that I oppose this Bill. For a very long time, we have taken the youth, the

young people, of this country and sports generally for granted. In our Big Four Agenda, it has been expressed that we want to create so many manufacturing jobs for youth. How many and from where will these jobs come if we are taking a multi-billion shilling fund that was to essentially support the young people of this country to have gainful and serious employment and putting it in another ministry and sharing it with others across the country?

I will paraphrase this in Kiswahili: *Tunapaka vijana wa nchi hii mafuta kwa mgongo wa chupa*. I think it is not proper and I will suggest that in light of this very serious fund which generates close to Ksh28 billion in a year, if this was to remain under the PFM Act, and I oppose it remaining under the PFM Act, then this should be divided among all the 290 constituencies. If it was to be divided among the 290 constituencies, then there should be boards at the constituency level that manage this fund.

I also oppose based on the fact that this Jubilee Government in its manifesto stated that it would establish close to 100 stadiums. When we set up this fund and then take it to another ministry whose core responsibility is really fiscal and then say that we are going to allocate only a certain portion of that to sports, I think that is not being fair. As Members of Parliament, we need to be very watchful.

[The Temporary Deputy Speaker (Hon. Patrick Mariru) left the Chair]

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

Hon. Temporary Deputy Speaker, the third point that I need to make is that it is very bad precedent for us to set to allow the National Treasury, under the pretext that a PFM Act has been passed, to take over a fund already created for the benefit of another ministry and another section of population of this country. Once the Government tests these waters and discovers that it can take sports funds from the Sports Ministry, what would stop them from taking the NG-CDF from our constituencies under the Public Finance Management (PFM) Act to the National Treasury? What would stop them from taking funds from the National Government Affirmative Action Fund (NGAAF) and other funds established elsewhere to the PFM? Is this proper legislative practice? Is it sound legislative practice in terms of how our constitutional architecture has been set up?

In our constitutional setup, we set out to devolve power and resources from the centre. There should be less Government involvement in everything. That is the best Government practice worldwide. A system where the National Treasury disburses money, gives you its policy on how they will collect money to fund the budget and then come back and say that they want to manage those very funds under the pretext of PFM is wrong. We need to stop it because it will create a very bad precedent for this country.

Fourthly, in the Sports Act, having created the Sports Fund and saying that there would be money that we get from betting and lotteries going to develop sports, there was already a legitimate and rightful expectation from the young people of this country that they could have a Fund that is now singularly dedicated to the development of the youth. To now take this to the National Treasury and say that only a fraction of it will go to sports and another fraction to universal healthcare will amount to a clawback. In terms of good legislation-making, you cannot make law by clawing back advantages and things that have already accrued to people either in an Act or under the Constitution.

I also want to speak about the sharing formula and the arbitrariness that this will create. Dr. Nyikal had said that we have an instrument which is not before this House. That instrument purports to give the sharing revenue. Looking at other Acts of Parliament, for example the Political Parties Fund, it tells you clearly that there is a 0.3 per cent allocation. It then says that this is the formula on which that should be anchored. The very fact that a formula wants to be anchored in a subsidiary piece of legislation or instrument shows sheer mischievousness lends itself to arbitrariness and can be changed at will by the Government of the day.

I oppose this Bill. If we set this precedent, as Members of Parliament, prepare yourself for NG-CDF and NGAAF to go. Other funds outside of the PFM and created to be managed outside of the National Treasury will find themselves under this same predicament. I have signed a proposed amendment to delete the provisions of certain clauses in the amendment Bill so that we go back to the Sports Act. Let us find out how we can devolve monies that come through betting and lottery and any other source to the constituency level. Let the boards be created there. Let us help the Jubilee Government to create the 100 stadia they said they would. Let us give the youth their rightful share of the cake in this country.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, Member for Mathare, Hon. Oluoch. You said that you do not support the Bill. Your proposal to table amendments for deletions are in the procedures of the House at the right time during the Committee of the whole House Stage.

Hon. Members, there being no other request from a Member to speak to this Bill and guided by the procedures of the House, I, therefore, call upon the Mover to reply, the Hon. Member for Machakos Town Constituency.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you very much, Hon. Temporary Deputy Speaker. I take this opportunity to first of all, thank all the Members who made contributions which have enriched the debate. I promise and assure the Members that their sentiments are well-captured and the Committee will enrich the Bill with the contributions from the Members. A majority of the Members supported the amendments while some opposed. We still have an opportunity during the Committee of the whole House Stage to propose the necessary amendments.

Generally, most Members are very sensitive to issues touching on sports because 70 per cent of Kenyans are youth. Members are usually affected by the plight of the youth. From experience, sports have suffered from underfunding. The Exchequer has been the main source of support to the Ministry of Sports and Heritage. Even with many other ministries getting a lot of support, sports have been marginalised. For example, in the 2018/2019 Financial Year, even with all the stadia which are still under construction and have stalled, the Sports Ministry was only allocated Kshs250 million for development. It is in the interest of this House to support this new Fund which proposes to allocate up to 35 per cent to sports, 60 per cent to healthcare and 20 per cent to arts. This is better than the past. The Exchequer will still support sports and this Fund will boost what the Exchequer contributes to sports.

Some Members also expressed fears that when we say that “at most 35 per cent should go to sports”, that sentence alone can mean that even 1 per cent is a legal provision. Since the main competitor for this Fund is universal healthcare and the funds allocated to it are at most 60 per cent, then it means that at worst, there will be 40 per cent left for sports and arts even if healthcare gets 60 per cent.

The health sector is also needy. That is why the Committee recommended that we need to ensure that the 35 per cent allocation is targeted to sports. The National Treasury needs to

propose an amendment to the Regulations so as to change the wording of “not more than 35 per cent” to read “not less than 35 per cent”. I thank Members for their contributions and hope this amendment Bill passes and any necessary clean-up can be done during the Third Reading.

I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, Hon. Member for Machakos and the Chairperson of the Departmental Committee on Sports, Culture and Tourism. Guided by the procedures of the House in our Standing Orders, I am not in a position to put the Question to the Sports (Amendment) Bill (National Assembly Bill No.25 of 2018). I order that the Question to this Bill be put at the right time as it may be slotted in our Order Paper.

(Putting of the Question deferred)

Let us move to the next Order.

MOTIONS

REPORT ON BILLS FROM THE EAST AFRICAN LEGISLATIVE ASSEMBLY

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Chairperson, Committee on Regional Integration.

Hon. (Ms.) Naisula Lesuuda (Samburu West, KANU): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 212A(4), this House notes the Report of the Committee on Regional Integration on the East African Community Customs Management (Amendment)(No. 2) Bill, 2018 and the Administration of the East African Legislative Assembly (Amendment) Bill, 2018, laid on the Table of the House on Tuesday, 27th November 2018.

The consideration of these two Bills is quite straightforward. The object of the first Bill is to amend Section 24(1) of the East African Community (EAC) Customs Management Act to require a master or agent of a vessel to provide proper officer advance information relating to goods carried by the vessel before departure from the last port of call. The original provision was that the customs officer would make a report on information relating to the goods which are carried by a vessel at any port or any other place allowed by the customs officer. This Bill says that the officers need to report the goods that are being carried to any country from the last port of call. It is important to allow custom administration to receive advance information regarding goods which are being moved across national borders, ahead of arrival of the vessel carrying the goods. This Bill seeks to facilitate the ability of customs administrations to detect high risk consignments. We know that we have a lot of issues with counterfeits and terrorism. Before the arrival of the vessel that is carrying the goods, it is important to enable the customs administration to take appropriate action on such consignments and to distinguish between high risk goods from those that are not.

In conclusion on this Bill because it is straightforward, the Committee observed that it is currently not possible to detect the consignments and vessels which have opened the market to the counterfeit goods on the way leading to flooding of markets with counterfeits. This Bill is

timely. It allows customs officers to know the goods that are being carried to a particular nation and where necessary, reject them even before they depart from their port of last call. By the time the goods leave a place, they might be taken to a particular country. When the goods which are being brought to a nation are reported before they leave the port, by the time they get to the country that the goods are supposed to go, the customs officer can verify whether the goods that were intended to go to a particular nation are the ones that have come and if not, they can be rejected.

The second Bill is the Administration of the EALA (Amendment) Bill, 2018. The object of the Bill is to amend the Administration of the EALA Act, 2012 to make it wholly responsible for its administrative and financial affairs. This means that EALA will have Public Accounts Committee (PAC) in Parliament, so that they control their finances and administrative affairs. When we considered this Bill and the report that we received from EALA, it contravenes the Treaty for the establishment of the East African Community (EAC) in Article 48(4). The Treaty supersedes any other amendment that is brought before the House. The Treaty provides that the Council shall appoint a Clerk of the Assembly and other officers. Generally, the Treaty gives the Council the power to run the administration and finances. It gives the Council the power to appoint the Clerk of the EALA and other officers whose salaries and other terms and conditions of service are determined by the Council.

What was also forwarded to the Committee is that there were still clarifications that needed to be done on how the EALA can go about it to see that they get the full autonomy to run the Assembly. That is why the Committee noted that the Bill was ambiguous and not straightforward in terms of the legality of the Bill being passed. The observations of the Committee on the two Bills are that the Committee approves the proposed amendment to the EAC Customs Management (Amendment) Bill, 2018 as it will improve the ability of the customs administration in detecting high risk consignment ahead of the arrival of the carrier vessels. It will also allow the administration to take appropriate action on such consignments and expedite clearance of legitimate cargo that goes to a certain country.

The Committee supports the Council's decision to suspend the Administration of the EALA (Amendment) Bill, 2018, pending clarification on the conditionality of the financial and administration autonomy for both the EALA and the East African Court of Justice in compliance with the Treaty, and the Council of Ministers' decision on the matter.

I call on Hon. Ruweida, the Vice Chairperson of the Committee, to second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Ruweida. This is a very important Committee chaired by a lady Member and the Vice Chairperson is also a lady.

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Asante, Mhe. Naibu Spika wa Muda. Nataka kuunga mkono. Tukiunga Hoja hii mkono, itatusaidia pakubwa. Tunajua mambo ya usalama vile iko na vile Wakenya wameathirika. Hapa hatuna haja ya kubahatisha. Ni muhimu tunge mkono Hoja hii. Hili jambo litatupatia hakikisho ya usalama wetu na bidhaa zinazopita Kenya kwenda nchi zetu jirani.

Pia, itafanya kazi iwe rahisi kwa wale maofisa na hata wale wenye mizigo. Wakitaka kujua mizigo yao iko wapi, itakuwa ni rahisi kujua iko mahali fulani. Itasaidia pia kwa kupunguza muda wa usafiri. Itakuwa mambo ni haraka na rahisi. Siku hizi ni lazima tung'ang'ane na wakati. Kwa hivyo, biashara itachukua muda mdogo ambao utaleta biashara nyingi zaidi. Hoja hii italeta uwiano baina ya nchi hizi zetu za Afrika Mashariki.

Naunga mkono sana Hoja hii. Naomba Waheshimiwa waiunge mkono. Asante.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The first Member to get the Floor is Hon. Godfrey Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this very important Motion. This is a Motion on two Bills from the East African Legislative Assembly (EALA): the East African Community Custom Management (Amendment) (No.2) Bill, 2018 and the Administration of the East African Legislative Assembly (Amendment) Bill, 2018.

I listened to the Chair of the Committee make a presentation. It is clear that the amendment to the East African Community Custom Management Bill is very important because these are some of the legislations that will facilitate the East African Community to become a functional custom union. One of the things it seeks to deal with is counterfeit goods. This is a major problem here in Kenya. We have a lot of counterfeit goods all over. Even countries in the region have raised concerns about this problem that is now getting into their countries. So, this particular legislation will help in managing the problem.

Secondly, on detection of high-risk consignments, it is important for us to have this kind of legislation in this era of terrorism where weapons have been transported through our ports. It is important to have the capability and the legal framework that will help us to deal with the challenge.

On the second Bill on the administration of the EALA, the Chair said that this Bill contravenes the East African Community Treaty. What is not clear is what happens if a Bill done by EALA contravenes the East African Community Treaty. What are parliaments of the member states supposed to do? Does it therefore become law? For example, once we pass this Motion, what happens to this Bill that contravenes the Treaty? It is important for EALA Members to be responsible for their financial and administrative affairs just like here in Parliament where we need to have our own substantive Parliamentary Service Bill. Other people think that by having the Bill, we are going to increase our salaries. It is law. This is the only independent commission that does not have a piece of legislation to support it. Those peddling rumours out there that we have come up with a law to increase our salaries, it is important they take time to read the Bill to understand its provisions. They should also know that all independent commissions have relevant Acts of Parliament that support their operations. So, it is important for the Parliamentary Service Commission to have a legislation to support its operations. If EALA can have a law or attempt to create a law to deal with its financial and administrative affairs, then it is necessary for our Parliament to have a law to support its administrative affairs.

I support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Kaiti, Hon. Joshua Kimilu you have the Floor.

Hon. Joshua Kivinda (Kaiti, WDM-K): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this important Motion. This is a very important Motion that has come at the right time. I support this Report from EALA because I know it is very important as it will improve the economies of our countries. The times we are living in are full of insecurity. It is important for us to support this Motion. If we support the unity of East African countries, it will boost security in our country.

Socially, it is important when we come together as East African counties because that will attract investors from other parts of the world.

We have to look at the fundamental issues in the two Bills and make necessary adjustments, especially where the East African countries are concerned.

I support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The next one on my request list is the Member for Machakos Town, Hon. Munyaka Kioko.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you very much, Hon. Temporary Deputy Speaker. At the outset, I congratulate the Chair of this Committee and its Members for the good work they have done. Legislation that is going on in EALA is very important.

The East African Community had existed at one time but became defunct. Now the new EALA and the Community is going to be strengthened by making proper laws. I believe this is going to enhance the customs union and the common market and drive towards achievement of a common currency. The people of East Africa cross over to member states on a daily basis. They do business and interact.

I thank the Committee and support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, this is a straightforward Report. There being no request from any other Member to contribute to the Motion and guided again by the Standing Orders, I call upon the Mover to reply.

Hon. (Ms.) Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Temporary Deputy Speaker and all the Members who have contributed to this Report on the two amendment Bills.

As a Committee, we deliberated and saw it important for EALA to have autonomy as an Assembly so that they have their own administration and be in charge of their finances. It is a technical issue and I am sure when the Council and EALA itself will discuss the matter, they will consider amending the structure of the Treaty and how it currently operates. It is something that will definitely be supported by this House given the sentiments from Members.

Thank you very much Hon. Temporary Deputy Speaker. I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, guided by the procedures of the House and the Standing Orders, I will not put the Question to the Motion. I order that the Question to this Motion be put at the right time as it will be slotted in our Order Paper.

(Putting of the Question deferred)

Next Order.

REPORT ON AUDITED FINANCIAL STATEMENTS
FOR CONSTITUENCIES IN KISUMU COUNTY

THAT, this House adopts the Third Report of the Special Funds Accounts Committee on Audited Financial Statements for the National Government Constituencies Development Fund for Constituencies in Kisumu County for the Financial Years 2013/14, 2014/15 and 2015/16, laid on the Table of the House on Wednesday, 28TH November 2018.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Chairperson is not in the House. I am sure he is still consulting on the same. I guide that the Motion be stood down.

(Motion deferred)

Next Order.

BILLS

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party is not in the House to move Second Reading. I direct that the Bill be stood down.

(Bill deferred)

Next Order.

Second Reading

THE OFFICE OF THE COUNTY ATTORNEY BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I cannot see the Chairperson, Departmental Committee on Justice and Legal Affairs. I therefore direct that Order No.13 be stood down.

(Bill deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, there being no other business in our today's Order Paper and, the time being 6.42 p.m., this House stands adjourned until Tuesday, 26th February 2019, at 2.30 p.m.

The House rose at 6.42 p.m.