

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 3rd March, 2015

The House met at 2.30 p.m.

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

PRAYERS

MESSAGES

Hon. Speaker: Order, hon. Members!

(An hon. Member consulted loudly)

This hon. Member, you came in so long ago and instead of taking a seat you decided to talk to people. I may not quite remember your name; maybe you contribute better there.

Hon. Members, I have two Messages. One is a Message from the President on the nomination for appointment as ambassador to Somalia and the other one is from the Senate.

NOMINATION OF MAJOR-GEN. LUCAS K. TUMBO AS AMBASSADOR TO SOMALIA.

Pursuant to Standing Order No. 42, I wish to convey the following Message from His Excellency the President. The Message was submitted by way of a letter dated 23rd February, 2015, addressed to me for submission to the House. In the Message, His Excellency the President conveys that, in exercise of powers conferred on him by Article 132(2)(e) of the Constitution of Kenya, he nominates Major-Gen Lucas K. Tumbo for appointment as Ambassador to Somalia.

Hon. Members, Article 132(2)(e) of the Constitution of Kenya 2010 provides that:

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“The President shall nominate and, with the approval of the National Assembly, appoint and may dismiss (e) high commissioners, ambassadors and diplomatic and consular representatives.”

His Excellency the President, therefore, seeks the approval of this House on the nominee for appointment to the aforementioned position.

Hon. Members, Standing Order No. 45 requires that upon receipt of notification of nomination for appointments, such nomination shall stand committed to the relevant Departmental Committee of the House for consideration. Pursuant to the provisions of the said Standing Order, therefore, I hereby refer this Message, including the curriculum vitae (CV) of the nominee, to the Departmental Committee on Defence and Foreign

Relations to undertake the necessary approval hearings. The Committee should submit its report to the House on or before Tuesday, 17th March, 2015.

Thank you.

(Several hon. Members walked into the Chamber)

Hon. Members walking in can make their way in quickly.

(Several hon. Members shook hands)

Hon. Members, including the one who wants to shake everybody's hands, you remain upstanding since you did not want to sit down

CONCURRENCE ON AMENDMENTS SOUGHT BY SENATE

Hon. Members, this is a Message from the Senate.

Standing Order No. 41 relating to Messages from the Senate requires the Speaker to expeditiously report to the House any Messages received from the Senate. In this regard, I wish to report that on Wednesday 25th February, 2014, in accordance with Article 110 (4) of the Constitution, I received two Messages from the Senate regarding the passage of the following two National Assembly Bills:-

(1) The Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013); and,

(2) The Statute Law (Miscellaneous Amendments) Bill No. 2 (National Assembly Bill No. 33 of 2013).

These Bills were referred to the Senate after passage by this House on 19th June, 2014 and 23rd July, 2014 respectively. The Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013), and the Statute Law (Miscellaneous Amendments) No.2 Bill (National Assembly Bill No. 33 of 2013) were passed with amendments by the Senate on Tuesday, 17th February, 2015. The Senate now seeks the concurrence of the National Assembly to the amendments made to the two Bills.

Hon. Members, I am aware that the Clerk has since circulated these amendments to all hon. Members in accordance with Standing Order No. 145. In this regard, the Senate amendments to the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013) will now stand committed to the Departmental Committee on Agriculture, Livestock and Cooperatives, while the amendments to the Statute Law (Miscellaneous Amendments) Bill No.2 (National Assembly Bill No. 33 of 2013) are committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committees are expected to submit their respective reports to the House within 21 days from the date hereof to enable the House Business Committee (HBC) to prioritize their consideration.

Hon. Members, I wish to remind you that the National Assembly will only consider the amendments made by the Senate to the two Bills and not any other parts of the Bills. I will guide you further on the procedure to be followed during the debate when the HBC prioritizes these Bills for consideration.

I thank you.

PETITION

PRIVATISATION OF MUHORONI SUGAR COMPANY LIMITED

Hon. Speaker: Hon. Justice Kemei

Hon. Kemei: Thank you, hon. Speaker.

I wish to present a Petition on behalf of the residents of Sigowet/Soin Constituency on privatisation of Muhoroni Sugar Company Limited in receivership.

I, the undersigned, on behalf of the residents of Sigowet/Soin Constituency in Kericho County, draw the attention of the House to the following:-

1. THAT, Muhoroni Sugar Company Limited, under receivership, was incorporated as East Africa Sugar Industries Limited on 18th October, 1961 as company number C8/61 to manufacture sugar and engage in other farming business;
2. THAT, the company, which was renamed “Muhoroni Sugar Company” on 21st August, 1991, lies on approximately 2,264.47 hectares of land that was acquired from locals, including residents of Sigowet/Soin Constituency in Kericho County;
3. THAT, two parcels of land, numbers 3977 and 3978/2 are situated in Sigowet/Soin Constituency in Kericho County;
4. THAT, currently, approximately 979.72 hectares out of the above parcels are under cane, an estimated 181.2 hectares has informal settlements occupied by squatters and the rest is fallow;
5. THAT, the company’s financial prospects gradually dwindled prompting creditors, including the former Kenya Sugar Board (KSB), to put the company under receivership in 2001 to offset its debts;
6. THAT, the Government, through Agricultural Development Corporation (ADC) owns 74.2 per cent equivalent to 2,067,096 shares in the nominal share capital of the company;
7. THAT, the company is among the Government-owned sugar mills set for privatisation which will result in the transfer of its assets, including land, to private ownership;
8. THAT, the planned privatisation of the company may result in transfer of the land’s utility to uses unlikely to be concomitant to the wishes of the residents;
9. NOTING that this may not safeguard the land rights of the residents who risk permanent loss of their land and its utility for intended purposes;
10. THAT, privatising the company without safeguarding rights of residents could be tantamount to the Government’s abdicating its duty to protect the rights of the residents of Sigowet/Soin to their ancestral land; and,
- (11) THAT, the inalienable right of the people of Sigowet/Soin to the intended benefits of establishing the mill in the area can only be protected when the said pieces of land revert to the Government to hold in trust on their behalf;

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Finance, Planning and Trade:-

(a) intervenes to have land parcels 3977 and 3978/2 revert to the Government and be held in trust for residents of Sigowet/Soin Constituency;

(b) urges the Privatisation Commission to ensure sustainable transfer of ownership of Muhoroni Sugar Company under receivership in a formula that will safeguard the interests of the residents;

(c) resolves that the Government formalizes settlements, or the section of land parcel Number 3977, which is at present occupied by squatters and informal settlers, be set aside for them during the process of privatisation.

THAT, to the best of my knowledge, there is no pending case before any court of law in respect to this matter, and your petitioners will ever pray.

It is presented by hon. Justice Kemei, Member for Sigowet/Soin Constituency.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Members, I think it is fair that---

(An hon. Member stood up in his place)

Now this Member for Igembe--- Is it North? Surely, it just shows you do not care about what is happening in the House!

Let me, for avoidance of doubt, so that we do not have to remind hon. Members, look at your own Standing Order No.104. It reads as follows:-

“Except when passing to and from his or her seat or when speaking, every hon. Member, when in the Chamber, shall be seated and shall not at any time stand in any of the passages and gangways.”

This is addressing those Members who have a habit, when making their way in, of thinking that is the time to go greeting others. You have just come from a weekend. I am sure you have greeted your constituents. Please, and this is going to be administered strictly--- Your leadership over the weekend met and agreed that the Standing Orders be implemented strictly.

(Applause)

So, if you have intentions of going to say “hi” to your colleague, please just make your way to where the colleague is seated, so that people can follow what other hon. Members are saying. I am saying this because the Petition being read out by Hon. Justice Kemei has a bearing on some business that is before the House.

I wish to remind the House and the Chairpersons of committees about Petitions. Committees should not assume that when Petitions are committed to them, they are not there forever. Standing Order No. 227(2) reads as follows, for avoidance of doubt:-

“Whenever a Petition is committed to a Departmental Committee, the Committee shall, in not more than sixty calendar days from the time of reading of the prayer, respond to the Petitioner by way of a report addressed to the Petitioner or Petitioners and laid on the Table of the House and no debate on or in relation to the report shall be allowed, but

the Speaker may, in exceptional circumstances, allow comments or observations in relation to the Petitions for not more than twenty minutes.”

Hon. Members, chairpersons of Committees, if for one reason or another you are unable to conclude consideration of a Petition within the 60 calendar days, you must come to the House here and give reasons why you have not been able to, so that the House can extend the time within which to consider a Petition. Otherwise, we have made this clear in our Standing Orders. We owe it to the Petitioners that we must give them a response, or a report. It is not something to debate. It is just to give a response to the Petitioners through a report which will be tabled here.

Indeed, if you go to Standing Order No.223 (d), it says that within 15 days, the Clerk should communicate that report to the petitioner or petitioners as the case may be. So, Chairmen of Committees, those who have petitions which were committed to you in 2013, I do not know what it is that you are going to tell your colleagues in the House. This is because, clearly, one year and beyond is in violation of the Standing Orders. Be accordingly informed. I thank you.

The Petition as prayed by hon. Justice Kemei is referred to the Departmental Committee on Finance, Planning and Trade. I have considered it--- Notwithstanding the report which we are debating, hon. Justice Kemei’s petitioners have raised some fundamental issues which could very well be responded to by the Departmental Committee on Finance, Planning and Trade.

Hon. Members, if you rise claiming to be on a point of order, let me know the Standing Order under which you are standing. Otherwise, Standing Orders are going to be implemented strictly. Do I hear that hon. (Eng.) Gumbo wants to give it the first shot?

Hon. (Eng.) Gumbo: Hon. Speaker, I just wanted to follow up on the Petition by hon. Justice Kemei. Let me start by thanking you very much for the direction you have given with regard to petitions. This is because the truth of the matter is that petitions have become rituals in this House. Indeed, it is true that when members of the public petition the House, it is for a particular reason.

Turning to the Petition by hon. Kemei, my request to the Departmental Committee on Finance, Planning and Trade is that this matter does not just affect Muhoroni Sugar Company only. I am aware that we are already having a debate which touches on this matter. This is a matter that will affect even other entities like SONY Sugar Company and Chemelil Sugar Company. So, hon. Speaker, I will be glad that when finally they delve into this matter--- It is true that as we privatise we need to understand that part of the land belongs to the community, or it used to belong to the community. If this matter is not handled properly, it could very well be a source of conflict, which can be avoided if we handle the Petition by the hon. Justice Kemei in a proper manner. I thank you, hon. Speaker.

Hon. Speaker: Hon. Jamleck Kamau.

Hon. Kamau: Thank you, hon. Speaker. I want to thank you for your ruling on points of order in this House; it is important.

I rise under Standing Order No. 227(2), which you have just gone through. It is on the issue of committal of petitions with respect to the 60 days within which a response to a petition must come before the House. My Committee is in receipt of a petition from hon. Oner, which we wanted to table before the House by the end of this week. However,

in our meeting today, hon. Oner, the Petitioner, came and asked for more time in order to get more evidence. He requested two more weeks. The Committee, in its wisdom, allowed him the two weeks. Therefore, we are also asking for an extension of time so that we can comply with the Standing Orders.

Hon. Speaker: Who is the Petitioner? Is it hon. Oner? He petitioned without sufficient material. It is like amending pleadings.

(Hon. Oner stood in his place)

Hon. Oner, there is no reason for you to be upstanding. You are causing the Committee to violate the Standing Order. What reasons has hon. Oner given? It is the House that is supposed to give leave. So, are you seeking leave to submit your report after three weeks? Hon. Members should be encouraged that whenever they present petitions, they need to have full facts. Hon. Oner, I do not need to give you audience. If you have already explained your reasons to the Committee, there is no point of explaining them here now. Three weeks is the period within which the report on this Petition should be submitted.

Hon. Eseli.

Hon. (Dr.) Simiyu: Thank you, hon. Speaker. I stand on the same Standing Order No.227 regarding petitions, and where it says that the Speaker might allow a few of us to comment on petitions. What hon. Kemei did is very commendable. In fact, that Petition can help solve the problem in very many other sugar companies, especially Nzoia. When the debate will come on the Floor, hopefully later on in the day, I intend to move an amendment which will satisfy part of the Petitioner's wishes, if the House accepts my amendment.

Hon. Speaker, what hon. Kemei has done, or what the people who have petitioned through hon. Kemei have done is very sensitive, because it touches on the very sensitive issue of land in this country. It needs to be handled carefully and properly, so that no Kenyan feels disinherited in the process of development of Kenya.

Hon. Speaker: Hon. Eseli, you have purported to assume that it is exceptional and that the Speaker has allowed comments for 20 minutes, which I have not. However, you are at liberty, of course, to move an amendment to the other business that is before the House. I remember saying that it is connected. It will be appropriate that you move in that direction.

Are there still points of order? Yes, what is your point of order?

Hon. Njuki: Thank you, hon. Speaker, I stand on the same Standing Order No.227(1). First, I want to thank you because you have come back from Mombasa with a lot of vigour. I want to tell you that your name in this country was getting tainted. This is because Standing Order No.227 stipulates very clearly that 60 days is the mandatory period within which we have to get an answer to a petitioner. Members of Parliament do not bring petitions to Parliament on their own behalf; they do it on behalf of people who are out there. I want to draw your attention to the reason why you were getting a bad name.

Apart from what the Standing Orders say, we have on the website of National Assembly and the Senate, a petition tracker which is open to the public, and which you

can actually log in and check. The petition tracker normally tracks the position of the petition everyday. When the Standing Order says 60 days and then after 120 days, 150 days or 180 days, the petition is still pending, this does not give us a very good name.

Hon. Speaker, it has become like a public relations exercise because in committees, there are some petitions that will be taken seriously and others will be treated as if they never existed, simply because, maybe, one does not relate well with the chairman of the committee. Hon. Speaker, 180 days ago, I brought a petition to this House on behalf of the people of Chuka/ Igambang'ombe Constituency in connection with bumps that were supposed to be placed on a certain road. The petition was committed to the Departmental Committee on Transport, Public Works and Housing. In the same area, bumps were erected at different locations and members of the public wanted to know what was directed by Parliament. They are wondering what happened to the petition that was taken to Parliament. It is interesting that if a Land Rover belonging to a District Commissioner gets hit in a certain location, bumps are erected in that place immediately.

Hon. Speaker: Where is the Chairman of the Committee? You do not have to debate. All you need is to raise your complaint that your petition, which was referred to that Committee, has not been dealt with. The Chairman of the Departmental Committee on Transport, Public Works and Housing, hon. Kamanda and hon. (Eng.) Mohamud, I direct that a letter be issued by the Clerk to the Chairman of that Committee, so that he explains why he is in breach of Standing Order No.227(2). He also needs to show cause why the petition should not be removed from his Committee and referred to a more active committee.

If you are treating your colleagues that way, how then do you treat petitions from the members of the public? Members of that Committee, you are not the Chairman, are you? Some of you just want to be seen to have said something. I am not in the group that is marking people who shout or say that or the other. You are not the chairperson. The spokesperson of a committee is the Chair, and in his or her absence, the vice-chair. The rest of you are Members. Please, just occupy your place and space; be Members. When you are given the leadership position of the Chair or vice-chair, then you will be speaking quite regularly here or even addressing the media in your capacity as spokesperson or vice-spokesperson. For now, merely because you belong to a committee is not reason for you to say that you want to respond on behalf of that committee.

We have directed what should happen. That is the route that we are going to take and not to hear other Members. All of you who have placed your requests, it must be a point of order. If it is not a point of order, you will be out of order and you will face the wrath of the Chair.

Hon. Serut.

Hon. Serut: On a point of order, hon. Speaker. If you have heard that Petition by hon. Kemei, and looking at the business which we are about to transact as Order No.8, I am seeking your guidance as to what will happen to that Petition in case the business appearing as Order No.8 sails through.

Hon. Speaker: I am aware that the Petition has a bearing on the business appearing as Order No.8. But hon. Kemei is at liberty to raise the issues that he has raised by way of a petition. This Report was not compiled taking into account the views that

hon. Kemei's Petition has raised. As you have heard, hon. Eseli proposes that he may be introducing some amendments to the Report although he has not showed me what amendments he wishes to propose with regard to that Motion for the privatisation of the various sugar companies. Nevertheless, hon. Kemei is still within his powers and rights to bring in that Petition. This Order does not specifically address the issues that he has raised.

Hon. Eseli wishes to broaden the contents of the recommendations of the Report. Perhaps, we can see whether the Petition will still be necessary. The Committee can still come up and say that the issues you raised were considered in the Report adopted by the House on this date. That is still a report and that fact will be made to the Petitioners.

Hon. (Dr.) Pukose: Thank you, hon. Speaker. I am rising under Standing Order No.227 on the issue of the number of days in which the Committee---

(Hon. Kamanda stood up in the gangway)

Hon. Speaker: Hon. Kamanda, you are not in Starehe. You are in the House. I have just communicated Standing Order No.104 that Members should not stand in the passages and gangways. If you come in, please, take your seat. We will give you a chance to respond because we have just dealt with your matter.

Hon. (Dr.) Pukose: Hon. Speaker, we talked about the issue of giving them to a maximum of 60 days. This is a very important Petition, which hon. Justice Kemei has raised. Last year before we went on recess, I also and my fellow Members from Trans Nzoia raised a very important Petition pertaining to the hospital which had been irregularly purchased. The Committee invited me to appear before it, which I did more than 120 days ago and presented the issues that were touching on that. The same Committee has been tasked with this important Petition without having even presented a report on the Petition that I raised on the Floor of this House. I need your guidance on that, because if they have not presented a report within a period of more than 120 days---

Hon. Speaker: Which Committee?

Hon. (Dr.) Pukose: Committee on Finance, Planning and Trade.

Hon. Speaker: That is enough. There is nothing to debate. Where is the Chairperson or the Vice-Chairperson of the Committee on Finance, Planning and Trade? They are absent. The Clerk's Office will write to the Chairperson of the Committee to come to the House and give reasons why he is in breach of Standing Order No.227(2).

Hon. Oyugi: Thank you, hon. Speaker. I also rise on the same Standing Order No.227. It is with regard to a Petition that stood committed to the Lands Committee last August. It was to do with title deeds in the Mau Forest. The Lands Committee went on a trip to the Mau Forest and they were supposed to have given a report on the same. I would like to ask the Committee when the report is going to be presented to the House.

Hon. Speaker: How long ago?

Hon. Oyugi: It was in August last year. That is about 200 days ago.

Hon. Speaker: Chairperson of the Lands Committee, you have presented many reports, how come you have overlooked this one from hon. Neto? Use hon. Were's microphone

Hon. Mwiru: Thank you, hon. Speaker for allowing me to use my neighbour's microphone. I may have misplaced my card. If the Member had been patient enough, I would have laid a Paper in the next moment since it is here. It is ready. The Committee is on top of things.

Hon. Kang'ata: Thank you, hon. Speaker. I rise pursuant to Standing Order No.227. I have two Petitions, which are yet to be replied to. The first one relates to roads in Kiharu Constituency which was committed to the Committee on Transport, Public Works and Housing about three months ago.

The second one is on Kenneth Stanley Njindo Matiba; we petitioned to, among other things, have Murang'a University renamed after him. It was also committed to a committee more than three months ago to the Justice and Legal Affairs Committee. I seek your direction.

Hon. Speaker: Which is the second one?

Hon. Kang'ata: The Justice and Legal Affairs Committee.

Hon. Speaker: Do I see hon. Chepkong'a or the Vice-Chairperson, hon. Nyokabi?

Hon. Members: Hon. Chepkong'a is here.

Hon. Speaker: He is sitting on a very unusual seat. Where is he? Hon. Chepkong'a, Standing Order No.227, as you very well know, and you have sought extension in the past, requires that you submit your report within 60 calendar days. It is alleged that you have sat on a petition for more than 90 days without seeking extension of the period within which you should submit the report. This is from hon. Irungu Kang'ata. Do you have any explanation, hon. Chepkong'a?

Hon. Chepkong'a: Thank you, hon. Speaker. As you know, hon. Irungu Kang'ata is a Member of our Committee. It is just that he is part of the indolence in the Committee. He has been negotiating with the Committee as to when we can do the hearing of his petition, but because he has not been around, we have been pushing it forward. We realised that so much time has passed. I undertake to ensure that it is brought before the House in the next two weeks.

I thank you.

Hon. Speaker: When is the Report to be submitted?

Hon. Chepkong'a: In two weeks' time, hon. Speaker.

Hon. Speaker: Two weeks from now?

Hon. Chepkong'a: Yes, hon. Speaker.

Hon. Speaker: It is important that the Clerk's Office notes that undertaking, so that as hon. Muthomi Njuki said, Members wishing to follow in the petitions tracker can know that the Report will be tabled two weeks from today.

Hon. Maina Kamanda, regarding the petition that was directed to the Transport, Public Works and Housing, Standing Order No. 227(2) (2), says;

“Whenever a petition is committed to a Departmental Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the House---”

Hon. Irungu Kang'ata says that he has a petition that was directed to your Committee, which has taken more than three months. There was another one in respect of

which it was alleged that you had taken over six months. You are in breach of that Standing Order. Those of us who attended the leadership retreat agreed that Chairs of Committees who become indolent should face the full wrath of the House. What is your response?

Hon. Kamanda: Thank you, hon. Speaker.

If there is any Member who is not supposed to accuse me in this House it is my friend, the Member for Chuka. He knows very well how hard I have tried to solve most of his problems. This morning, he kept my Committee waiting for three hours for his petition to be heard.

The Clerk of the Committee kept on calling him, and he kept on promising that he would be at the Committee meeting within 10 minutes. It is very unfair, when you know very well that you are the cause of the problem, to come here and accuse the Committee. That is not fair. However, we deferred this matter because of his failure to turn up; because of the respect I have for him, to Thursday. We want to clear all the petitions on Thursday. Hon. Kang'ata should come to the Committee meeting on that day. Everybody was invited. Maybe, he attended other meetings in the morning. We are inviting him to come to our meeting on Thursday, so that we can clear all the petitions. For those who have petitions pending in Transport, Public Works and Housing Committee, if you have not been invited, I am inviting you, as the Chairman. Please, come to our meeting on Thursday, so that we can clear all those petitions.

We have also been having a lot of problems from the Ministry officials. Sometimes when we ask them to respond to petitions, they do not respond. However, that is a matter we will take up with you, hon. Speaker. We intend to clear all our pending petitions on Thursday.

Hon. Njuki: On a point of order, hon. Speaker.

Hon. Speaker: Hon. Njuki, there is no point of order, given that the Committee waited for you in vain. I know that sometimes hon. Members would want to get what are called out there “*bonga points*” but this is not the right way to get them.

(Laughter)

An hon. Member: Hon. Speaker, I also have a similar challenge.

Hon. Speaker: It is this other Member we want to hear from. Just say whether you will be available on Thursday.

Hon. Njuki: Hon. Speaker, I just want to clear my name.

Hon. Speaker: Clear what? Will you be available on Thursday?

Hon. Njuki: Hon. Speaker, it is not proper. First, I want to confirm that hon. Kamanda is my very good friend. He actually helped me to get the---

Hon. Speaker: Hon. Njuki, I am going to shut you off! Do not give stories. This is not business.

Hon. Njuki: Hon. Speaker, there is a big difference between ‘communication’ and ‘effective communication’. I want to put it on record today---

Hon. Speaker: Hon. Njuki, the message has now been effectively communicated to you.

Hon. Njuki: Hon. Speaker, I have not received any call from either a Committee Clerk or hon. Kamanda or any written notice requiring me to appear before the Committee. The whole morning I have been sitting at the Committee on Energy and at the Public Investments Committee (PIC). I have not received any communication. It is, therefore, important that you rule on how Committee Chairs should communicate to Members in order to avoid a situation where a Chair brings to the House an allegation that he has communicated to me when he has not. It is not in order. Let him explain how he, or the Committee clerk, communicated to me. I would have been the first person to appear at the Committee since I have been awaiting the hearing of my petition.

Hon. Speaker: All invitations to hon. Members to appear before Committees should be done through the Office of the Clerk. However, hon. Kamanda has taken the liberty of inviting all of you who have petitions pending before his Committee, to appear before him on Thursday.

Hon. Njuki: Hon. Speaker, I have no problem with today's communication. The past communication was the problem.

Hon. Speaker: I have many requests. Are all of you raising issues of pending petitions?

Hon. Murungi: Yes, hon. Speaker. You realize that we have problems with the Committees. My petition has been pending before the Committee on Agriculture, Livestock and Cooperatives for 372 days. Maybe, the Clerk's Office should do a thorough audit.

Hon. Speaker: What was the issue?

Hon. Murungi: Hon. Speaker, it was about the tea development levy and other related issues. We need to know whether the Committees are not supposed to be working for Kenyans.

Hon. Speaker: Hon. Murungi, your point of order is to claim that your petition has been lying with the Committee on Agriculture, Livestock and Cooperatives for 372 days. The Chair of the Committee has been sitting here even when we were making that communication.

Hon. Nooru, can you tell us how you intend to deal with these historical issues?

Hon. Nooru: Hon. Speaker, so many petitions have been becoming to us at times. We face some challenges, especially when the House goes on recess and the Committee is stopped from prosecuting some of the petitions. This holds us back as we keep on receiving new petitions. Nevertheless, we have concluded writing the Report on the petition on tea. We will table it next week.

Hon. Speaker: Hon. Nooru, you cannot complain that you keep getting more petitions. The Constitution says that any Kenyan is at liberty to petition Parliament. Unless you feel that the work of chairing a Committee is too onerous, in which case you can take the most honourable thing and say that, with too many petitions, it is becoming difficult for you to breathe so that your Committee Members can deal with you in the best way they know.

Hon. Nooru: Hon. Speaker, the rule is very clear. We are going to apply it, as stated in the Standing Orders. We sometimes have challenges in terms of witness appearance, but as the rules allow, we are going to ask for extension to dispose of the petition.

Thank you.

Hon. Speaker: Please, try to clear all the petitions pending before your Committee. For those petitions which have been pending for so long, write to the Clerk and explain the difficulties that you are experiencing, or you come to the Floor of the House and state it, so that the Members who presented them can understand what difficulties you are having. You are not even inviting those hon. Members who have petitioned you to appear before your Committee. You are just complaining that new petitions are coming. Petitions will continue coming to Parliament as per the Constitution that we gave ourselves. When do you want them to come? Hon. Kathuri has raised an issue.

Hon. Nooru: Hon. Speaker, I have stated that that Report is ready. It is going to be adopted this weekend and we are going to table it next week.

Hon. Speaker: Is it going to be adopted this weekend?

Hon. Nooru: It is going to be adopted this weekend and we are going to table it next week.

Hon. Speaker: Very well. I can see your names please. I am following a list. Let us have hon. Pkosing.

Hon. Losiakou: Hon. Speaker, I am also standing on Standing Order No. 227 to register my displeasure at my Petition, which I presented almost a year ago.

Hon. Speaker: Which Committee?

Hon. Losiakou: The Committee on Transport, Public Works and Housing.

Hon. Speaker: The Committee chaired by hon. Kamanda?.

Hon. Losiakou: Yes, concerning a feeder road called Kamatile in my constituency. I seek your direction.

Hon. Speaker: He has invited all of you on Thursday.

Hon. Losiakou: Then he has to say the venue and the time.

Hon. Speaker: That is administrative. Just keep watching the screens. You will see where they will be meeting. As you enter the House, you will see where his Committee will be sitting because that is administrative.

Let us have hon. Opiyo Wandayi.

Hon. Wandayi: Thank you, hon. Speaker. I rise on Standing Order No. 227. My issue has to do with the Petition presented by my friend, hon. Justice Kemei.

Hon. Speaker: Who?

Hon. Wandayi: The Petition just presented by my friend hon. Justice Kemei. If you look at it keenly, the matter of land is at the heart of this privatisation exercise, whose Motion we are debating. In my view, if you allow the committee responsible to---

Hon. Speaker: Hon. Wandayi, I have already ruled that I have looked through that Petition. I have considered the issues raised therein. I am aware of the business appearing under Order No. 8 and I said that it is perfect. If at all you adopt the Report of the Committee, then it will mean the Petition may not be necessary. Remember in Standing Order No.227(3), the Clerk will communicate to the Petitioners the result of the Petition. I am sure you have heard hon. Eseli state that he intends to move some amendments to that Report. Why do we not wait for hon. Eseli to move that amendment? As to the Petition, that is now water under the bridge, unless you are questioning my decision.

Hon. Wandayi: No, hon. Speaker.

Hon. Speaker: Which you may not be competent to.

Hon. Wandayi: Hon. Speaker, if you may indulge me, my suggestion was that given the gravity of the matter, could we invoke the Standing Orders and adjourn debate on this Motion, so that the Petition of hon. Justice Kemei is prosecuted fully? This is because Miwani Sugar factory has got no machinery. There is basically land. Therefore, what we are talking about is basically transferring land. The issue of land is so critical that it needs to be dispensed with before we can discuss the substance of this Motion.

Hon. Speaker: I have ruled in that manner and I am not changing anything. You, as the House, have the power in your hands if, indeed, it is not in your head, to deal with this Report as you would wish, even in the manner that you are proposing. Hon. Eseli came up with the way forward in adopting this Report. Let us wait for him to move his amendment and see how it will affect this Petition. I agree with you that land is at the heart of the privatisation that is talked about in this Report. Indeed, most of you who have contributed have said as much. I can see the hon. Member for Muhoroni is keenly listening because he knows what it means.

(Laughter)

In his contribution he alluded to that. So, let us just wait.

Hon. Sabina Chege, what is your point of order?

Hon. (Ms.) S. W. Chege: Thank you, hon. Speaker. I stand on Standing Order No. 227 and on a Petition. Before I went away, I petitioned the Departmental Committee on Administration and National Security on an issue of a resident of Kigumo Constituency. That Petition was signed by members from Kinyona Ward, to be specific. I left and by the time I came back the person who was inside me was almost five months, and I have not seen a response to the same Petition. I would like the Chair of that Committee to report on the same.

Secondly, I asked a Question to the Departmental Committee on Lands regarding the expiry of tenure of Kakuzi and Delmonte companies, but I have not got an answer on the same.

Thank you.

Hon. Speaker: Did you say a Question?

Hon. (Ms.) S. W. Chege: The first one was a Petition on security. It was the issue on the---

Hon. Speaker: The other one was a Question?

Hon. (Ms.) S. W. Chege: Yes.

Hon. Speaker: The one on the Question, deal with the Clerk's office as they are the ones who are processing Questions. Maybe a decision was taken when you were away. When you approach the Clerk he will explain to you how they are going about it.

Let us have hon. Kamama. What is your reaction to that issue?

Hon. Abongotum: Hon. Speaker, while the Chair of the Education Committee was away, we dealt with this matter, but I wish to invite her to our Committee on Tuesday next week, so that we can finish that matter.

Hon. Speaker: Was it a Petition?

Hon. Abongotum: Yes. We will give her some audience and deal with the matter on Tuesday.

Hon. Speaker: From now henceforth, I want Chairs of Committees to know that if you have kept a petition beyond 60 calendar days, you need to come here and inform the House that you need more time to sit, so that you do not assume that the Petition is with you forever. We want to clear as many of those petitions as possible, so that Kenyans do not have to wait any longer. Let us have hon. Richard Tong'i

Hon. Tong'i: Thank you, hon. Speaker. I am also rising on Standing Order No. 227, just to follow up on a petition that we raised concerning the funding of local universities. That is the formula being used to determine the money which goes to the universities because the---

Hon. Speaker: The Petition was to the Departmental Committee on Education?

Hon. Tong'i: Yes.

Hon. Speaker: So, actually you could even have whispered to the Chair, who is seated next to you; she is now laughing and not listening to you.

Hon. Tong'i: She is not even listening to us.

Hon. Speaker: As you can see, she would like to listen to--- A complaint is being raised against your Committee and you are very busy laughing. This is what I do not understand. Is there a jinx in this 11th Parliament that makes concentration a problem? Hon. Richard Tongi is complaining about a Petition submitted to the Departmental Committee on Education, Research and Technology. The Chair is seated next to him but she is not even listening to the complaint being raised; she is engaging the Member for Chuka/Igambang'ombe in some apparent serious discourse not related to the business at hand.

Yes, hon. Tong'i. Proceed.

Hon. Tong'i: Thank you hon. Speaker for that guidance.

I had raised a Petition on the funding of public universities in Kenya. We wanted to understand the formula used in arriving at the money that goes to universities. There are some universities that have been given lots of money, while others have been denied. We needed to establish a permanent formula. That way we will be able to address the injustices---

Hon. Speaker: When did you submit the Petition?

Hon. Tong'i: About seven months ago. It was actually in my maiden speech. That was last year around---

Hon. Speaker: You submitted a Petition in a maiden speech?

Hon. Tong'i: No, it was not my maiden speech; it was just that it was in May and that was my first Petition in Parliament.

Hon. Speaker: Hon. (Ms.) Chege, can you respond.

Hon. (Ms.) S. W. Chege: Thank you, hon. Speaker, I just wanted a clarification from hon. Tong'i whether it was a Petition or a Question because as per now we have a body which is in charge of university funding, and that body is going to be in place once we get the funds. But I would like to get a clarification, whether it was a Question or a Petition.

Hon. Speaker: What was it hon. Tong'i?

Hon. Tong'i: Hon. Speaker, as I said it was my maiden Petition, and not a speech. It was a Petition.

Hon. Speaker: Who signed that Petition?

Hon. Tongi: Pardon?

Hon. Speaker: Was it some members of the public?

Hon. Tong'i: Yes, hon. Speaker.

Hon. Speaker: Members of the public?

Hon. Tong'i: Yes, hon. Speaker. The members of public were the universities which are affected, one of them being Kisii University.

Hon. Speaker: Hon. (Ms.) S. W. Chege, can you report on that Petition?

Hon. Angwenyi: Next week!

Hon. Speaker: No, not next week. Hon. Angwenyi, you know you are used to the old ways.

Hon. Angwenyi: Hon. Speaker, I am still analogue.

Hon. (Ms.) S. W. Chege: Thank you, hon. Speaker. I would like to invite hon. Tong'i to come to my Committee on Monday. We will be meeting at 4.00 p.m.

Hon. Speaker: On Monday at 4.00 p.m.?

Hon. (Ms.) S. W. Chege: Yes, hon. Speaker.

Hon. Speaker: Hon. Tong'i, Monday 4.00 p.m.

Hon. Tong'i: Thank you, hon. Speaker.

(Hon. F. K. Wanyonyi stood up in his place)

Hon. Speaker: Yet another one petitioning, hon. F.K. Wanyonyi?

Hon. F.K. Wanyonyi: Hon. Speaker, mine is not a Petition but---

Hon. Speaker: Then sit down. We are dealing with Petitions.

Hon. F.K. Wanyonyi: I am just talking about a Petition---

Hon. Speaker: Are you rising on a point of order?

Hon. F.K. Wanyonyi: Yes, hon. Speaker.

Hon. Speaker: Which Standing Order?

Hon. F.K. Wanyonyi: Hon. Speaker, Standing Order No.227

Hon. Speaker: Yes.

Hon. F.K. Wanyonyi: All I am saying is that based on what I have seen, it looks like there is a general laxity on the part of chairpersons of various committees. I was suggesting that, may be, we have chairpersons rotating every year.

(Hon. (Prof.) Sambili stood up in her place)

Hon. Speaker: Hon. Members, I have just read to you Standing Order No.104. You are not in a public *baraza* to come and stand on the passage, or on some gangway.

(Hon. (Prof.) Sambili sat down)

Hon. (Prof) Sambili, you have seen the way you are now seated comfortably and you can speak to the Majority Whip, who is seated next to you. Please, hon. Members, let us maintain order, so that we can hear what hon. F.K. Wanyonyi is saying.

Proceed hon. F.K. Wanyonyi.

Hon. F.K. Wanyonyi: Hon. Speaker, my observation under Standing Order No. 227 is that we have a problem with the current chairpersons of various committees. I was suggesting that, maybe we revoke the current arrangement and be able to have chairpersons changing every year. Since we started, you can see some of the Petitions are almost seven to nine months old.

I am suggesting that, maybe - I do not understand the Standing Order, because I am yet to be guided - we have hon. Members electing chairpersons on a rotational basis, so that we are able to get competence in some of these chairpersons. It has taken too long.

Hon. Speaker: Very well; you can write to the Procedure and House Rules Committee to consider that suggestion. It cannot just be done through a point of order. The procedure is clearly provided for in the Standing Orders; it is not done in the manner you have suggested now. The suggestion should go to the Procedure and House Rules Committee.

Hon. F.K. Wanyonyi: I will forward my suggestion very soon.

Hon. Speaker: Please do.

Hon. F.K. Wanyonyi: We will be able to have chairpersons on a rotational basis, otherwise we are taking too long with the current chairpersons!

(Hon. Opiyo raised his hand)

Hon. Speaker: Very well. Now there is an hon. Member who is raising his hand. Why are you raising hands here in plenary? Why are you doing this, hon. Opiyo?

Hon. Opiyo: I was just trying to catch your eye.

Hon. Speaker: How? You cannot catch my eye through raising your hand up.

(Laughter)

Put in your card and say what it is you want to say.

Yes, hon. Macharia.

Hon. Kamanda: Hon. Speaker, I stand on behalf of hon. Macharia. I also want to raise a point. Committees are not run by chairpersons; it is all the 29 hon. Members who do that. Again we act for the Executive---

Hon. Speaker: Hon. Kamanda, you are out of order! There is no debate on that. When the proposal is made and it comes to the Floor of the House, you will respond.

Finally, let us have hon. Lentoimaga.

Hon. Lentoimaga: Hon. Speaker, I am just wondering why you are so strict today!

Hon. Speaker: What?

Hon. Lentoimaga: You are so strict today unlike in the past!

Hon. Speaker: Yes, it is because the leadership in Mombasa over the weekend said that we must administer the Standing Orders very strictly. That is the reason. In fact,

was I to be so minded now I should have ruled you out of order and thrown you out; but since you did not know what was resolved - you were not there - you have been spared just like hon. Kamanda because he was not there also. It is for the benefit of the entire House that we administer our Standing Orders strictly, so that we can churn out more business.

Next Order!

PAPERS LAID

Hon. Speaker: Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, the Chamber is a bit hot today; the air conditioning system has failed; maybe we need to service it.

I beg to lay the following Papers on the Table of the House, today, Tuesday, 3rd March, 2015:-

The Second Progress Report of the Office of the Director of Public Prosecutions (DPP) in accordance with Articles 10(2)(c), 35, 232(1)(f) and Article 254 of the Constitution and Section 7 of the Office of the Director of Public Prosecutions Act, 2013.

The Performance Audit Report of the Auditor-General on the Administration of the Civil Servants Group Accident Claims, Estates and Trusts by the Public Trustee December, 2014 in accordance with Article 229(7) of the Constitution and Section 31(2) of the Public Audit Act, 2003.

The Report of the Auditor-General on the Financial Statements of the Kenya Copyright Board for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the National Crime Research Centre for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Nursing Council of Kenya for the year ended 30th June, 2014, and the certificate of the Auditor-General therein.

The Annual Report and Financial Statements of the Central Bank of Kenya (CBK) for the year ended 30th June, 2014 and the certificate of the Auditor – General therein.

Thank you, hon. Speaker.

Hon. Speaker: Specifically, this is why the chairpersons of committees will increasingly have to be present. The Second Progress Report of the Office of the Director of Public Prosecutions (DPP) in accordance with Article 10 on national values, Article 35, Article 232 and Article 254 of the Constitution is referred to the Departmental Committee on Justice and Legal affairs. I expect that the Departmental Committee will be giving the House their own report on the First Progress Report, so as to take the Second Progress Report and then report to the House their findings.

The reason why the Committees have been resourced with more human capacity is so as to enable them digest some of those Reports and report to the House. Hon. Chepkong'a, I challenge you.

Secondly, the Report of the Auditor-General on the Administration of Civil Servants Group Accident Claims, Estates and Trusts by the Public Trustee is referred to the Departmental Committee on Finance, Planning and Trade. The Committee will be expected to also table a Report here. The answers will go to the usual places.

Hon. Alex Mwiru, the Floor is yours.

PAPERS LAID

Hon. Mwiru: Hon. Speaker, I beg to lay the following Paper on the Table of the House, today, Tuesday, 3rd March 2015:-

The Report of the Departmental Committee on Lands on the Petition for recognition of land title deeds and removal of caveats on land title deeds in Narok South.

Hon. Speaker: Next Order!

Hon. Abongotum: Excuse me, hon. Speaker.

Hon. Speaker: Sorry, hon. Kamama.

Hon. Abongotum: Thank you, hon. Speaker. I beg to lay the following Paper on the Table of the House today, Tuesday, 3rd March 2015:-

The Joint Report of the Departmental Committee on Administration and National Security of the National Assembly and the Standing Committee on National Security and Foreign Relations of the Senate on the Vetting of Mr. Joseph Kipchirchir Boinett, the nominee for appointment to the position of Inspector General (IG) of Police.

Hon. Speaker: Next Order!

NOTICE OF MOTION

ADOPTION OF REPORT ON APPOINTMENT OF INSPECTOR GENERAL OF POLICE

Hon. Abongotum: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, pursuant to Article 245(1) of the Constitution, this House adopts the Joint Report of the Departmental Committee on Administration and National Security of the National Assembly and the Standing Committee on National Security and Foreign Relations of the Senate on the Vetting of the nominee for the position of Inspector General of Police laid on the Table of the House on Tuesday, 3rd March 2015 and approves the appointment of Mr. Joseph Kipchirchir Boinett as the Inspector General of Police.

MOTION

ADOPTION OF REPORT ON PUBLIC SECTOR OWNED/ CONTROLLED SUGAR COMPANIES

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the privatisation of the public sector owned/controlled sugar companies (Nzoia Sugar company, South Nyanza Sugar Company, Chemelil Sugar Company, Muhoroni Sugar Company and Miwani Sugar Company) laid on the Table of the House on Tuesday, 2nd December, 2014.

(Hon. Lang'at on 25.2.2015)

(Resumption of Debate interrupted on 26.2.2015)

Hon. Speaker: Hon. Emanuel Wangwe, you had a balance of nine minutes.

Hon. Wangwe: Thank you, hon. Speaker. I proceed to support the Motion as I mentioned last time I spoke. The Report is suggesting the privatisation of the public sector-owned sugar mills. It is a good one. However, I wish to give some salient issues in the Report.

There is the issue of management which the Report touches on. I want to single out the issue as it is from the side of Mumias Sugar Company. In as much as we want to privatise the sugar mills, the point of management must be really considered in terms of who is the person or parties that are going to manage it. Immediately the Government does the privatisation, it leaves the management in the hands of anybody and does not mind what happens next. In such cases, the management ends up misusing the resources of the privatised companies they are entrusted to manage. A good example is Mumias Sugar Company, which has been brought down by the management to as low as the purported Kshs6.2 billion, according to the audit report by KPMG.

When you look at the issue of management, it also spills to consultancy firms. We have auditors who have been managing those firms. We have audited financial statements for the companies that are there but, so far, nothing has happened. Why is it that the audit is now revealing something that has been happening for a long time? The challenge goes back to the Committee on Finance, Planning and Trade. Let the Committee come up with laws that are very strict with regard to the audit companies. The audit firms that are going to carry on those services should do so with a lot of discipline within themselves.

There is also the issue of corruption. When you read what happened recently in Mombasa, a KRA officer was found hiding Mumias sugar products purporting that it was from Mumias Sugar Company and yet, it was sugar imported from Brazil. That means we should not be worried about the COMESA safeguards but, rather, we should worry about the product that comes in from outside, and that is purported to be from Mumias Sugar Company. We need to look at the very critical issue which the Report is also not bringing out very clearly - the separation of land and the machinery. The privatisation process is noble, but the issue of land is so critical. Our ancestral parents gave us the land. When the Government was taking over the land, it did not buy it. The Government did not give any remuneration to our people. Instead it said: "This is going to be your plant." What is going to happen in the process of privatisation? We demand that through this process, land should be bought and the farmers who gave out their land in form of nuclear estates be compensated at the current rates. Let them not just be neglected and told that

somebody is coming to take over the machinery and land. We know that that land was never paid for. It is a big problem and we want the Committee to really consider that during the privatisation process. Privatisation itself is good, but the process must adhere to concerns such as who owns the land. The land belongs to our people and not the people who are coming to take over the machines.

However, there are some very good issues that the Report is showing and which I commend. The Report is pointing out that the farmers shall get, at the initial stage, 24 per cent. That means that the farmers shall own the new entity in terms of shareholding at a ratio of 24 per cent with a reserve shareholding of 6 per cent which will be added later on. This is a noble idea. I want to support that and insist that the Finance, Planning and Trade Committee should determine how the farmers are going to own the 24 per cent. It should not be a cohort of two or three farmers who will come together and say they own it. Let us have well established organizations like the one in Nzoia and Mumias Outgrowers Company (MOCO) in Mumias. Let us make sure that all the farmers own that jointly through the various co-operative societies.

I also want to bring to the attention of the House the fact that the model the Report is suggesting to adopt is contrary to the model that was there in the Mumias Sugar Company privatisation process. If at all the model is going to adhere to that issue of 24 per cent, 6 per cent and 51 per cent, the challenge goes back to the Committee. Let it make sure that they bring on board a strategic investor. Let us not just go on the stock market and say that we are going to give out our factories for this-and-that as the Initial Public Offer (IPO).

I would not want to suggest that they go to the stock market or to do anything other than to get a strategic investor. The strategic investor should be one person who will be in charge of those factories and manage them accordingly. Many private investors have come on board. Today, we have West Kenya Sugar Company and Butali Sugar Company as private sugar-milling entities. We also have a factory coming up in Nasewa in Busia County. That means that the sugar industry is very attractive. So, if there are more new entrants coming on board, why is it that the existing companies are not able to operate and make profits?

At the same time, I wish to ask the Departmental Committee on Finance, Planning and Trade, as they undertake the process further, to also consider those directors who were there before. In the establishment of the sugar sector, we used to have zonal directors. What did they do? When we are writing off the debts of Nzoia Sugar Company amounting to Kshs28 billion, what did the directors do during their time? Who were they and what do they own? Are we just chasing the Kshs6.2 billion from the current Klynveld Peat Marwick Goerdeler (KPMG) in Mumias? Why can we not also go back and address the issue of the Kshs28 billion from Nzoia Sugar Company and all those other monies that we see in this Report?

Finally, the machines and infrastructure are obsolete. The road network, factories, plants and sewer systems in the various establishments are obsolete. It calls on us to support the privatisation of those companies. Let us move the process, but with a lot of caution in terms of land, corruption by civil servants and the poor management strategies of the various factories.

Thank you, hon. Speaker. I support.

Hon. Speaker: Hon. Chris Wamalwa.

Hon. Wakhungu: Thank you, hon. Speaker. I rise to support this Report. In many jurisdictions, when you talk of privatisation, it is a principle whereby you give the management of public entities to the private sector for purposes of, maybe, improving efficiency and returns on investments. As we try to privatise those firms, you realize that their geographical distribution is in Western and Nyanza regions. The people of Nyanza and Western rely on sugar for their livelihoods. This privatisation should be able to add value and improve the livelihoods of those people. It should not work to the disadvantage of those people. I listened when the Chairperson of the Committee was presenting this Report. He indicated that they are trying to look for a strategic investor who will be having a minimum of 20 per cent shareholding. I support that because going by the example of Mumias, where the shareholding was not of an absolute majority, it becomes very difficult in terms of making some strategic decisions.

Having said that, I was just wondering who that strategic investor is. That strategic investor should be one who has the interest of those respective people at heart. The county governments are elected by the people. If they are willing, they would be very good options to be the strategic investors.

One of the critical things about those sugar firms is that they have obsolete machinery. The technology is also wanting. So, the costs of production are very high and they cannot compete. The Common Market for Eastern and Southern Africa (COMESA) safeguards already came to an end in February. So, those firms cannot compete with obsolete machinery and the high production costs. So, the question is this: As the Government is trying to privatise those sugar factories, what measures has it put in place so that the strategic investor can have a competitive edge? Investing in machinery is very expensive. Most of the sugar that comes from outside this country enjoys economies of scale. The production cost is low and so, they can compete. We need to get a strategic investor who is going to put the aspect of machinery into consideration. Some of those machines have outdated technology and they are not efficient. That is very critical. So, it is our request to the Government that as we look for the strategic partner, there are some critical things that we must look into. Whoever comes in should possess those critical success factors.

Hon. Justice Kemei raised a very important issue of land. The land belongs to the people. So, there should be clear criteria on how the issues of land are going to be handled. I appreciate what the Committee has done. However, they should have invited the respective Members of Parliament from those sugar-growing regions because they represent the people. The issue of land is very critical. That land belongs to the community. They must put a measure in place on how those people are going to be compensated. Otherwise, when you talk of privatisation, it is just the machinery to be privatised and not the land. It is important that, as we move on, the Committee should look into this issue and invite all the key stakeholders to sort out the issues as far as land is concerned.

Hon. Speaker, those sugar firms have a high level of indebtedness. I have looked at the Report and the level of indebtedness is Kshs59 billion. We want to thank the Jubilee Government because it has offset Kshs33 billion. However, the challenge is: Where are we going to get the balance? So, my humble request to the Government is that

it should write-off the entire debts. It should also go further and apportion the Kshs33 billion so that we are able to know how much is allocated to Miwani Sugar Company, Muhoroni Sugar Company, Nzoia Sugar Company, South Nyanza Sugar Company and Chemelil Sugar Company. When you leave this amount without giving the divisions, it is going to bring confusion and a lot of politics. So, it is important to go further and distribute the Kshs33 billion. It would be nice if the Government could write off the entire Kshs59 billion so that as we bring in the investor the value is going to be high. If you privatise a firm and the level of indebtedness is this high, it is going to affect the net value of the particular business that you are privatising. So, for those firms to come up with a higher value, we request the Government to write off the entire Kshs59 billion.

Again, privatisation has become another room for corruption. I want to justify this. We want proper consultants to come and do a true evaluation of those firms. Today in the Public Investments Committee (PIC), we were discussing the Kenya Wines Agency Limited (KWAL) which was privatised. The amount of money that it realized is questionable. So, it is important that, as we try to privatise those firms, we should have different professionals evaluating them independently. That way, in the long run, when you get the final result, you will be able to see where there is objectivity.

I want to congratulate St. Anthony's Boys' Secondary School, and its principal, Cosmas Nabongolo, and St. Brigids in my constituency for their performance in the Kenya Certificate of Secondary Education (KCSE) examination results released today. They presented an average of A- (Minus) in the examination. It is commendable and good work. That is because of the support of my Constituencies Development Fund (CDF) which I have given them. So, you can see how CDF is adding a lot of value as far as performance of those schools is concerned. We cannot allow it to go anywhere. We can assure them that even next year, we will continue giving them CDF support. I know we are going to put some laws in place so that CDF will continue being there.

Having said that, we have the Privatisation Act which provides for the establishment of the Privatisation Commission. However, that Commission has been sleeping on the job. In such a situation where we are going to have the privatisation of the sugar industry, we are calling upon the Commission to wake up. This is their responsibility. They should be able to ensure that there is professionalism where issues of privatisation are concerned.

Again, the safeguards are now gone. They have also suspended the key stakeholders. We should have ample time to involve all the key stakeholders. Here, we are saying that the county governments, farmers' associations and the Members from that region should be involved. We are calling upon the Kenya Sugar Board, which is now a directorate, to also get involved so that we can ensure that we improve the welfare of the people of Nzoia, Muhoroni and Chemelil. Their livelihoods rely on the sugar sector.

I support.

Hon. Speaker: The Leader of the Majority Party.

Hon. A. B. Duale: Thank you, hon. Speaker. I stand to support this Report. From the outset, I want to bring to the attention of the Members the fact that the process of privatisation started long ago in 2009, when the Privatisation Commission visited each of those factories. I remember a *kamukunji* was held in the Old Chambers of Parliament in 2009 which was attended by the Members of Parliament from the sugar-cane growing

areas. Presentations were made to the effect of the process. In October, 2009, before the proposals were to be submitted to the Cabinet, a stakeholders' workshop was held in Kisumu at the Tom Mboya College, which was attended by 600 stakeholders. At least, 100 farmers from each of the factories attended. All Members of Parliament from the sugar-cane growing areas were invited to attend and a number of them attended.

Even after the conversion of that residue debt amount to equity, the Government will only remain with 25 per cent shareholding which it will sell as per the table that the Committee has presented in their Report. More fundamentally also, and I am sure it is in the Report of the then Committee, a valuation of the public sector owned sugar factories was done. The valuation was on land, the cane, buildings, plant and farm machinery, motor vehicles, furniture and office equipment in August, 2013. The figures as per each sugar factory are as follows:-

- Chemelil Sugar factory - Kshs4.8 billion.
- Miwani Sugar factory - Kshs2.2 billion
- Muhoroni Sugar Factory - Kshs3.7 billion
- Nzoia Sugar Factory - Kshs8.8 billion
- SONY Sugar Factory - Kshs5.3 billion.

Why do we want to privatise? That is the moral and fundamental question that this House must ask itself before we put a vote to this Report. One, 6 million Kenyans – that is 20 per cent of our population - are involved in sugar-cane farming. That farming must be beneficial to our people. It must bring money to their pockets. It must pay their children's school fees. It must raise the living standards of our 6 million cane farmers or those who are involved in cane production. It is very expensive relative to other countries for those factories to do that business. I want to give examples of other countries in terms of production cost. This was done in 2010. If you look at Kenya and all those factories, the cost per tonne in sugar production is between US\$500 to 640. Our competitors who are Zimbabwe, Malawi, Sudan, Swaziland, Egypt, Mauritius and more so, Brazil, their production cost per tonne is US\$470. It goes to as low as US\$250 in Brazil. The cost in Zimbabwe is US\$340. In Malawi it is US\$310, Sudan US\$340 and in Mauritius US\$470. Ours is between US\$510 to 610. What is the cost per tonne in sales? For Kenya, it is US\$1,186, Zimbabwe US\$639, Malawi US\$332, Swaziland US\$590 and Mauritius US\$239.

So, it is expensive for us to produce and sell sugar. First, nobody will buy Kenyan sugar even in the region. So, the fundamental question is: What do we do? How do we compete with Kenana Sugar Company in Sudan? I had the pleasure to visit Khartoum and went to Kenana Sugar Factory in 2012. Their own sugar farms are close to 2 million hectares, which are owned by the company. It is the responsibility of the Government and this House to make sure that the 6 million Kenyans who invest their occupation in sugar-cane farming benefit.

My people do livestock farming. They rear camels. Today, we are telling the Government that it must sell its share in the Kenya Meat Commission, so that it can compete with Botswana Meat Commission. Days are gone when Government did business. The Government cannot do business. It is confirmed that the private sector can do better than the Government. We want the Government to offload its shares in those factories to a strategic partner who has the money and give the remaining shares to

ordinary farmers. The ordinary farmers will buy the equity through the land. They can also buy their equity through the cane. It is very disheartening to see that poverty is at its highest level in the sugar growing areas of Kenya. It is the responsibility of this House to salvage the sector.

The COMESA safeguards have already elapsed. They elapsed on 28th February, 2015. That was the last extension the Kenya Government was given. What does that mean? It means that the sugar buyers in our country and the companies that deal with sugar will no longer be restricted to buy from our own companies. That Mumias, Nzoia and Muhoroni sugar companies will compete with Kenana Sugar Company of Sudan. They will compete with sugar from Brazil. If ordinary Kenyans find a two kilogramme packet of sugar from Brazil selling at Kshs60 and sugar from Nzoia, Mumias and Chemelil selling for Kshs120 in our supermarkets, we have a liberalized economy and they will buy the Brazilian sugar.

What does that mean? If a company does not sell its sugar, it means it cannot produce. It means Kenyans will be laid off and sugar-cane will not be bought. This is not the beginning of privatising a company. I am saying here, as I said in the last Parliament, that the Government of Kenya cannot be involved in the sale of meat. They better look for the best company in the world that will get the market for our meat products in the Middle East and sell 51 per cent of the Kenya Meat Commission shares, so that my people can get the market to sell their hides and skins as well as meat from goats, sheep and camels.

Similarly, we want a very vibrant private sector of the sugar companies. Let us not be very protective. All of us are in this House to make sure that more money gets into the pockets of our people. Our farmers toil day and night. They wake up at 6.00 a.m. They buy fertilizers. They send their children to school but, at the end of the day, roads in the sugar belt region continue to be so bad that farmers lose a lot of cane on those bad roads. By the time the farmer gets to the factory, 40 per cent of the cane he harvested is lost. It is the responsibility of Members of Parliament to make sure that the seven or six sugar factories in Western Kenya, Nyanza and Coast regions are of the same standard as factories in our competitor-countries like Zimbabwe, Malawi and Swaziland. The COMESA safeguards are already gone. Nobody is going to save us. Due to the poor state of our sugar companies, they are unable to compete with imports. We can confirm that sugar produced by our sugar companies cannot compete with imports.

(Loud consultations)

Hon. Speaker, there are a lot of consultations. Hon. Members can use the rooms available at the back. I do not know what is happening with hon. Nyikal and hon. Ng'ongo. With utmost respect to the Chair, they need to tell us. I want hon. Members to listen to this debate.

We cannot compete with imports. If we cannot compete with imports, we must create a system where our factories are better off, so that they can produce at a cheaper cost. That way, we can be able to give better returns to farmers as Kenyans appreciate that our sugar is of better quality and more competitive in terms of price. We will not

need sugar from Sudan, Zimbabwe or Brazil. We will buy our own sugar. Buy Kenya; build Kenya - that is the hallmark of Vision 2030.

Hon. Speaker, what are the challenges that the sugar sector is facing that leads to privatisation? The sugar factories are indebted to the Government of Kenya to the tune of Kshs35 billion. Who is going to pay that money? In order for us to improve the standards of our sugar factories, in terms of maintenance and infrastructure, to enable them compete with the international market, we need Kshs40 billion. It is only through privatisation of the sector and teaming up with a strategic partner that Kshs40 billion can be raised. There are always limited resources from the Exchequer. Every Member of Parliament here, and especially those who are in the Budget and Appropriations Committee, knows that resources are very scarce. Everybody is looking upon the Constituencies Development Fund (CDF) for roads and power. The days are gone when the Exchequer could give Kshs40 billion to safeguard our sugar factories. I do not want to go into the many reasons because the Committee has done its work very well.

What is the way forward? What is the approved privatisation strategy? The Government will sell 51 per cent of its shareholding in the sugar companies to a strategic partner. The remaining 40 per cent plus shares will remain with the local community, farmers and Members of Parliament who are endowed with resources. Not everybody is as poor as hon. A.B. Duale. There are those of us who can buy shares.

There is the formation of the Outgrowers and Employees Investment Trust Fund in the privatisation process, in which farmers and employees could buy shares set aside for them. In this process, farmers and workers of the factories have a certain percentage of the privatisation shares, which they will buy. A total of 24 per cent of the shares will be sold to the outgrowers and staff through the Outgrowers and the Employees Investment Trust Fund. For purposes of security and strategic importance of the sugar sector, the Government of Kenya will retain 25 per cent of the sector's shareholding. Clearly, 51 per cent will go to a person who will bring the money and equipment required to modernise---

Hon. Speaker, allow me one minute to finish. About 51 per cent will go to a strategic investor, who has the market and a history of sugar-cane farming. Clearly, 24 per cent will go to the farmers, the outgrowers and the workers. Twenty five per cent will be retained by the Government of Kenya. It is as clear as daylight. I am sure that once this House adopts this Report, it will be the beginning of the privatisation journey. Members of Parliament and other leaders, the local community, the outgrowers and the workers will sit together and decide how they will deal with their 24 per cent. I am sure that this House will deal with the strategic partner. Parliament must do a due diligence analysis of the strategic partner. Not anybody will be allowed to buy the companies. He must be somebody who has a history of running sugar factories. We might even sell to a Brazilian company and tell it: "Please, do not import your Brazilian sugar; improve our factories, reduce the cost of production and increase the price for our farmers". If this goes on well, all factories, whether it is coffee, livestock or sugar must be privatised to delink the Government from doing business. Governments, the world over, are not good at doing business. Why should the Government of Kenya hold 95 per cent of the shareholding of Nzoia Sugar Company, Chemelil Sugar Company and all the others?

Thank you, hon. Speaker.

Hon. Speaker: Yes, hon. Simiyu!

Hon. (Dr.) Simiyu: Thank you, hon. Speaker, for giving me this chance to also contribute to this very important Motion.

This Motion speaks to the sustainability of Kenya as a sugar producing country. From the outset, I want to say that successive governments have neglected the sugar sector and the sugarcane growers in this country. I say so because the 10th Parliament, for example, passed a resolution for the debts of those sugar companies to be written off. Up to now, they have not been written off. The debts are still being recommended to be written off by this Report, ignoring what the last Parliament had resolved. The other reason as to why I say that the successive governments have not taken the sugar industry seriously is that we continue being told about COMESA. I dare say that COMESA is only but a bogeyman because there is only one COMESA country which produces surplus sugar; namely, Sudan.

All the other COMESA countries do not produce surplus sugar to sell to Kenya. It is the Government that has allowed business people with briefcases to import sugar and purport that it is from Malawi, Egypt and other COMESA countries. I feel that the non-profitability of the Government-owned sugar industry in Kenya is because we have allowed those cheap imports which do not originate from COMESA countries. We have, therefore, failed to follow and enforce the law so that we get the origin of the sugar that keeps on being imported into Kenya. It is a fact that, that sugar involves a lot of money which has gone into many pockets. I dare say that a lot of that money is what has oiled the wheels of politics in this country. Many beneficiaries of that illicit gotten wealth who have sort of brought down the sugar industry in Kenya are known prominent people of this country and yet, there is no action that has been taken against them. That is why I insist that the Government has neglected the sugar industry in this country to the detriment of sugarcane growers.

Hon. Speaker, there are many ways of privatising. We all know that privatisation is the best way to go. Private industries succeed better than Government-owned industries. We are fully aware of that and we do not want to be told it over and over again. However, there was a reason why those sugar companies were set up. It was at a time when Kenya was starting to grow as an economy in the world. In the process of setting up those companies, the Government compulsorily acquired land from the communities in order to create the nuclear estates. Take a case of Nzoia Sugar Company (NSC) which has got the biggest nuclear estate of all the sugar factories in this country. If you just take the case of that estate's land alone, you will find that it is worth Kshs9 billion. Valuing NSC's land at Kshs6 billion is therefore a mistake and if I was a smart businessman, I would take a loan of Kshs6 billion, buy that NSC at Kshs6 billion and sell the land at Kshs9 billion. That way, I would walk away with Kshs3 billion as profit and forget about the sugar issue we are talking about here.

All of us have agreed that the issue of privatisation of those sugar mills is important. However, the modalities which are very important need to be looked further. If you choose to sell your second-hand car with one bent rim and a puncture, you will fetch less money than if you straightened the rim and repaired the puncture. This is a situation where we want to sell the family's China-like plates, spoons and whatever, which we are

left with after selling everything. Can we not try and clean the plates and the spoons before we sell them so that they can fetch a better price?

However, with this Report here, we are intending to privatise the factories as they are so that they can go at throwaway prices because the main asset there will be the land. I believe that, that is not the intention of any Government, including our own, to hurt its citizens who come from those areas. That not being the intention, I do not see any reason why we cannot follow the many ways of privatising. We need to follow those methods and privatise properly so that the Government reaps maximum benefits from the privatisation by getting good value for the assets. That will also improve the circulation of money at the Treasury. We need to re-look at this thing and especially at the land aspect because it is very sensitive. That is because the land which is owned by the Government and on which those companies sit is held in trust by the Government for those communities that gave it up for the setting up of those institutions.

It is very important that privatisation, which we have agreed is the way to go, be carefully structured so that it does not hurt the same Government and the people who are its citizens and beneficiaries of sugar-cane growing and who live near the sugar-cane mills. It is very important that we do not just do it blindly simply because it has taken too long and end up handing over the same companies to those same briefcase people who have been importing sugar, thus messing up the same industry. If we do that, they will become the beneficiaries who will buy those industries at throwaway prices.

By and large, with some reservations, I support the idea of privatisation. But I believe that more consultation needs to be put into it lest we end up with a big problem in our hands by privatising the Mumias Sugar Company (MSC) way. Thank you, hon. Speaker.

Hon. Speaker: The Mover.

Hon. Gaichuhie: Thank you, hon. Speaker. I stand under Standing Order No. 96. (1) which provides that:-

“A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair may claim to move “That, the debate be now adjourned”, or, in Committee of the whole House “That, the Chairperson do report progress.”

I, therefore, seek to postpone further discussion of the debate on the Motion appearing as Order No. 8 on the Order Paper. The reasons for this is that after hearing the debate, consulting and after listening to the fundamental amendments that many Members want to bring to this Motion, they are likely to affect the recommendations of the Committee. I would, therefore, wish that you indulge us so that we can go and consult widely. As we know, this House runs on the principle of consultations. We want to consult the stakeholders and everybody that is involved in the sugar industry in a bipartisan manner so that we can bring a Report that will be acceptable to both sides of the House, farmers and everybody. I request for a period of a week so that we can consult and bring the Report back after agreeing with all the Members and the stakeholders who would have amendments.

Thank you, hon. Speaker.

Hon. Speaker: I get the sense. Hon. Shebesh.

Hon. (Ms.) Shebesh: Thank you, hon. Speaker. I have been looking at this Report and talking to my colleagues, it seems that there is a bit of more work to be done. I would like to support what the hon. Member for Subukia Constituency has said that we adjourn this debate and bring it back after one week when Members will have been allowed to give their contributions. This is a very sensitive issue which affects the people on the ground; especially those who are affected by sugarcane growing.

Thank you.

Hon. Speaker: Is that the feeling of the House?

Hon. Members: Yes.

Hon. Speaker: Hon. Members, this matter obviously had a lot of emotions but I would want to put it to Members to make a decision. The hon. Vice-Chairlady of the Committee responsible, as she has explained, wishes to adjourn debate to allow for further consultations between the various stakeholders and, possibly, be able to come back to the House with some further agreed positions.

*(Question, that debate be adjourned,
put and agreed to)*

Debate on the Report on the Privatisation of the Public Sector Owned/Controlled Sugar Companies is hereby adjourned for the reasons stated.

(Debate adjourned)

MOTION

ADOPTION OF PAC REPORTS
(2010/2011; 2011/2012; 2012/2013)

(Hon. Ababu on 9.12.2014)

(Resumption of Debate interrupted on 10.12.2014)

Hon. Speaker: Who was on the Floor of the House? Hon. Members, this is the debate for the adoption of the Reports of the Public Accounts Committee (PAC) for the appropriation accounts and other public accounts for the years 2010/2011, 2011/2012 and 2012/2013 which were laid on the Table of the House on 2nd December, 2014 and adjourned on Wednesday 10th December, 2014. That is the business to be transacted.

Hon. Chanzu: Thank you, hon. Speaker. I rise to support this Motion; the adoption of the reports of the Public Accounts Committee (PAC) on the appropriation Accounts, other Public Accounts and the Accounts for the funds of the Government of Kenya for the Financial Year 2010/2011, just the way they are listed.

It is important---

Hon. Speaker: Hon. Chanzu, you had spoken on this Motion.

Hon. Chanzu: Had I?

(Laughter)

Hon. Speaker: Yes, you contributed between the hours of 17.43 and 17.53.

Hon. Chanzu: I thought they were being done in---

Hon. Speaker: That is being dishonourable. For avoidance of doubt, and I see this is the problem and I keep on telling you, please, do not come to consult me too much when I am supposed to be doing this work. That is because you make me lose track.

(Hon. Mirenga consulted the Speaker)

I am addressing hon. Mirenga so that if he can--- Hon. Chanzu, you will not speak. For avoidance of doubt, let me read out the hon. Members who have contributed to this debate. The Mover, hon. Ababu and the Secunder, hon. (Ms.) Mbarire. The following other hon. Members have also spoken:-

Hon. Ng'ongo, hon. Bunyasi, hon. Gichigi, hon. Kimaru, hon. Aden, hon. Rop, hon. Nuh, hon. Chanzu, hon. (Prof.) Nyikal, hon. Abass, hon. (Ms.) Gathecha, hon. Njomo and hon. Tonui.

Those are the hon. Members who have so far spoken. As you can hear, hon. Chanzu, you are quite up in the list of those who spoke. Indeed, you spoke as hon. Member No.10 in the list. So you are out of order to contribute when you have already contributed. There is no room for further debate. Hon.(Dr.) Pukose.

Hon. (Dr.) Pukose: Thank you, hon. Speaker, for allowing me to contribute to the adoption of reports of PAC as presented. Indeed, we are talking of the Appropriation Accounts, other public accounts and the accounts for the funds of the Government of Kenya for the Financial Years 2010/2011, 2011/2012 and 2012/2013 which were laid in this House last year - 2nd December, 2014.

As you see, one, I want to commend and congratulate the Committee led by hon. Ababu for burning the midnight oil to make those three reports that they presented. Whenever we present reports on the accounts, it has an effect in terms of the amount of money that we will appropriate for the financial year. Our Constitution states that it must be the latest audited accounts. Therefore, when we delay, it affects the amount of money that will be budgeted for the next financial year. For now, we are even debating the accounts for the Financial Year 2012/2013, as being the last audited accounts, when we have Financial Years 2013/2014 and 2014/2015 – the two financial years that will greatly affect whatever is going to be appropriated for this financial year.

I would urge the Committee to move with speed and present the other reports. That will make it easier for us to make audited accounts and present them for the preparation of the Budget for the next financial year. I hope that in this coming year, the Committee will address the issue of timeliness especially when it comes to auditing of the reports. When we are talking about the Report of 2010/2011, those are many years. One of the key things about the human mind is that forgetting is also part of our cycle and part of our health. Whenever we come up with the audited reports then, maybe, even the people who are in office at that time might not be there to account for whatever happened. We make officers who are newly recruited, without proper memory of the

events that happened, to be held accountable for events, either sins of omission or sins of commission that were done by other officers who came before them.

If PAC can move with speed so that in every financial year we deal with the audited accounts of the last financial year, then our memory will be good. It will get those people who are in offices at that time to be held accountable and responsible so that proper explanations can be given for areas that we think have problems. One of the major problems in this country is that even members who are either in parastatals or in the public service, are called to appear in Committees for audit queries that occurred, maybe, 10 or even 20 years down the road and that is not good for our country.

With those few remarks, I stand to support the adoption of these reports.

Thank you very much.

Hon. Speaker: Indeed, very few remarks. Hon. Nyamweya, the old habit of leaving cards in queue. He is going to lose his card. Hon. Kang'ata.

Hon. Kang'ata: Thank you, hon. Speaker. May I support the adoption of these reports. It is my humble submission that once those reports are adopted, they are going to enable more cash to be transmitted to the counties because this is one of the requisite steps which this Chamber must adopt.

Having read those reports, I feel that very good work has been done by the Committee. I do, however, propose a way to improve the way appropriation is done and also the way auditing is done for the resources sent to the various departments in the Government.

One, I propose that we increase personnel in the Office of the Auditor-General. I say that because presently we have 47 counties. I doubt whether there is enough personnel capacity to audit each and every county. We also have 290 constituencies where we have CDF money. We have other line Ministries and all those entities are supposed to be audited by the Office of the Auditor-General.

Therefore, the Departmental Committee on Budget and Appropriations need to consider ways of appropriating more money to the crucial entity - Auditor-General's Office - so that we can have better accounting for Government resources. Two, also on that account of how resources should be expended, I have looked at the Chapters that deal with CDF money and one thing that I have realized is that there has been very low uptake of CDF resources. That has everything to do with how Bills of Quantities (BOQs) are usually procured at the constituency levels. There is usually that element of slow preparation of BOQs by the requisite Ministries. We need to come up with better methods so that those entities--- At times, they do frustrate people who administer that fund and, as a result, they may do things which will attract audit queries but the intention was proper. There should be ways of hastening the uptake of resources at the ground level. I foresee that if that is not done, we may also have lots of those issues which are raised in this report.

Another crucial aspect that I have noted, and which has been denoted in all those reports, is the issue of purchase of land. There is an elaborate method of purchasing private land where Government intends to do something. Let us say the Government wants to establish a road or a public facility in a land that is owned privately by private entities.

The law provides that there should be some valuation. Thereafter, the money should be paid promptly. However, I have noted that many constituencies have been disregarding that procedure by negotiating directly. I have even seen instances where the Government acquires land belonging to a deceased person without the requisite letters of administration. I, therefore, propose that this Committee insists that the various entities do adhere to the various laws, particularly the law on succession, so that we can minimise some of those issues which have been captured regarding purchasing of land belonging to the poor.

Another key element which is coming out of those Reports is the issue of pending bills. At times, I wonder as to how they arise because, ideally, Government does not expend or procure without money being in the account. However, I have seen situations where people do the work and when they raise their fees, payment delays. We need to come up with better methods where, immediately the work is done, it is paid for. This notion of pending bills should not be there. The procurement ought to have been based on money that is already in the District Treasury. That is something that the Committee should task its mind upon. Apart from the pending bills at the local level, we also have pending bills at the Attorney-General's office. I say that because I have practised law before and I noted that the Attorney-General's Office has several pending bills. Perhaps, the Attorney-General should come up with a vote where he is able to do what is called projection. They need to project how many claims in a year they get and then during Appropriation and budget-making, they set aside funds so that when that money is raised, they are able to pay out the claims. The situation now is that you find people waiting for so long - say, two or three years - without being paid and yet, there is a court order. Remember interest is also accruing on that money. At the end of the day, it is the Government which is going to lose.

There is also another issue about action that is usually taken against Government officials who misappropriate money. There are so many reports which have been tabled before this House. Those Reports find several Government officials culpable, both at the local level, that is, in the line Ministries, or even at the national level. However, no action is ever taken against such officials. We need to be very strong and come up with mechanisms to punish those people who misappropriate money. Misappropriation of money falls under the category of the crime we call "white collar crime". When we compare how Kenyans enforce provisions against white collar crime and how they enforce provisions against blue collar crime, you will see a major disconnect. I would imagine that blue collar crime is usually enforced with a higher rate because there are personal complainants who push for the enforcement of that law. However, when it comes to white collar crime where the thief or the criminal is hiding in an office, rarely will you find a situation where those people are punished.

I would propose that this Parliament or even the Committee comes up with the recommendation that we train our police officers on how to investigate white collar crime. I say that because I have noted that there is limited capability or even incentives to our police officers to follow up on white collar crime which is the whole essence of these reports. They are based on such kind of offences. So, you will find that very few police officers are trained in accounting or prosecuting accounting fraud. Therefore, we need to train our police officers because those are cognisable offences which can even be tried by

any police officers. That way, we will have more people being taken to court to address various issues of financial mismanagement as opposed to a situation where those people who are taken to court happen to be people who, for instance, steal and do other offences where the complainant is an ordinary person. If we were to do that, we would reduce the extent of wastage in our Government. We may have a more efficient State and, in such kind of a scenario, more resources are going to help our people.

Finally, from my own experience as an ex-officio member of the Constituencies Development Fund (CDF), I have noted that there is also the aspect of high figures in the bill of quantities prepared by the Government. Well, I am not an expert in that area. However, probably, that is something that needs to be looked at again as you continue interrogating Government finances. You will find, for example, that a house can be built using Kshs2 million. But, usually, from the Government's point of view, it is denoted as one that would cost, say, Kshs5million. In terms of Government records, you cannot interrogate a Bill of Quantity. That is something that we should be guided upon so that we know how to address it. We need to ensure that Government resources are not wasted.

Thank you, hon. Speaker. I beg to support.

Hon. Speaker: Hon. Manson Nyamweya.

Hon. Nyamweya: Thank you, hon. Speaker for giving me this chance to support this Report. I am a Member of this Committee. We took a lot of time when we were preparing this Report. Accounting Officers appeared before us. We interrogated them. They also explained to us how they have used the money.

What I want to bring out is that this Committee is one of the Committees, since Independence, which has managed to do three financial reports in one year. That is what we have done as a Committee. There has been a lot of talk about this Committee, but as we go through this Report, you will realize that it clearly shows how the Government Ministries have used the revenue collected. My main concern is with regard to revenue collection. There are instances where the Auditor-General was unable to explain certain issues, perhaps, because he was not given enough answers on some revenue which was raised and how that revenue was used. I urge the Members of this National Assembly to read through this Report so that they can understand exactly what we have recommended. We could speak out there in the public in a manner to attack this Committee that it does not do any work and yet, truly speaking, all those are mere allegations. If you read through these reports, you will see the extent of our work. The reports contain issues of confidential expenditure. For example, we have come out clearly on what should be done. That proposal is contained in these reports. We have given what needs to be done to the Accounting Officer and to the person who was the Finance Manager or Accountant at that time. So, this Report is really detailed and I urge Members to read it so that they understand what we need to do and what we have done for this country.

Hon. Speaker, I want to raise an issue here which is critical. There are situations where the Auditor-General is unable to state what happened to revenue. However, if you look at the amount of money involved, you realize it is huge. For instance, you could find that 80 per cent of the revenue raised by the Government is not properly accounted for. We have come up with a system that demands that the Accounting Officers be held responsible. The Leader of the Majority Party is talking about Members not having confidence in the Chairman. We sat because we are a House of rules.

If a Member is debating another Member, he must give evidence to support the allegations. If evidence is not given, then that Member should withdraw the allegations. This has not happened. This House is debating lies that this Committee has been compromised and given money. This Committee sat and made history by bringing these Reports.

Hon. Speaker: Hon. Nyamweya, please debate the Report. You are going in the wrong direction.

Hon. Nyamweya: I am guided on that, hon. Speaker. You should look at the various Ministries, how they have used money and managed imprest. We interrogated them and found Ministries which could not account for the money that the officers have taken. The Report is there. We have come up with a summary of how the Government needs to manage imprest in the various Ministries. You need to note that a staggering Kshs633,178,658 could not be accounted for. This is money which people took, did not surrender and gave no documents. As a Committee, we have come up with what needs to be done. The management of imprest is a key area that the Government needs to address. If that does not happen, then it is going to be very difficult to control such funds. The Ministries have come up with measures to reduce the amount of money that they should have.

We also came across the Office of the President where Kshs2.8 billion was used. It was withdrawn and no voucher was signed. If you look at it clearly, the money went into people's pockets. Indeed, if the money was for operational purposes or for intelligence, we should have the arm of intelligence which was given this money. We would not be saying that this money went to the wrong hands. If the money was given to the Criminal Investigation Department (CID) - the CID has a Vote - they should be given the money directly. The money should go directly to the Ministry concerned. It should not be given to an Accounting Officer in the Office of the President who has no knowledge of how people work. He cannot give money and then control it. How do they operate? How do they work independently in their investigations? Is it possible that these people can work independently if the Office of the President controls their funds? It is very difficult. It is a matter of national interest.

Members of this National Assembly should look into these issues, so that one person does not control the money. If you ask a question, they say that it is a confidential expenditure. We agree that there are confidential expenditures, but with all due respect, this confidential expenditure should be directed to the relevant person who is supposed to handle the funds. There is an intelligence system which should handle this. If the money has gone to the CID or to police operations, the Inspector General of Police should get the money.

These are the issues that we came up with as a Committee. We have recommended specific measures to be taken, so that public funds are not squandered and are properly accounted for. Those who have misused these funds should come out and say what they did with the funds. The Report gives names. We did not just do a Report. The Report is very clear and specific on what needs to be addressed.

Apart from that, we also looked at Government tenders. This goes up to the Office of the President, where houses were bought and no title deeds were given. This costs billions of money. It costs over Kshs600 million. At the time we were doing this

report, we did not know who owned this property. We visited those houses. You could not demarcate exactly and indicate the Houses that the Government of Kenya bought and the houses that are occupied by individuals. This Committee did the best it could. We went through that. There is a report showing very clearly, that procurement procedures, prequalification and tendering processes were not followed. It is not only in the Office of the President, but it also happens in other Ministries. We brought out this very clearly in the Report.

I want to urge my fellow Members of the National Assembly, especially the Members of the Committee, to follow up on what we have discussed. Hopefully, the House will adopt this Report. We hope that the various arms of the Government will take up these issues, follow up and conclude comprehensively on what happened with the procurement of police houses. They should find out what happened with the confidential cash and whether it ended up in people's pockets. Nothing was bought with this money. We also went through the Judiciary.

With those few remarks, I support this Report. I urge the Members of the National Assembly to read the Report and see the recommendations of the Committee, so that when we will be discussing the Report, they will make informed contributions or discuss issues when they are informed.

Hon. Speaker: The Clerk-at-the-Table may have confused you because you still had over 40 seconds. You thought you were being shut down. I noticed the way the Clerk-at-the-Table played with the lights. When it is yellow, you have one minute left. Member for Turkana Central, John Nakara.

Hon. Bowen: Thank you, hon. Speaker.

Hon. Speaker: That is hon. David Kangongo for Marakwet East?

Hon. Bowen: Yes, hon. Speaker.

Hon. Speaker: So, hon. John Nakara is out?

Hon. Bowen: Yes, he is out.

Hon. Speaker: Okay, proceed.

Hon. Bowen: Thank you, hon. Speaker. I stand to support this Report and congratulate the Committee led by my good friend, hon. Ababu Namwamba.

I have had time to go through the Report though not completely. I am happy that the Committee has done a very good Report. I do not want to repeat what my colleagues have said, but I just want to say one thing: The biggest issue that we have in this country is corruption. The major loophole of corruption in this country is in procurement. As I speak, procurement officers and accountants in the entire Civil Service are under the Treasury. They are posted or seconded in different Ministries, but they go there and commit crimes. These are people who do not have a direct reporting line to the line Ministry or the Ministries that they have been posted to.

At a later stage, there is need for these people to be posted to Ministries permanently, so that tomorrow when we have corruption allegations or misappropriation of funds in their Ministries, the individuals, whether they are procurement officers, accountants or finance officers, are sent home and new officers are recruited. They should not be sent back to the Treasury or transferred to other Ministries. By so doing, you are transferring corruption from one Ministry to another.

I want to commend the Committee especially on some hidden payments. I want to be specific to the Office of the President where some malicious expenditure is just seen, money is withdrawn and the destination of the money is not known. The time of secrecy is over. We have a new Constitution which gives us the right to information, whether the information is classified or not. A Committee like the Public Accounts Committee must be told that the money was withdrawn from this account and taken to that account for a specific purpose.

The Committee has worked very hard and tabled three Reports dating back to about three years ago, despite the challenge of communication breakdown that they are facing. However, those are in-house matters, and should not get out of this House. This is a very important Committee led by a very able man, hon. Ababu Namwamba. I have no doubt that what was played around was mere politics and had nothing to do with PAC. I just want to congratulate the Committee. If we stick to the recommendations contained in the Report, I am sure that we will reduce corruption and misappropriation of public funds across the entire Government. I am very sure that we will save a lot of money.

With those remarks, I beg to support.

Hon. Speaker: Yes, hon. Jessica Mbalu.

Hon. (Ms.) Mbalu: Thank you, hon. Speaker, for giving me the opportunity to add my voice to the debate on the Report of PAC, in which I sit.

I would like to start by thanking the Chairman of the PAC, hon. Ababu Namwamba, who has done a very good job. I do not speak for the sake of speaking, I speak because it is important to speak the truth. If you look at this Report, you will appreciate that it covers three financial years. For those who listen and read the HANSARD, this is a Report of the Appropriation Accounts, Other Public Accounts and Accounts for the Funds of the Government of Kenya for Financial Years 2010/2011, 2011/2012 and 2012/2013, which was laid on the Table of the House on Tuesday, 2nd December, 2014. This is a great achievement by the Committee. It will go into the books of history that the PAC of the Eleventh Parliament has been able to clear the backlog. We will now be dealing with current issues. For us, this is a great achievement.

Hon. Speaker, the information that has been leaked out is not part of the information of this House. We were about to brand the Eleventh Parliament in a very bad way because of rumours and vendetta. There is no Committee Chair or Member of a Committee of this House who would want to come here and discuss information which has been leaked out, unless we are mad. There is nobody who would want to table in this House or discuss what he has already given the public. Doing so reduces our confidence. We want to make this House a Parliament of the people represented by hon. Members. We also respect the PAC. I must say that we have very able Members. We went through the audit reports and called the Accounting Officers of the various Ministries, who gave us the information that we wanted. One of the pertinent issues that the Government needs to look into is lack of supporting documents. We made our recommendations and raised our concerns with the Ministries.

Hon. Speaker, this is a Committee we need to support. I want to urge all hon. Members and members of the public to read this voluminous Report, which is for one financial year. It is very heavy. Sometimes we discuss issues without bothering to look at the details of these Reports. We had issues of unsupported payments. Trial balances were

done at the end of the years but the Auditor-General could still find unsupported payments. There were also issues of undisclosed expenditures. In one instance, for example, the Auditor-General reported receiving for audit review, unsupported copies of payment vouchers that related to hefty confidential security expenditures during Financial Year 2012/2013. Disclosure was made on only a small percentage of the confidential expenditure. There was no reason given for the exclusion of the same. All these details were picked up by the PAC. Recommendations were made. I would only urge the Members of this House, members of the public and the concerned entities to read this Report word by word, including the recommendations we have made in order for us to move this country forward.

An issue of serious concern to this Committee is weak internal controls. We could not understand why some Ministries would have weak internal controls. Very good recommendations were made. I am sure that if we follow the recommendation of the PAC of the Eleventh Parliament, we will be able to move forward as a country.

I want to thank all Members of Parliament because I have not heard of any Member who has opposed the adoption of this Report. This shows that hon. Members have confidence in the PAC. Let us protect Parliament and the Government. Let us consider the recommendations that have been made by the PAC as we run this country.

Thank you, hon. Speaker.

Hon. Speaker: Yes, hon. Sunjeev!

Hon. (Ms.) Sunjeev: Thank you, hon. Speaker, for giving me the opportunity to once again contribute to such an important Report. We, the citizens of this country, need to be told the truth even though sometimes the truth can be bitter.

I appreciate the work that this Committee has done. I have gone through this Report. I have looked at the summary as well as the voluminous Reports that have been tabled. It is mind boggling for somebody to understand all these figures. The truth of the matter is that facts have been laid on the Table. These facts point to the level of misappropriation, corruption and things being hidden behind curtains. It is unfair because people are not being told the truth. Therefore, I commend the Chair of this Committee, hon. Ababu Namwamba, who has tabled this Report.

[Hon. Speaker left the Chair]

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

Hon. Temporary Deputy Speaker, what has been said in this Report is that about 98.43 per cent of the information provided to the Committee by the Ministries is either misleading or incomplete. What are we saying? We are saying that a large proportion of the revenue that has been collected has not been accounted for, and is not there. This Committee has had the brave task of bringing the matter to the Floor of this House. Therefore, it is important for us to recognize the work and the hours that this Committee has put into this Report.

I find it very difficult to accept that there has been excessive expenditure in the year 2012/2013 without the approval of Parliament. This is also something that needs to

be looked into. How do we accept that there are things going on and we kind of move on with the notion of accepting things the way they are when in real sense something needs to be done about it?

I also noted with concern that the highest imprest expenditure came from the Ministry of Youth Affairs and Sports which is really shocking in the list. This is what I have to say. Yes, we must look into this Report. We all must read through it but we must also know the repercussions of accepting this Report. We must also chart the way forward for the sake of our citizens. Therefore, in as much as I support this Report, I am also of the opinion that we must reflect as hon. Members of Parliament on what exactly we are going to do with these figures. If there is truth or a lie in it, let us dig deeper. I would only urge the Committee that they should keep up with the good work that they are doing and perhaps for some time we need to forget about the politics that is revolving around it. This is the money of citizens. It is the life of our people and at the end of the day, this is the development of our country that we are looking at.

With those few remarks, I would like to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You would like to support. Let us have the hon. Member for Turkana Central, hon. John Nakara. He is not in the House. Hon Members, let us remember to remove our cards when we are not in the House. Let us have hon. Patrick Wangamati.

Hon. Wangamati: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to also join other hon. Members. I took a bit of time to read this Report and I cherish it. It reflected on what we have been thinking that should be done by this House.

First, I want to congratulate the Members of the Public Accounts Committee (PAC) and its Chairman, hon. Ababu Namwamba for the good work they have done. This Report is an example for other Members of Parliament who are in different committees on the need to work hard so that we can bring out the records of what is happening in the Ministries and what is supposed to have been done. This Report has indicated a lot of things for us to note as a House and we want to use this Report as a base for us to work to bring an effective working environment in our Government.

As we look at the way some Ministries run the affairs of Government, it makes us feel that we are letting down our own people if we cannot stand as this Committee stood to report these matters very clearly. Corruption in this country has pushed us behind every year. If we are not careful we may end up going back to those days when the Government was just appointing people to head departments and parastatals who would mismanage funds. If we want to reduce corruption in this country, we will do it through the Departmental Committees of this House. That must bring the understanding that the Executive must do a good job, it must care and use public money for good development projects.

A few hours ago we were talking about privatisation. We said we want privatisation and people who are committed to run these firms. I am sure we want to give it back to Asians. Whenever we have a problem, Asians will come in and we give them a chance to practise corruption. They reduce prices. If we give them sugar, at first they will pretend that they are doing well. Afterwards, they will lower the price for buying sugarcane and this will discourage farmers a lot. This is simply because we are poor

managers of our own resources. The few people who mismanage our industries live luxurious lives and the Government is not holding them to account. This House should stand like this Committee that has pointed out a lot of weaknesses by Government officials. I want to tell Members of the Parliament that it is only this House that will bring down corruption and we must stand together. Let us not criticise ourselves. Let us come here and discuss issues that can bring down corruption in this country.

With those few remarks, I want to support the Report of this Committee very strongly. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Members. I have other two Members to contribute before I call upon the Mover to reply. Let us have the hon. Member for Njoro, hon. Joseph Kiuna.

Hon. J.K. Ng'ang'a: Thank you, hon. Temporary Deputy Speaker. I rise to support this Report but I would like to be quoted as saying that Kenyans are among highly taxed citizens in the world and what they get as a reward is not worthy what they pay. I can give an example of that African woman who wakes up very early in the morning from sunrise to till land or rear livestock till the sun sets while her husband is enjoying his life with his friends at the shopping centre. When it comes to the harvesting season or when the animals are being sold, the husband boasts around saying that, that is his homestead and everything there belongs to him as the head of the house. Therefore, he has every right to control it. He sells whatever the woman had saved or harvested and then goes back to the shopping centre and starts enjoying life leaving that African woman so poor and emaciated. I am saying that Kenyans are being taxed very heavily yet the kind of service they get is not worth it. It is high time the Government sits down and finds out where all these taxes, once collected, go to. This is because they do not come to the ordinary Wanjiku or Nafula on the ground; they never get it back.

Before I come to the Auditor-General, all those officers in various Ministries who are tasked with inspecting and making sure that the Government spends money that is allocated from the National Treasury wisely should be patriotic. From the way things are we need to rethink our patriotism because it is undergoing attrition. Many Kenyans are giving up and they are saying it is man for himself and God for us all. This is because they have been crying for services but they really do not get what they deserve.

I am suggesting that for the people who are responsible for supervision and making sure money is spent well and accounted for, the report they write or the solution they give should be taken seriously. Those few individuals who might have misused or misappropriated Government funds should not be excused. Let us not just form some commissions of inquiries, we need to go further and find a way of making sure funds are not misappropriated. We must come up with a solution because many Kenyans have reached a point where they are saying that as long as they can be in a position to get this, they can grab it. Look at stories in our daily newspapers of various scandals, I do not want to repeat because everybody knows them but after those inquiries and commissions were set up to investigate issues no tangible evidence has ever come up. In today's newspaper, you saw former powerful people being mentioned in a certain scandal. Let us leave it to the relevant authority and see whether they are going to make those unturnable stones to be turned and come up with the truth.

What I am saying is that we need to give the Auditor-General teeth to bite. Whoever is caught having spent or misappropriated public funds, let him or her be held responsible and let the law take its course and make sure that person--- Let it be seen and not just to be heard that they have been taken to court. It takes decades to investigate yet you later find out that those people have not been brought to book.

Hon. Temporary Deputy Speaker, we are losing a lot of money; taxes at our various ports. It is high time we visited those ports and find out whether we can liberalize them so that the people in charge are seen to be working. As for now, there are corruption deals going on and the Government is losing a lot of revenue.

As I wind up, I will request that as hon. Members and the Committee we put this House in order. It is very shameful and it is letting us down when we see ourselves in newspapers making headlines that amongst us there are corrupt hon. Members.

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well spoken. Let us have the last one before I give the Mover to reply, hon. Chachu Ganya.

Hon. Ganya: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Report. From the outset, I really want to commend hon. Members of the PAC of the Eleventh Parliament for working so hard to ensure our audits are now timely. Doing three accounts from three financial years within a span of two years is not a small achievement. I served in this Committee in the Tenth Parliament for the first Session of the Eleventh Parliament for six years. I know how hard it is to work overnight to ensure that we have very timely audited accounts.

In our Constitution, when we are doing division of revenues between the county government and the national Government, that division is based on the most current audited PAC Report. Because of the timeliness of this audit now, it means that our counties should be able to get more money than ever before because the data that would be used is the one of the recently audited financial year which is now basically the last financial year and for this I want to appreciate the good work of the Committee.

Hon. Temporary Deputy Speaker, when you have a timely audit, it really helps in management and it enables us look at issues that we have to enable us sort them out. In the past and from my own experience, in the 10th Parliament when I served in this Committee, we were auditing accounts for like eight or nine years ago. Those who were in that Committee some have already died, others are no longer in office while a few have left the country, hence you cannot really have proper audit to keep officers accountable for what they did. It is very difficult when it is not current because that will mean the Principal Secretaries and Cabinet Secretaries who are in office now are the ones who are going to answer questions. It is current report and audit and they cannot say they were not in office or that they just inherited bad records.

With the current trend, we will be able to deal with issues of mismanagement on a timely manner and it will not be historical data. It is current data which helps people or public officers to be very careful and be custodians of the resources bestowed on them by the Kenyan people. I really hope that the recommendations in this Report will be implemented. I urge the Public Accounts Committee (PAC) to demand the implementation of the recommendations before they actually sit with any of those Ministries in the new financial year. Otherwise, it is a joke for them to do all these

recommendations and they are not honoured by the Chief Accounting Officers in the Ministries. If people have been surcharged, they should honour that. If they are to refund funds to the Treasury, they must do so in a timely manner. If there is need for further investigation to cases of corruption that have been unearthed, it must be done on timely manner. It must be done within a certain well established timeframe and all disciplinary measures that have been recommended must be implemented to the fullest.

There is a lot of secrecy always when it comes to the Office of the President or the Ministry of Interior and Co-ordination of National Government. Most of the time, billions of shillings are not accounted for. You are always told funds are used in security matters and they use many other funny phrases. A mechanism must be found so that we are able to know what is being done with those resources. It might not be made public in the interest of national security, but I think watchdog committees like PAC should be able to have those details on behalf of the Kenyan people.

I am really surprised that there are some funds that have been utilized by Ministries without the approval of Parliament. That is a crime in any democracy. It is a must for Ministries to get parliamentary approval for them to utilize funds. In cases where this has been established, I really hope that necessary disciplinary action will be taken so that this will not be a precedent that others are going to use in future and basically refuse to adhere to the requirements of our Constitution.

It is really sad that PAC of late has been in the media for no good reason, rather for bad reasons. We do not know the truth but I really hope these issues will come out clearly because this is a very important committee; it is the supreme watchdog Committee of this august House and for the Kenyan people. If people do not have faith in the Committee, then basically our oversight role as Parliament has really been reduced and our image tarnished. I do hope these issues will be sorted out as soon as possible. It is good for the integrity of Parliament, PAC and all parliamentarians.

With those few remarks, I support the Report.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You support the Report. I call upon the Mover to reply. The Chairperson, PAC, the Floor is yours.

Hon. Ababu: Thank you, hon. Temporary Deputy Speaker. I stand here as a very proud Chair of PAC for the fantastic work that PAC has achieved. From the outset, please allow me to commend and pay very special appreciation to every single Member of this Committee: Hon. (Ms.) Cecily Mbarire who is the Vice-Chair, hon. Manje Joseph Wathigo; hon. Mbiuki Japhet Miriti Kareke; hon. Melly Julius Kibiwott; hon. Rop Jackson Kipkorir; hon. J.K. Bett; hon. (Ms.) Fadhia Mahub; hon. Bunyasi Sakwa John; hon. Odera Arthur Papa; hon. P.E.O. Anyanga; hon. Ng'ongo Mbadi John; hon. Maweu Kyengo Katatha; hon. Samuel Arama who was a Member up to the time when this work was concluded, hon. Nyamweya Manson Oyongo; hon. (Ms.) Chae Alice Nyanchoka; hon. Mwadime Andrew; hon. Omagwa Joel Onyancha; hon. Rai Samuel Gonzi; hon. Onyango Silvanse Osele; hon. (Ms.) Jessica Mbalu; hon. Robi Mathias Nyamabe; hon. Manoti Stephen Kengere; hon. Njomo Jude L. Kangethe; hon. Nuh Junet Sheikh; hon. Geni, Charles Mongare and hon. Abass Ahmed Ibrahim.

I took time to mention the specific names of the Members of this Committee because I am extremely proud of every single individual Member for the sacrifice and effort they have made to clear the backlog of the audited accounts and bring the accounts

as audited by the Auditor-General up to date. This is unprecedented and when history of this Parliament is written, it shall be recorded that PAC of 11th Parliament cleared in one calendar year accounts for five years and not three years. I need to set that record straight. When this particular Committee was appointed by this House which was actually late, way deep into the month of May, 2013, we found that the last accounts approved by the National Assembly were for the Financial Year 2007/2008. Even though the previous Committee had done some work on the accounts for 2008/2009/2010, that work had not been concluded and were yet to be submitted to this House. The first order of business for PAC was to ensure that the accounts for 2008/2009/2010 were tabled before this House, debated and adopted and indeed, records will bear me right that, in March 2014, I did table before this House double reports, being accounts for 2008/2009 and 2009/2010. This House, recognizing the urgency and the importance of clearing that backlog, gave priority to those two reports which we debated here and adopted.

The Committee then turned attention to three years; 2010/2011, 2011/2012 and 2012/2013 which are the three Reports we are adopting today.

Hon. Temporary Deputy Speaker, the Public Accounts Committee (PAC) took the unprecedented decision that in view of the implications of Article 203(3) of the Constitution--- For the record, allow me to read it. Article 203(2)(3) provides that:

“203 (2) For every financial year, the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than fifteen per cent of all revenue collected by the national government.

(3) The amount referred to in Clause (2) shall be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.”

The Constitution places a responsibility on the National Assembly to ensure that the basis for calculating revenue share between the national Government and the county governments is as recent as possible. In a bid to honour that Article and to ensure that counties receive the highest possible allocation of revenue, this Committee made the unprecedented decision to consider accounts for three consecutive years concurrently. It was on that basis that the Committee looked at all the three financial years together, concluding in the triple Reports that I tabled before this House, on behalf of the Committee, on 4th December, 2014.

These three Reports, historic by any standard or stretch of imagination, are good Reports. They raise some fundamental issues which, if addressed, will improve the way revenue is collected and expended and the way we allocate resources in the management of the affairs of our nation. We looked at big issues like confidential expenditure, pending bills, poor absorption of revenue by various Government departments, poor record keeping in various Government departments, unsupported expenditure and the challenge of imprest control. We also revisited major historic issues like Anglo Leasing and KenRen.

If this Committee was to be judged fairly in the court of this honourable House and that of public opinion, I invite hon. Members of this House and Kenyans out there including the media that the best performance index upon which to pass a verdict on the performance of this Committee are these Reports. We have a tendency to hasten to pass

judgment on people and to cast aspersions without taking time to look at the full picture. I want to invite this honourable House, the media and the Kenyan public to look at these Reports with a toothpick. They will discover that PAC fulfilled its mandate with honour, commitment and absolute fidelity to the best interest of the people of Kenya. We have said it as it is and as it ought to be said. We have meant what we have said here and we have said exactly what we have meant. On all the big issues, from confidential expenditure, unsupported expenditure, poor imprest control, poor record keeping, Anglo Leasing to KenRen, we have told the people of Kenya as it is and as it should be told.

So, as this House considers adopting these Reports, I invite them to take note of the fantastic findings and recommendations contained in these Reports. I also want to tell county governments that this is a moment for them to celebrate because they can expect more resources to be shared between the national Government and the county governments as required by Article 203(3) of our Constitution. We are now up to date.

Let me put it on record that we have invited the Auditor-General to a meeting with this Committee where we warned him that the Committee has now cleared the entire backlog. We are now pushing the Auditor-General. He has told the Committee that we should expect the next report for the accounts of 2013/2014 Financial Year in May 2015. However, we have told the Auditor-General---

(Hon. Ababu spoke off the record)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes. You are on. You have time and so you can continue.

Hon. Ababu: I plead for just ten or five more minutes.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You can use your five minutes. You still have a lot of time.

Hon. Ababu: I thought my time had run out. It is okay then.

We have told the Auditor-General in no uncertain terms that this country cannot wait until May 2015. So, we have urged the Auditor-General that he must submit the audited accounts for the 2013/2014 Financial Year to this House in the next 60 days. We do that to be able to maintain this momentum and tradition of ensuring that we now remain up to date.

I am also happy that the work of this Committee is already affecting legislation positively. Out of the deliberations of this Committee, Government has already submitted two very important Bills to this House. These are the Public Audit Bill, 2014 and the Public Procurement and Asset Disposal Bill, 2014. These two pieces of legislation will address some fundamental issues that the Committee has pointed out as requiring very urgent attention. Among those is the big issue of confidential expenditure. I am pleased that Clause 40 of the Public Audit Bill has made effort to address that particular matter. As a Committee, we have already met the Auditor-General and discussed with him the content of that Bill. We have agreed on certain areas that will require to be enhanced and improved. This Committee, working together with the Departmental Committee on Finance, Planning and Trade of this House, will definitely be improving on the Public Audit Bill and supporting it fully. The same goes for the Public Procurement and Asset

Disposal Bill 2014. I mentioned that because areas like procurement are a major source of the audit queries that end up in the various audit reports.

As part of the process of implementing the recommendations of these Reports and improving the general environment within which public funds are audited, scrutinised and oversighted, this Committee has also convened a very historic tripartite forum. The forum is the first of its kind in this country. This forum will bring together the National Treasury with all the Accounting Officers who are appointed, PAC and the Kenya National Audit Office (KENAO). The purpose of this historic forum will be, first of all, for this Committee to share with the National Treasury and all Accounting Officers the findings from the reports as tabled and debated by this House. It will especially draw the attention of the National Treasury and the Accounting Officers to the critical issues fleshed out and highlighted in these reports. This will also be an opportunity for the Committee, KENAO and the National Treasury to agree on some irreducible minimum threshold of how the three institutions can work together to better take care of taxpayers' money. That forum will be coming in the next one month.

Even as we discuss these matters, I want to draw the attention of this honourable House to the serious constraints in the Office of the Auditor-General. One of the reasons the Auditor-General cannot give us the report that we are pushing for in good time is because his capacity is strained. The Auditor-General now has to audit 48 governments, namely, the national Government and the 47 county governments. The budgetary allocation to the Kenya National Audit Office has not registered any exponential growth over the last three years that we have been rolling out the new constitutional order. I want to urge this House that if we expect the Office of the Auditor-General to be an effective ally of this House in our oversight role and to help this country to oversight the 47 county governments, where we may even have greater issues because these are governments which are in their formative stages, we have no choice but to increase the budgetary allocation to the Office of the Auditor-General to make it effective.

The sting in any report of the PAC, indeed, any report of this House, is how effectively recommendations of the Committee are implemented. I want to again draw the attention of the House to the fact that we have to go the extra mile to make sure that the recommendations in these reports are implemented. The PAC has already noted the challenge of weak implementation of recommendations in previous reports. It has identified a raft of measures that can be undertaken. At the top of those measures is the letter and spirit of Article 226(5) of the Constitution. It says that:-

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

When you look at all the three Reports that are being debated here, PAC has placed considerable emphasis on that Article 226(5) of the Constitution and has made a note that we will be enforcing the letter and spirit of that Article in a very serious way. Among the measures the Committee has identified include surcharging Accounting Officers.

Hon. Angatia: Hon. Temporary Deputy Speaker, I wish to make a clarification.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, hon. Chairman! Hon. Ayub Savula, you cannot contribute because the Chairman is now replying. We had time for contributions. Carry on, Chairman. It is not allowed by the Chair.

Hon. Ababu: My fantastic brother, hon. Savula, unfortunately we are a House of rules and we are bound, but I would love him to whisper the clarification to me after this.

I was saying that the question of implementing the recommendations of the Committee is essential. Otherwise, we would all be engaged in games of musical chairs that amount to zilch. Among the measures that the Committee has identified and will be deploying in accordance with Article 226 (5) of the Constitution on direct personal liability include: surcharging officers found culpable, investigation and prosecution, naming and shaming, pegging resource allocation to levels of accountability and building partnerships among various actors.

The Committee has facilitated the formation of a historic body called Accountability Kenya which now brings together all the players in the arena of accountability. These are the Public Accounts Committee, the Ethics and Anti-Corruption Commission, the Director of Public Prosecutions (DPP), the Controller of Budget, the Judiciary, the Inspector General of Police and other actors in that arena including the civil society. Through Accountability Kenya the PAC hopes to create synergy of actions where the PAC recommendations can be handed over directly to the Ethics and Anti-Corruption Commission for further investigation from which action can be recommended to the DPP for immediate prosecution. This is a framework through which the Committee hopes and strongly believes can have the recommendations we bring to this House implemented.

We have also adopted a system, starting with the next Report that the Committee will present to the House, of a list of commendations where the Committee will go out of its way to commend Accounting Officers who do their work effectively and take good care of resources placed in their hands. That list will be accompanied with a list of shame of those Accounting Officers who do not live up to expectations. An empirical scientific tool has been developed through the Research Officer attached to this Committee, which will be deployed for this purpose. This implementation framework will give effect to these Reports.

I am pleased that these Reports are adopted on a day when the Government of Kenya has shown serious intent to take action against persons suspected to have perpetrated the very heinous Anglo Leasing scandal. Allow me on behalf of the Committee to commend His Excellency President Uhuru Kenyatta for two reasons. One, in 2006 when His Excellency the President was the Chairman of PAC, he led that Committee in passing a verdict on the Anglo Leasing scandal and made far reaching recommendations including levels of culpability and responsibility that various actors ought to have taken. It is, therefore, gratifying that having made the recommendation as Chairman of the PAC in 2006---

(Hon. F.K Wanyonyi entered the Chamber without bowing)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, you cannot traverse the Floor of the House like that. Go back, bow and go back to your seat.

(Hon. F. K. Wanyonyi bowed to the Chair)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Carry on, hon. Chairman.

Hon. Ababu: Hon. Temporary Deputy Speaker, I was commending His Excellency the President that in 2006, he led the PAC to set the agenda of bringing to book the perpetrators of the Anglo Leasing scandal. Today, as President of this country, he has deployed the full instruments of the State to ensure that, indeed, the recommendations that PAC made in 2006, though nine years down the line, are effected. However long it has taken action is being seen. Martin Luther King loved to say that the arc of history is long, but it always bends towards justice. That is the case we are seeing now. I want to tell His Excellency the President that in his declared war against corruption demonstrated by the action being taken in this Anglo Leasing matter, he has a very strong ally in the PAC. The PAC wants to not only hear the talk, but also to see the walk. Our message has always been, let us talk the talk of our commitment to fight corruption, but let us also walk the talk. The walk can come no better than the action being taken in this case of Anglo Leasing. So, we commend His Excellency the President. We hope that in the same vein and spirit, recommendations that have also been made in this Report will see light of day and will be implemented.

Hon. Temporary Deputy Speaker, I want to conclude by assuring this House that these are good Reports. The Committee has done a very thorough job. These are voluminous Reports. Each of these Reports is voluminous and they are available in Room 8. I urge hon. Members to look at them. They do not just come as accounts and recommendations but they also come with supporting documents. For any matter which the Committee investigated, we took time to attach supporting documents. Through the House, we will forward these Reports to the relevant bodies that may use them. We hope that through this work, we will make this country more accountable and improve the oversight capacity of this House.

I repeat that if you wish to pass a verdict on this Committee, in terms of its performance and commitment to oversight, look at the product or the work of this Committee. I believe we have done a fantastic job. It now rests with those charged with the responsibility of implementation to pick our recommendations, run with them and make this country more accountable. We have declared war on corruption in all its forms and our recommendations speak to that very clearly; that the Committee is serious in the war against corruption. We have repeatedly told the Government, and I have just told the President from this platform; that in the war against corruption, the PAC is a strong and willing ally.

Hon. Temporary Deputy Speaker, I now conclude by urging this House to adopt the Reports of the PAC on:

1. The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds of the Government of Kenya for the Financial Year 2010/2011;
2. The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds of the Government of Kenya for the Financial Year 2011/2012; and,

3. The Appropriation Accounts, Other Public Accounts and the Accounts of the Funds of the Government of Kenya for the Financial Year 2012/2013, laid on the Table of the House on Tuesday, 2nd December, 2014.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you.

Hon. Members, because of obvious reasons, we will not be able to put the Question on the adoption of the Reports of the Public Accounts Committee. I order that the Question be put during the next sitting at the most appropriate time.

Next Order!

BILLS

THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO.1 OF 2014)

Second Reading

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Chairperson of the Departmental Committee on Finance, Planning and Trade. Is he in? I cannot see him.

Hon. Members, I order that the County Governments (Amendment) Bill (Senate Bill No. 1 of 2014) be deferred to the next sitting.

(Bill deferred)

Next Order!

THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO.2 OF 2014)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Is the Chairperson of the Departmental Committee on Justice and Legal Affairs in the House?

Hon. Members, you must appreciate that because of the decision that this House took on the Report on the privatisation of the public sector owned/controlled sugar companies, the Committee has had to consult more. I am sure that is why preparations have not been made by the hon. Members to be in the House.

Therefore, I order that the County Governments (Amendment) Bill (Senate Bill No. 2 of 2014) be deferred to the next sitting.

(Bill deferred)

Next Order!

THE NATIONAL HONOURS (AMENDMENT) BILL (SENATE BILL NO.16 OF 2014)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): This is by the Leader of the Majority Party. He is not in.

Hon. Members, the National Honours (Amendment) Bill (Senate Bill No. 16 of 2014) is ordered deferred to the next sitting.

(Bill deferred)

Next Order!

THE PRIVATE SECURITY REGULATION BILL

(Second Reading)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Is the Leader of the Majority Party in the House? He is not in.

Hon. Members, the Private Security Regulation Bill (National Assembly Bill No. 4 of 2014) is, therefore, deferred to the next sitting.

(Bill deferred)

ADJOURNMENT

Hon. Members, I appreciate your contribution. We are through with the business of the day as per the Order Paper. Therefore, the House stands adjourned until Wednesday, 4th March, 2015 at 9.30 a.m.

The House rose at 6.06 p.m.