

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Wednesday, 4<sup>th</sup> December 2019**

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]*

PRAYERS

QUORUM

**Hon. Deputy Speaker:** I see that the Members are beginning to prepare for the long recess early. I order the Bell to be rung for 10 minutes because we do not have the required quorum.

*(Quorum Bell was rung)*

**Hon. Deputy Speaker:** Order, Hon. Members. Order, Hon. Kenta. Can Members take their seats? We now have the required quorum. Therefore, business will begin.

**PAPER LAID**

**Hon. Deputy Speaker:** Under that Order, the Chairperson of the Departmental Committee on Transport, Public Works and Housing otherwise known as the “International Petitioner” has a Paper to lay.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Deputy Speaker. Specifically on the “International Petitioner”, I thank you very much.

I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Kenya Roads Board (Amendment) Bill (National Assembly Bill No.77 of 2019).

**Hon. Deputy Speaker:** Okay. That is done. So, we will go to the next Order.

**ORDINARY QUESTIONS**

**Hon. Deputy Speaker:** We have Ordinary Questions under this Order. To start us off is the Member for Buuri, who has written to me and asked that Hon. Kubai Iringo asks this Question on his behalf. So, Hon. Iringo.

*Question No.515/2019*

## DELAYED REHABILITATION OF ISIOLO–RUIRI ROAD

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Deputy Speaker for giving me this opportunity. On behalf of Hon. Rindikiri Mugambi, who is out of town on official duty, I beg to ask Question No.515/2019. It is directed to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

- (i) Could the Cabinet Secretary explain why the 28km Isiolo–Ruiru Road that connects Isiolo Airport and Meru Town which is in deplorable state is yet to be rehabilitated?
- (ii) What steps is the Ministry taking to ensure that the said road is urgently rehabilitated to serve motorists in accessing Isiolo Airport?

**Hon. Deputy Speaker:** Very well. That one will be replied to before the Departmental Committee on Transport, Public Works and Housing. Next is the Member for Mathioya, Hon. Kihara.

*Question No.517/2019*

## DELAYED PAYMENT OF OLD PERSONS

**Hon. Peter Kimaru** (Mathioya, JP): Thank you, Hon. Deputy Speaker. I rise to ask Question No.517/2019. It is directed to the Cabinet Secretary for Labour and Social Protection:

- (i) Could the Cabinet Secretary explain why over 470 residents under the Older Persons Cash Transfer Programme in Kairo Location of Mathioya Constituency are yet to receive their stipend since commencement of the programme?
- (ii) What measures has the Ministry put in place to ensure that the said residents are paid?

**Hon. Deputy Speaker:** Very well. That one will be replied to before the Departmental Committee on Labour and Social Welfare. Next is the Member for West Mugirango, Hon. Mogaka.

*Question No.518/2019*

## WATER PROJECTS IN NYAMIRA

**Hon. Vincent Kemosi** (West Mugirango, FORD-K): Thank you, Hon. Deputy Speaker. I wish to ask Question No.518/2019. The Question is directed to the Cabinet Secretary in charge of Water, Sanitation and Irrigation:

- (i) When is the Nyamira Town Water Project which is funded by the National Government expected to be completed?
- (ii) Could the Ministry consider putting a water sub-station at a higher elevation preferably at Mabundu area to ensure that water servers a larger population of Nyaisa, Gianchore, Etono, Nyamera, Bonyunyu and other surrounding areas through gravity?

**Hon. Deputy Speaker:** Very well. That one will be replied to before the Departmental Committee on Environment and Natural Resources. The last Question is by the Member for Mwingi West, Hon. C.N.N., Hon. Charles Nguna Ngusya.

*Question No.519/2019*

## DISAPPEARANCE OF DANIEL MUSILI AND JOEL KATIA

**Hon. Hon. Charles Nguna** (Mwingi West, WDM-K): Thank you Hon. Deputy Speaker for the opportunity. I would like to ask Question No.519/2019 to the Cabinet Secretary for Interior and Coordination of National Government:

- (i) Could the Cabinet Secretary explain the circumstances that led to the disappearance of two persons one Daniel Musee Musili of ID No.32620230 who was reported to be an employee of M/s. STEPMA Apartments situated near Daystar University Athi-River and one Joel Ithoka Katia which occurred around 6<sup>th</sup> July 2019?
- (ii) What is the status of investigations into the disappearance of the two persons and progress of the search as the matter was reported at Mlolongo Police Station vide Occurrence Book No.28/16/07/2019?

**Hon. Deputy Speaker:** Very well. That one will be replied to before the Departmental Committee on Administration and National Security. That marks the end of Question Time. Next Order, please.

**PROCEDURAL MOTION**

## EXEMPTION OF BUSINESS FROM PROVISIONS OF STANDING ORDER 40(3)

**Hon. Deputy Speaker:** Is that by the Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Deputy Speaker. I was consulting with my kinsmen.

**Hon. David ole Sankok** (Nominated, JP): *(Off-record)*

**Hon. Deputy Speaker:** Order, Hon. Sankok. We do not have a Prime Minister in this House as yet.

**Hon. Aden Duale** (Garissa Township, JP): I have to consult my community in the House after Sagana, every morning. This is because there are community meetings now. I am even told there is one over the weekend.

I beg to move the following Procedural Motion:

THAT, this House orders that the business appearing as Order Nos.15, 16, 17 and 18 be exempted from the provisions of Standing Order 40(3) being a Wednesday Morning, a day allocated for business not sponsored by the Majority or Minority Party or business sponsored by a Committee.

We have some key national agenda in Order No.15. If you look at No.15, it is the approval of the Controller of Budget (CoB). As we sit here today, there is no CoB since Wednesday last week. So, even resources to Parliament cannot be approved until we deal with Order No.15 and maybe he is gazetted and sworn in today. Order No.16 is about supplementary appropriation which is, again, key. Those of us who were in the House yesterday said that even our own National Government Constituencies Development Fund (NG-CDF), from which we can get money to build more classrooms and pay bursaries, is important. Then, Order No.17 is also important because our parliamentary nominee who sits on the Salaries and Remuneration Commission (SRC) has been absent for the last one year. So, we want to approve Hon. Amina Abdalla to represent Parliament alongside Hon. Dalmas Otieno. We have two nominees and they can represent our interests as Parliament. This is a Morning Session which is always left for business sponsored by Private Members. I want to indulge the House. The House Business Committee (HBC), chaired by the Speaker, in its wisdom, proposed that we deal with those three matters that are urgent. In fact, they are four. If you look at Order No.18 on examination of the financial statements for the national Government for the Financial Year 2016/2017, we need to approve it before we go on recess, so that they can be used in the formulation of the next budget that begins in March, so that counties can get more resources. The resources for the NG-CDF and other institutions can go up. So, the four orders are key. Being the second last day of this session, I want to ask the Members to pass them.

As I move, I want to ask Hon. John Mbadi, a Member of the HBC, to second.

**Hon. Deputy Speaker:** Hon. Mbadi, you have the microphone.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Deputy Speaker. My microphone needs to be fixed. It always has issues. As I rise to second this Motion, Order No.15 on approval of a nominee for appointment as the Controller of Budget needs to be approved as soon as possible. Right now, counties cannot spend money. At least Parliament is a little bit better, but counties cannot spend. Salaries have not been paid. The national Government is also affected because there is no substantive holder of the office of Controller of Budget. Order No.16 is on the Supplementary Appropriation (No.2) Bill, which we need to dispense with.

Order No.17 is on approval of nominee for appointment as a representative of the PSC to the SRC and I do not want to belabour the point. Finally, Order No.18 is on the Report of the Public Accounts. If we dispose of this business and have the accounts of the Financial Year 2016/2017 approved, then this House shall have only accounts of the Financial Year 2017/2018 to deal with. For the first time, we are seeing a situation where this House is almost up to date with the accounts. So, the story of using older financial years' accounts will be a thing of the past. The National Assembly will have lived to its billing on its responsibility and mandate and the work will go to the Treasury to have correct amounts divided between the national Government and the county governments.

With those few remarks, I second.

**Hon. Deputy Speaker:** Very well.

*(Question proposed)*

*(Question put and agreed to)*

Next Order!

## **BILLS**

### *Second Readings*

#### THE EQUALIZATION FUND BILL

*(Hon. Kassait Kamket on 13.11.2019 - Morning Sitting)*

*(Debate concluded on 20.11.2019 - Morning Sitting)*

**Hon. Deputy Speaker:** Debate on this Bill had been exhausted and what remained is for the Question to be put. I can confirm that we have the required numbers.

*(Question put and agreed to)*

*(The Bill was read a Second Time and Committed to a Committee of the whole House tomorrow)*

#### THE KENYA INSTITUTE OF CURRICULUM DEVELOPMENT (AMENDMENT) BILL

*(Hon. (Ms.) Joyce Emanikor on 20.11.2019 - Morning Sitting)*

*(Debate concluded on 20.11.2019 - Morning Sitting)*

**Hon. Deputy Speaker:** Also, on this particular Bill what had remained was for the Question to be put. I can confirm that we have the required numbers.

*(Question put and agreed to)*

*(The Bill was read a Second Time and Committed to a Committee of the whole House tomorrow)*

### MOTION

#### FACILITATION AND SUPPORT OF NATIONAL FARMERS' FEDERATION

THAT, aware that farmers in Kenya are least organised into associations, following the collapse of the Agricultural Cooperatives; further aware that the Crops Act, 2013 provides for registration of farmers so as to establish who they are and what they produce; noting that Government's efforts to establish farmers' organizations have ended up delivering short-lived and unsustainable initiative-based groups which fizzle out soon after their formation; further noting that the best way to organise farmers is through their organizations; appreciating that the best suited organization to undertake farmers' registration is the Kenya National Farmers' Federation which has both experience and capacity; further noting that through organised farmers, farming will be more beneficial in terms of volumes, lowered cost of production and improving organised raw material supply to industry; realizing that organizing farmers into agri-business entities is a costly undertaking which calls for Government support, and acknowledging that through organised production systems, the country will achieve the Big Four Agenda faster and also create more and better jobs in the Agricultural Value Chains; this House urges the Government to facilitate and support the Kenya National Farmers' Federation to mobilise and organise the registration of farmers into preferred entities and manage national farmers' database for use in engagements and sustainable management of the various Agricultural Product Value Chains.

*(Hon. John Mutunga on 30.10.2019 - Morning Sitting)*

*(Debate concluded on 13.11.2019 - Morning Sitting)*

**Hon. Deputy Speaker:** This Motion was canvassed and finalised. So, I will proceed to put the Question.

*(Question put and agreed to)*

Next Order!

**BILLS***First Readings*

THE LAW OF SUCCESSION (AMENDMENT) BILL

THE CONSTITUTION OF KENYA (AMENDMENT) (NO.6) BILL

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO.4) BILL

*(Order for First Readings read - Read the First Time and ordered to be referred to the relevant Departmental Committees)*

**Hon. Deputy Speaker:** The leader of the Majority Party. Sorry, it is the Chairperson, Departmental Committee on Finance and National Planning who is supposed to move. Yes, leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, Hon. Limo is on his way to this House. I propose you reorganise business, so that with your permission, we go to the Committee of the whole House and deal with the Supplementary Appropriation (No.2) Bill. Then we can come back to the Motion on appointment of the Controller of Budget.

**Hon. Deputy Speaker:** For purposes of good planning, if we go to the Committee of the whole House, there will be some distraction. I would rather we go to Order No.17.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, it is the same Chairperson to move it.

**Hon. Deputy Speaker:** It is the same Chairperson? That is okay. It is understood. Whatever you have requested is approved. What is it, Hon. Ichung'wah? We will proceed to the Committee of the whole House.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, somebody has been delegated by Hon. Limo to move on his behalf.

**Hon. Deputy Speaker:** That is interesting. He should be a bit more organised in future, so that we are aware in good time. Otherwise, we will keep organising and reorganising.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Limo is on his way to Naivasha for a serious meeting this weekend. So, he is preparing the venue.

**Hon. Deputy Speaker:** Who is the Member he has tasked? Is it Hon. Mbooni? Okay, let us hear from you. We will go to Order No.15.

## MOTION

APPROVAL OF NOMINEE FOR APPOINTMENT  
AS CONTROLLER OF BUDGET

**Hon. David Mboni** (Kitui Rural, CCU): Thank you, very much, Hon. Deputy Speaker. I was just told by Hon. Limo to stand in for him. We went through public participation to interview the Auditor-General as proposed.

**Hon. Deputy Speaker:** Hon. Mboni, we are dealing with the first one, which is the approval of the nominee for appointment as Controller of Budget. Is that the one you are ready on or the other one of the SRC?

**Hon. David Mboni** (Kitui Rural, CCU): No, on the Controller of Budget.

**Hon. Deputy Speaker:** Okay, proceed, please.

**Hon. David Mboni** (Kitui Rural, CCU): Hon. Deputy Speaker, the report on the vetting of the nominee for Controller of Budget was adopted having been proposed and seconded by Hon. Edith Nyenze and Hon. Joshua Kandie. The Committee agreed on the following observations and recommendations.

**Hon. Kubai Iringo** (Igembe Central, JP): Point of order.

**Hon. Deputy Speaker:** What is it, Hon. Iringo?

**Hon. Kubai Iringo** (Igembe Central, JP): Hon. Deputy Speaker, I thought the Member should be moving the Motion. He should move the Motion and start explaining to us. We do not know what he is trying to tell us. Let him move the Motion. It is on the Order Paper.

**Hon. Deputy Speaker:** Yes, Hon. Mboni, do exactly that. Move the Motion first and then you proceed to argue your case. You can even read it on the Order Paper. It is perfectly in order.

**Hon. David Mboni** (Kitui Rural, CCU): Appointment of Controller of Budget. I beg to move the Motion:

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in its Report on the Vetting of the Nominee for Approval as the Controller of Budget, laid on the Table of the House on Tuesday, 3<sup>rd</sup> December 2019, and pursuant to the provisions of Article 228(1) of the Constitution, Section 4(10) of the Controller of Budget Act, 2016 and Section 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of Dr. Margaret Nyang'ate Nyakang'o as the Controller of Budget.

As a Committee, we did vet Margaret Nyakang'o and we realised that she has the necessary qualifications having worked at the KNBS as the Finance and Administration Director for 10 years. In addition, she has also worked as Principal Auditor, State Corporation, from 1993 to 1994 and also worked as Senior Auditor in the central Government and local government in the former Controller and Auditor-General's Office. She has a wealth of experience from the private sector. We realised that apart from that, she answered our questions very well. In terms of integrity, there was nobody who came up with any report suggesting that she is not really qualified to handle this particular job.



With those few remarks, I move and ask the Leader of the Majority Party to second. Thank you very much.

**Hon. Deputy Speaker:** Very well. Let us hear from the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, I want to thank Hon. Mboni, one of the serious Members of the Committee on Finance and National Planning. Hon. Atandi is here.

I second the Report of the Departmental Committee on Finance and National Planning on the vetting for approval of the nominee for the position of Controller of Budget.

Looking at Article 228 of the Constitution, which creates the office of Controller of Budget, I must state that this nominee becomes the second nominee under the Constitution to hold this very important office. This is a constitutional office that reports only to Parliament. It is an office that must not take instructions from any other person or institution. In fact, the National Assembly takes care of the budget-making process. Once we are through with that process, the Controller of Budget oversees its implementation, both at the national and county governments. The office authorises withdrawal of public funds. So, the Controller of Budget, in a layman's language, holds the key to the door where resources are kept. For example, if you want to spend resources under the Equalisation Fund, you must have the key. The Controller of Budget has the key. If you want to spend money from the Consolidated Fund, the Controller of Budget has the key. Nobody else has the key and nobody else can authorise resources to be spent from these funds. If you want to give money to county governments, the only person who has the key to the county funds is the Controller of Budget.

Let us be very critical as a House. Under the Public Appointments (Parliamentary Approval) Act, the checklist on how to vet a nominee is well documented. Has the nominee been cleared by the EACC? Dr. Margaret has been cleared by the EACC. She has no case pending or investigations ongoing. Does she have the certificate of good conduct from the DCI that she has no pending criminal case? Dr. Margaret has complied with that provision. Is she tax compliant when she was sitting on the chair? She is tax compliant. It is good to remind the House one person, when being vet, was not tax compliant.

Some people went out there and decided to sanities her. What happened? I really wanted the Members to read judgements of the courts. On the National Land Commission, the Judge of the Industrial Court said Parliament or the Committee of Parliament was trying to sanities the tax compliant issue of a nominee. Dr. Margaret is tax compliant. The nominee for Controller of Budget has paid her HELB loan. Once you deal with those four critical institutions, the nominee has experience and educational qualifications. Beyond reasonable doubt, the Committee has said that. When we come to the House, either to support or to oppose, we must work and act within those perimeters. I heard on the corridors of Parliament that we were promised... There is nothing that was promised.

**Hon. Deputy Speaker:** Order, Leader of the Majority Party. What is it, Hon. Atandi?

**Hon. Samuel Atandi** (Alego-Usonga, ODM): *(Off record)*

**Hon. Deputy Speaker:** It is okay.

**Hon. A.B. Duale** (Garissa Township, JP): I heard some people saying that there was a meeting somewhere and we were promised this seat. Nobody promises people jobs in Kenya.

You have to go for a competitive interview, qualify and win. The President, in the best of his knowledge, sends a name here, but you cannot say we were under a tree and we were promised this seat. Who promised you? So, when we are debating about this nominee, let us debate based on the Public Appointments (Parliamentary Approval) Act.

Hon. Deputy Speaker, for you to open the door to the Equalization Fund, Consolidated Fund and county revenue funds, the person who has the key is the Controller of Budget. After we pass the budget, the other important person in its implementation is the Controller of Budget.

Once this nominee has been appointed, she has the powers to open the door. Indeed, this is captured in Article 228(4) of the Constitution. It is good even for Members to read the Report and the Chapter on the Controller of Budget in the Constitution. Go to Article 228(c)(4) on what it says. Indeed, this is about the implementation of the budget. As a country, the Controller of Budget must be very serious. The Controller of Budget cannot allow huge pending bills both in the national Government and county governments to exist to the tune of Kshs100 billion. Today, businesses have collapsed in our counties and in the national Government. People are saying there is no circulation of money. Pay people their debts and you will find money circulating. So the Controller of Budget is under obligation to ensure that whether it is the national Government, county governments, Judiciary or Parliament, pending Bills are history.

In this regard, once the nominee is in office, she should ensure that the principles of public finance as enumerated in Article 201 of the Constitution are her guiding principles. That should be her Standing Orders. She must comply with the Public Finance Management Act and the public finance as stipulated in Article 201 of the Constitution. Dr. Margret has no choice, but to comply with the law. We expect she will only authorise withdrawals where there is prudent and responsible use of public resources. The Chair of the Public Accounts Committee must in the next sitting call the Controller of Budget. Any accounting officer in the national Government, county governments, Judiciary and Parliament who does not use public resources efficiently and prudently should not be given money. She has the powers. It will make work easier for the PAC when the Controller of Budget becomes the vetting chamber. This will ensure that those who do not absorb their public resources or use resources in a corrupt and wasteful way, are not given money. She should only authorise money in the interest of the public.

Hon. Deputy Speaker, this House is also aware that the national budget is made following extensive public participation, consultations and careful consideration by the Budget and Appropriations Committee of this House.

**Hon. Dr. Chis Wamalwa** (Kiminini, FORD-K): On a point of order, Hon. Deputy Speaker. Looking at the time aspect, I was kindly requesting if you can restrict contributions to five minutes. I know it is a very important Motion.

**Hon. Deputy Speaker:** Well, Hon. Dr. Wamalwa, I will listen to you. However, the Leader of the Majority Party spoke before any restrictions were made. Immediately he speaks, we will propose the Question and then I will entertain your request. In fact, you do not even need to say it again. I have already heard what you have said and you are on record.

**Hon. Dr. Chis Wamalwa** (Kiminini, FORD-K): Absolutely. I do not need to interfere with my ranking.

**Hon. Deputy Speaker:** No! I will not.

**Hon. A.B. Duale:** No! That is directing the Speaker. You know Hon. Wamalwa is part of the leadership, but he does not understand two things. One, I am seconding. The Member who moved used less time. So, I have more time.

*(Laughter)*

Secondly, I am the leader of the Majority Party and I have more time than anybody else. I am the acting Prime Minister.

*(Laughter)*

It is important to know that Article 228 of the Constitution confers upon the Controller of Budget the role of making reports to Parliament on the implementation of the national and county governments' budgets. The Speaker gave a directive there. Every three months, the Controller of Budget is under obligation to submit reports on county governments and national Government implementation of resources matrix. We really want the Chair of the Departmental Committee on Finance and National Planning to look at the reports and make a report to the House. This is where the predecessor of the nominee did very well, but the Committee did not bring the reports. Reports must be very clear. They must be made open to debate as to what they mean and what contain. So, the real work is with the Departmental Committee on Finance and National Planning. Once I table the quarterly reports, the Committee must make sense out of them. It must do a critique of what the Controller of Budget gave us. We should not take it on the face. The senior Member of the House is a Member of the Committee. He is my deputy and has promised to do that.

In making implementation reports of the national Government and county governments, the Controller of Budget should wear the hat of a doctor. Doctors in this House like Hon. Nyikal, who is sitting here, can confirm that. I cannot suspect that you are suffering from malaria at the same time from flu. There are no two ways. Figures are figures. The legacy of the predecessor of the nominee was tainted with discrepancy in the figures of county governments' pending bills.

Hon. Deputy Speaker, if you look at the documents that are before the both Houses on pending bills, some counties are saying that they have a pending bill of Kshs2.1 billion. The Auditor-General, who verified, is saying that the pending bill is Kshs900 million or about Kshs3 billion. We want the Controller of Budget to behave like Dr. Nyikal. He cannot suspect you to be suffering from malaria and also flu. He will tell you what problem you are suffering from after doing a serious examination.

We want the Controller of Budget to ensure that the figures she presents to Parliament, either on the national Government, county government or Parliament are convincing and true. I recall in 2018 where the Controller of Budget had indicated that the accumulated pending bills for counties was Kshs108 billion, but the Auditor-General conflicted this and said that the genuine pending bills that the Government could pay was Kshs51 billion. These are two independent offices answerable to Parliament and dealing with figures, but giving conflicting information. This is a serious discrepancy. What about the people who are owed Kshs49 billion

that the Auditor-General is saying is non-existent? So who do you believe? Do you believe the Controller of Budget or the Auditor-General?

Hon. Deputy Speaker, again, it was the issue of the Eurobond that displayed bad light to the Office of the Controller of Budget. At one point, in a report tabled before the House, the former Controller of Budget said that Eurobond was in order. You will give me another two minutes as I am about to wind up. At one point, she told the Committee of the House that she had not approved the US\$2 billion Eurobond transaction only for her to change her mind later and say that she was aware of the approved transactions. We will not allow Dr. Margaret to tell us such stories. At one time, you say you have not approved the Eurobond and the next time, you come back to the committee of the House and say you approved.

I want to use the example of doctors. There will be no two ways for the nominee. We expect the nominee to be very clear on facts and figures. Conflicting reports should be a thing of the past moving on. Consequently, her first job when she assumes office this week, if this House approves her nomination, is to ensure that there is public confidence in what she tells this House. It is like the Chief Justice or the Speaker of the National Assembly. You must stand by your word.

Finally, looking at the Report of the Committee, I have no doubt that she has what it takes to chart a course that will avoid the pitfalls of her predecessor and create a more efficient Office of the Controller of Budget.

With those many remarks, let us debate the Report, read it and look at what the Committee has said. Do not tell us who you met somewhere in a town, in a hall and who promised you a job either as an individual or a community. If you have a problem, go and look for that person and ask them why you did not get the job.

I beg to second.

*(Question proposed)*

**Hon. Deputy Speaker:** Hon. Members, before I open it up, I want to transact the business by Hon. Chris Wamalwa. He is asking that we reduce the speaking time to five minutes. Just for purpose of information, as we speak, there are many requests, meaning there is a lot of interest in this particular one. So, as you make your decision, have that in mind. Hon. Wamalwa asked for five minutes. If there is somebody who has a different opinion, you should place it before us.

**Hon. Members:** Three minutes.

**Hon. Deputy Speaker:** I hear some Members interested in three minutes. Since I see there are many of you interested in three minutes, we will work on the five minutes. If it goes through, you are free to speak for three minutes. Do you understand what I am saying? Let us work on five minutes, but a Member who feels they can save some few minutes for the rest will be fine and accepted.

Members, Hon. Chris, you are not the first one and you know it. The person top on the list is Hon. Ole Sankok and you are free to look at the records. You are not even second.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute to this very important Motion. I support the Committee for having done a thorough job. I read the Report very well yesterday at night and I found that they had gone through all the parameters of vetting. Before I go into the Report, allow me to tell the Members that yesterday was the International Day for Persons Living with Disability, which is always celebrated on 3<sup>rd</sup> December since 1992. It will be good for us to join our brothers and sisters with disabilities in celebrating such important days. So, I appeal that Members should remember 3<sup>rd</sup> December next year. This year's theme was: Promoting the participation of PLWD's and their leadership.

I thank you, Hon. Deputy Speaker.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): On a point of order.

**Hon. Deputy Speaker:** What is it, Hon. Ichung'wah?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Deputy Speaker, I was rising on a point of order on the question of relevance. Hon Sankok, as much as he is representing PLWD's, has completely moved out of the subject of debate this morning. I was actually flipping through the Report to see whether this Dr. Margaret Nyang'ata Nyakang'o is disabled because he is talking about issues to do with disability and celebrating the disabled.

**Hon. Deputy Speaker:** Member for Kikuyu and the Chair of the Budget and Appropriation Committee, I think Hon. Sankok was perfectly in order. What he did was to recognise that yesterday was the day of disability. He is extremely relevant especially having been nominated under that category. Whenever he gets an opportunity, he should utilise it. So, up to that point, he is completely relevant. Now he can go to the meat of the Report.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Deputy Speaker for defending me. It is only I and the National Council for Persons with Disability (NCPD) who can ascertain who is disabled and who is not. Coming to the Report, Dr. Margaret has met all the parameters that we require in vetting.

First, she has the relevant academic credentials, experience and is tax compliant. She has been cleared by the KRA, HELB and the EACC. So, she is qualified to hold this office. Dr. Margaret will be carrying the keys to the box where our resources and taxes are placed. We were in a lacuna where the person with the keys to the box where we store our money and resources was not available. Our people have suffered, especially county governments' workers because of non-payment of salaries. Our people need roads and the key for finances will be held by the Controller of Budget, Dr. Margaret, if this House approves her nomination.

I support this Motion. I urge the Members to approve it. We have seen people in the press saying that they sat under a tree and were promised a certain position. In this country, only qualifications can give you a position and not political rallies, sitting under trees, in churches and saying your community was promised. You cannot say that you were promised a position of a medical doctor, then you bring a shepherd from the village and take him to a theatre at the Kenyatta National Hospital (KNH) to perform a surgery. Qualifications are a requirement.

Finally, I do not want to be drawn to what Hon. Duale said that he is the official Third Prime Minister of the Republic of Kenya. The BBI Report has created a position of Prime Minister of the Republic of Kenya, which is equivalent to the position of the Leader of the

Majority Party. It has also created the official opposition party which is equivalent to the position of the Leader of the Minority Party. So, Hon. Mbadi is also the Official Leader of the Opposition and holds the office. I congratulate the third Prime Minister of the Republic of Kenya, His Excellency Right Hon. Aden Duale.

Thank you.

**Hon. Deputy Speaker:** Hon. Members, let us have Hon. Mogaka Kemosi.

**Hon. Vincent Kemosi** (West Mugirango, FORD-K): Thank you, Hon. Deputy Speaker for giving me an opportunity to make my contribution. From the outset, I wish to take this opportunity to thank His Excellency the President for nominating Dr. Margaret Nyang'ata Nyakang'o as the next Controller of Budget. I also wish to thank the Departmental Committee on Finance and National Planning for approving her nomination.

Dr. Margaret Nyakang'o comes from my constituency of West Mugirango. She is an accountant by profession and a financial manager. She has served in several senior positions in the Government of Kenya, the last position being a Director at the KNBS. She is highly qualified having obtained a Doctorate in Business Administration from the University of Liverpool among other qualifications. She was selected as the best from a pool of 15 applicants who applied for this job. I am quite convinced she is up to the task and can take the Office of Controller of Budget to the next level.

The Office of Controller of Budget is crucial in public finances. It is one of the offices that deal with mechanisms that enhance accountability in the expenditure of public resources. This is an independent office established under Article 228 of the Constitution of Kenya and it oversees the implementation of the budget. The office exercises oversight by authorising withdrawals from public coffers among other functions. The roles of this office include oversight and overseeing implementation of the budget both at the county and national Governments. It also has a control role through authorizing withdrawal of public funds and reporting to Parliament on budget implementation. It also advises Parliament on financial matters pertaining to the budget.

This office is important since the holder can, in his/her own motion, conduct investigations dealing with complaints where the budget is not implemented properly. It also involves the public sensitization role. The holder of the office has the role of disseminating information to the public in terms of budget implementation. It also has a role of arbitration or mediation and power to reconcile as well as negotiate where aggresses occur. This position is important at this particular time because as we can see, counties are experiencing expenditure problems because the holder of this office is not in place. I am quite convinced that upon taking office, she will expedite and take it to the next level.

I support the nomination of Dr. Margaret Nyakang'o as the new Controller of Budget. Thank you.

**Hon. Deputy Speaker:** Hon. Atandi.

**Hon. Samuel Atandi** (Alego-Usoga, ODM): Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I am following the list for now. I know there are a few Members who want to speak because they have specific interests and I will give them an opportunity. You will have time.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you, Hon. Deputy Speaker. The Office of Controller of Budget is among the very important offices in our Constitution. It is charged with approving money from the Consolidate Fund Services. When we vetted Dr. Nyakang'o, we were very meticulous. We went through her profile and realised she is a Civil Servant who has served this country for many years and has come out with a spotless career.

When we looked at her wealth, we realised it is modest. Most civil servants who have served in the Government for many years have accumulated so much resources. But she was able to justify her wealth. We were convinced she is a Civil Servant who is not only of high integrity, but honest and will serve us well. Dr. Nyakang'o is a solid Civil Servant and you know the importance of this office. It requires somebody who is not only solid, but one who has served the country and has enormous experience.

Most of my colleagues complained that her age was not suitable. When we looked at this office, we needed somebody who will not succumb to interferences from the National Treasury. You know one of the mistakes the Constitution did was to allow the National Treasury to continue being a very powerful organ of the Executive. So, we needed somebody who will not be intimidated by the National Treasury and will stand their ground when it comes to approving release of money towards the implementation of the budget.

Something most people have observed about this office is that we need to empower it. This is very important. We ask Parliament to help us empower it. The Office of Controller of Budget should not only be in charge of the expenditure side of the budget, but we need it to audit and oversight revenues. You cannot be in-charge of release of funds which you do not know where they are coming from. So, we need to give the Controller of Budget powers over the revenue aspect of our budget.

The nominee agreed with us that the question of pending bills in the counties and the national Government is a crisis. We needed an assurance from her that upon taking over the office, she will ensure that this question does not arise going forward. She assured us that she will be bold and ensure that resources spent will only be those that are budgeted for. Also, counties will be persuaded to work on increasing their own revenues. Counties depend entirely on revenues from the national Government. This is not working well for the country. The new Controller of Budget should work with counties to ensure that they can raise their own revenues and increase the portions they raise towards implementing their projects so that they become self-reliant in the area of revenues.

The previous holder of this office had certain challenges. Some of them have been highlighted by the Leader of the Majority Party. The previous holder of the office did a very good job. There are certain areas where she failed. I still believe that Eurobond resources were stolen. The Leader of the Majority Party has said that when she appeared before Parliament, at some point she said the resources were not stolen while on another occasion she said resources were stolen. I think they were stolen. The new Controller of Budget must ensure that...

**Hon. Deputy Speaker:** Your time is up. Let us have Hon. (Dr.) Tecla Tum.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Hon. Deputy Speaker, I support the Report on the appointment of Dr. Margaret. She has the required qualifications for this post. The post of the

Controller of Budget is important. He or she is to submit reports to Parliament every three months. She holds a degree in Business Management and is a professor in a university.

Fifteen counties have their money held because of pending bills. She is urgently required in the position so that she can deal with the counties. There are 15 counties which do not have money for hospitals. There is also the issue of impassable roads. The education sector is affected. This lady is required as soon as possible.

We have been talking about gender parity, the two-thirds gender rule and the glass ceiling. I thank the President of the Republic of Kenya for considering a lady in a management position so that we can break the gender glass ceiling in the nation. I fully support her appointment and she can start to work. I pray that she will do the right thing and fairly and justly deal with all the people. She will serve every Kenyan equally.

I support her appointment.

**Hon. Deputy Speaker:** Let us have Hon. Chris Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Deputy Speaker. I rise to support the nominee. The Controller of Budget is a very important office as articulated under Article 228 of the Constitution. The main responsibility of the Controller of Budget is that of a store-keeper. She is the one who takes care of the stores. She has the key that opens and closes. She plays a very critical role as far as prudent financial management is concerned.

The biggest problem we have in this country right now is that there is no money in circulation. This boils down to the pending bills. I have gone through the Report on the vetting. I am happy to note that she was asked about the issue of pending bills. It is very critical. If contractors have done their work, it is important that they are paid on time so that this money can cascade down to improve the welfare or the livelihood of the people.

I watched the news yester night and I learnt that about 15 counties have not met their obligations. We passed the Division of Revenue Bill which effects the vertical sharing of revenue. How come we have pending bills yet counties normally receive this money? It beats logic. Many times they say they were not given the money, but in the long run they are given their share. The issue is about good financial management practices. It is important that every county finishes paying the pending bills before the money is given.

We also have issues when it comes to releasing this money. We are told that the Exchequer is broke and yet the funds that were approved have not been released. For example, the Political Parties Act explains that 0.3 per cent of the national revenue should be given to political parties. Most of the time you would find that money that has been given to the political parties does not reach the 0.3 per cent. As a matter of fact, in the last term, Hon. Anthony Oluoch went to court. The court made a determination. The money that was released this year does not reach the threshold. We are calling upon the Controller of Budget as she comes into office to ensure that political parties are given their dues so that they can help to improve democracy in this country.

Article 228 is clear that the office holder must have at least 10 years of experience in public financial management. Looking at Dr. Margaret's CV, you realise that she has more than the 10 years' experience. She has held senior positions at the Bureau of Statistics as the Director of Finance. That is a big plus. She is also a Certified Public Accountant (CPA) and a member of



the Institute of Certified Public Accountants of Kenya (ICPAK). That means that in terms of continuous education, she is in a position to impart knowledge.

One of the critical challenges facing counties is revenue collection. Municipalities or city councils would raise more money. Right now, counties are collecting less. The challenge is in matters of integrity. They are collecting more money but you do not know where it goes. They submit less funds. When she was asked this question, she came up with the issue of capacity building. My humble opinion is that it touches more on integrity. The Controller of Budget should bring in the Kenya Revenue Authority (KRA) to help counties when it comes to collecting revenue. As they wait for the national revenue, counties also have the capacity to collect their own revenue. When counties were municipalities or city councils, they collected so much money. There is a lot of corruption in the county government. The Controller of Budget should move in to control this.

In terms of a potential conflict of interest, she has said that she will resign. I am hoping that she will resign. An example is that of Ambassador Mwinzi who Parliament approved and she promised to renounce her American citizenship. After she was given the position, she instead went to court. This is a matter of integrity. I hope once Dr. Margaret gets this position, she will resign from that consulting company which has a potential conflict of interest.

Otherwise, I support the good work that the Committee has done.

**Hon. Deputy Speaker:** Let us have Hon. Kiti Chonga.

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute to this important issue. Before I make any contribution to the matter at hand, I first of all wish to make something very clear. The Leader of the Majority Party misled the entire debate this morning by telling us that the holder of this position must have a doctorate. We know very well that Margaret Nyakang'o's predecessor did not have a doctorate. It is in the Hansard. It is on record. He said it. It is on record.

**Hon. Deputy Speaker:** Just to clarify that so that we do not raise it, what the Leader of the Majority Party said is that among other qualifications, she is a holder of a doctorate degree. That was not a major issue. The best thing is for you to save your time by canvassing your position.

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you, Hon. Deputy Speaker. There is also another point that he raised which is still contentious. To say that there is a community that went and sat down under trees to negotiate for this position is an insult to whatever community he was referring to. We know very well that public office-holders are given those positions on merit on considering the qualifications they hold. His insinuation that there are some communities which sat under trees does not augur well to the contribution that is supposed to be made. All the same, I would like to say...

**Hon. Deputy Speaker:** What is your point of order, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, before this House is a Report of the Departmental Committee on Finance and National Planning on the vetting and approval of Dr. Margaret Nyakang'o, the nominee for Controller of Budget. I have never seen, in my 13 years as a Member of Parliament, a Member standing to discuss the speech of another Member. If he did not understand the English I spoke, the Standing Orders provide for him to

speak in Kiswahili and I will get what he is saying. He has the Report and should read it and make his contribution. If I said that there are people who say, I did not mention his community and name. It is only in this House where we have the right to free conscious, free thought and free speech. He should talk to the Report before the House. He should leave Hon. Duale alone because I am not his constituent.

*(Laughter)*

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you, Hon. Deputy Speaker. I hope the time Hon. Duale has used will not be counted as part of my time. I want the Leader of the Majority Party to understand that I am speaking English and not Somali, Kiswahili or any other language. If he needs it to be translated into Somali, we have someone who can do that.

I am one person who respects women very much. I have a wife, a daughter and a mother who is alive. I am also one person who understands what the Constitution provides for. On the nomination of Dr. Margaret Nyakang'o, I am sure there are quite a number of issues that were looked at. That is why they made the decision to give her the position.

I wish to oppose her nomination for appointment on three grounds. The first one relates to age. According to the Constitution, apart from people with disabilities, who can work in the Public Service...?

*(Loud consultations)*

Hon. Deputy Speaker, I need you to protect me.

**Hon. Deputy Speaker:** I will not only protect you, but will add you 30 seconds on top of what you had.

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you. I was saying that I have three key reasons why I wish to oppose the approval for appointment of this nominee. The first one is the element of age. We know very well that according to the Constitution, it is people with disabilities like my friend Hon. Sankok here who are allowed to work for the Civil Service up to the age of 65 years. Dr. Margaret Nyakang'o is, at the moment is 62 years. It, therefore, means that she is outside the ceiling of the public service age. We know very well that a public servant is supposed to retire at the age of 60. That is one reason why I oppose her nomination for appointment. We have many young people who are able and qualified for this job. By extending the service of people who are past the age of retirement, we deny young people an opportunity to serve this Government.

The second reason is on qualifications. Among the key qualifications the holder of the office is supposed to possess is public finance management with an experience of, at least, ten years. As far as we know, and as far as the records hold; Dr. Margaret Nyakang'o has eight years of experience in this realm. As much as she is a doctor and as much as she well learned, on public finance management experience, she has eight years. That is another reason why I oppose her nomination.

**Hon. Deputy Speaker:** Your time is over. I actually ended up adding you one minute and fifteen seconds. So, you will have to speak to a colleague to represent your views. I cannot give you more time.

*(Loud consultations)*

I have already added you more than one minute.

*(Loud consultations)*

Okay, I add you 30 seconds.

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you. The third element I want to raise is on ethnic diversity. Even the Building Bridges Initiative (BBI) that was launched at the Bomas of Kenya the other day, it had an element of inclusivity. If we look at the person who came...

**Hon. Deputy Speaker:** Your 30 seconds are over. I now give a chance to Chair of the Budget and Appropriations Committee.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Deputy Speaker. I rise to support the appointment of the nominee, Dr. Margaret Nyakang'o. As Members made their contributions, there was somebody who spoke loudly about the issue of relevance. Hon. Chonga is obligated to first read the Report that is before the House. From his contribution, he has stated certain things that are materially out of fact from what is in the Report. For instance, he mentioned that the nominee is 62 years old. I read from the Report that the nominee was born in 1959 therefore, there is no way she can be 62 years old unless mathematics or simple arithmetic is also a problem where Hon. Chonga comes from.

There are certain critical issues I would want to speak to in relation to the provisions of Article 228 of the Constitution. It stipulates that the Controller of Budget will every four months submit to each House of Parliament a report on the implementation of the budgets of the national and county governments. The previous holder of this office, Agnes, was not very good at this, and it may not be a problem of the person per-se, but could be an institutional or structural problem within the Office of the Controller of Budget. I, therefore, challenge this nominee, that as soon as she walks into that office, some of the challenges that we face as a House and some of the challenges we face as a country, is on the slow implementation especially of our development expenditure. The National Assembly oversees the national Government Ministries, Departments and Agencies (MDAs) and the Senate oversees the role of county governments. It cannot perform that role effectively without reports on implementation of budgets every quarter. It is a constitutional obligation of the office holder to ensure they submit to each House a report on the implementation of the budgets of both levels of Government every four months. I, therefore, ask the nominee, as much as she is coming to office rather late in the day, to ensure that at the end of this quarter, and we will be watching to see by the time we come back to the House in February, whether she will have filed the reports on the implementation of the budget for both levels of Governments to the two Houses.

*[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]*

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

On the question of age, and I do not have particular objection to her nomination and I have read that she has impeccable qualifications as a certified public accountant and graduated from the University of Nairobi when I was in Class One, she is quite elderly and may be coming with wisdom. However, we must, as a House and as representatives especially of young people in this country, speak to the question of availing jobs to young people in the country. When we continue nominating people who are past retirement age to occupy public offices, what are we telling millions of young people who are equally qualified? I know of 30 or 40 year olds who have impeccable qualifications like of this lady and have energy and will be more productive in these public offices. I, therefore, challenge the nominating authorities that they must bear in mind that there are millions of Kenyans in future who are waiting to be nominated to these public offices. We must not continue nominating the elderly in the country to continue serving in public offices. It is only young people who will identify other young people in their backyards to offer them opportunities in public offices. Let us not make it that young people in this country are only eligible for internship programmes in the Government to earn Kshs15,000 or Kshs20,000. They also warrant in serving in high-level Government offices.

With that, I support and urge the new Controller of Budget to take her work seriously and work independently of the National Treasury. She should exercise the authority and powers bestowed on her in line with the statutes and not to allow herself to be controlled by anybody.

Thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Dr. Makali Mulu, Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to add my voice to this important debate. From the outset, I support this appointment of Dr. Margaret Nyakang'o. Looking at her CV and the report by the Committee, it is clear that she is qualified for the position. The only thing we can do now is to say things which have not worked well in the past so that even as she assumes this Office, she is aware of the challenges. Looking at the Constitution, this is an independent constitutional office and its mandate is very clear. She is not supposed to work under the direction of any other office. She is supposed to work independently and make sure that she adheres to the provisions of the Constitution.

I want briefly to talk about reporting requirements. In the past, we have seen that reports from the Office of the Controller of the Budget have had some shortcomings. I want to single out the issue of not reporting on targets; only reporting on the financial side. Any good report and more so a budget monitoring report should indicate how much has been used in terms of money and how much has been achieved in terms of outputs, outcomes and the clearly stated targets. That is an area which this Office has not worked well. I would be recommending that as she assumes this Office, she either improves her internal monitoring and evaluation which can help

that Office get the other side of the report in terms of output. If not, this is an Office which has to work very closely with the Monitoring and Evaluation Directorate so that at the end of the day, her reports are balanced. This House requires reports which tell us the much that has been used in terms of amounts and at the same time say what has been achieved as a result of using the money.

The other important point is the issue of adhering to Budget provisions. Every year, this House passes the Budget. It is important that this Office ensures that the national Government and county governments adhere to the approved budgets because it monitors their budgets. We have seen situations where people are using money outside budget provisions. This should not be happening in a situation where we have an effective Office of the Controller of the Budget.

The other point is that as a House, we need to support this Office in terms of providing a budget for it. In the past, this Office has not been very well resourced in terms of a budget. For them to achieve that independence, we need to provide more resources for this Office.

The last point is the issue of age. This is a point the Committee overlooked. It is important we say it openly. This is a position for eight years - it is not a position for two or three years. By this person assuming that Office, by the time she gets out, she will be 68 years. It would have been better if they got somebody who was in his/her mid50s so that the person retires in the early 60s, but in a situation where she is assuming this Office at the age of 60, we are being unfair to the youth of this country and people who are qualified. I believe there are so many Kenyans who have these qualifications. For now, because the Committee has gone to this extent, we will support her, but as she assumes this Office, she will lack energy which comes with being youthful.

I admire her level of integrity. Her net worth is only Kshs68 million having worked up to the age of 60. That is commendable. I think she will do a good job in terms of fighting corruption in this country.

I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Next to my right is Hon. Mutunga.

**Hon. John Mutunga** (Tigania West, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute to this Motion on adoption of the Report by the Departmental Committee on Finance and National Planning on the approval of Dr. Margaret Nyakang'o for appointment as the next Controller of Budget. As the appointment so presumes, the appointment for eight years for somebody who is 60 years in a country where we have so many young people who are qualified does not sound like a good thing. This lady is qualified according to the Report. I do not doubt the Committee which has clearly said that she is qualified, but if you look at the job description, in view of Article 228 and adjacent articles 204, 206 and 207, the work that the Controller of Budget is supposed to do includes; release of the Equalisation Fund. When you look at the situation of the Equalisation Fund at this point in time, this money has not moved. This is a challenging area. We expect this lady to take care of the release of Equalisation Fund and by giving insights that are required in that docket to have this Fund do the work and monitor the implementation of these projects so that we can have these regions equalised as per the Constitutional requirements.

The release of money from the Consolidated Fund is also in her dockets as well as the revenue for county governments. County governments are generating revenue and in view of the Supplementary Budget that we just passed, we believe county governments will now be given money to do the work. Part of the money that they use to do the work is what they collect as revenue. Unless this money is released in good time, it is not possible for county governments to do their business or expedite their activities.

We expect that there will be serious and close scrutiny of the budgets of county governments. As at now, we know there are about 16 counties whose money is proposed to be withheld by the National Treasury. We believe that Dr. Margaret Nyakang'o will be useful in advising on the way forward when it comes to the request by National Treasury that these counties are not given their money.

We expect this lady to strictly follow the law because money matters in Kenya are risky and have become a major issue because we are suffering budget deficits and operating under thin lines. When it comes to releasing money for counties that have not had their audit reports approved, we do not expect this to appear in her report which she should be giving every quarter to this House.

We also expect her to pick her work with speed so that work can move on in the counties. After approval of this particular Motion, we also expect the appointing authority to move with speed so that this Office is occupied. We expect this lady to do her work uninterrupted. We expect a show of dignity, adherence to law and integrity when it comes to money matters. This is because money of the national Government and the county governments need to be released in a way that will be properly implemented. We know that there may be some restrictions through the Integrated Financial Management Information System (IFMIS), if the National Treasury wants to restrict use of resources, they use IFMIS. We expect her to go through the IFMIS and make sure that the budget as proposed in the Supplementary Budget is entered completely into the IFMIS so that the national Government and county governments can spend the money.

I support.

*(Hon. Jimmy Angwenyi stood up in his place)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Angwenyi, you will get a chance. I can assure you. Before you, let us have Hon. Wandayi Opiyo.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Temporary Deputy Speaker. At the outset, I support this Motion of approval of Dr. Margaret Nyakang'o as Controller of Budget. I take note of the fact that apart from being a lady, the nominee is also from the Gusii community which has been marginalised for a long time.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): *Endelea.*

**Hon. Opiyo Wandayi** (Ugunja, ODM): It is true. Therefore, her appointment will be part of affirmative action.

You know, where I come from, we are neighbours with the Abagusii.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is out of order Hon. Wanyonyi?

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): I think we are very serious here. Upon the launch of the BBI Report, we actually no longer talk about the tribes. Is *Mheshimiwa* Wandayi in order to talk about tribes here when we are talking about Kenyans? Is he in order to mention where the candidate is coming from?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Unless he mentions tribe in the negative, tribe is a phenomenon that is Kenyan. Hon. Opiyo, you are lucky I did not hear exactly what you said.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Deputy Speaker, I will proceed by saying that, having looked at the Report itself and the credentials of this lady, I am in no doubt, whatsoever, that she qualifies to occupy this very important position.

As we approve her appointment, I just want to caution her that she is coming in to occupy an independent constitutional office. She must ensure that she upholds the independence of that office. I am saying this because her predecessor, despite having done very well, had a problem when it came to the very serious matter of the Eurobond 1 scandal. It is on record that the predecessor of Dr. Margaret flip-flopped a little bit when it came to the issue of the Eurobond 1 scandal. I say this because it was just about two months ago when we, as the Public Accounts Committee (PAC), invited the national Treasury to come before us. It was to discuss the issues of their accounts of the Financial Year 2016/2017. Despite the fact that the predecessor of this lady had given the Eurobond 1 a clean bill of health after having sent mixed signals and the PAC having commissioned the Auditor-General to undertake a special audit on that very Eurobond 1, as we speak, two or so years down the road, this Parliament, at least to my knowledge, has not yet received the special report of the Auditor-General on this Eurobond 1.

It was perplexing when the PS of the national Treasury came before us. He was able to table before us the report of the Auditor-General on that special audit yet this House has not been able to get that report formally. So, I emphasise that even as we approve her appointment, she must remember she is only answerable to this House and not any other authority and that her office is not a department of the national Treasury. She must ensure that office remains independent. It behooves her that she acquaints herself properly because we are giving her a very serious responsibility. It is the responsibility of ensuring public funds are utilised prudently.

Finally, she must ensure that any withdrawals from the Consolidated Fund are only approved upon being assured that previous disbursements have been used prudently. This applies more or so to the county governments. We do not want an office holder who will pander to the whims of other people including Governors and the likes.

I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Shall we have Hon. Angwenyi?

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Thank you Hon. Temporary Deputy Speaker for giving me a chance to contribute to this important Motion. I stand to support the nominee, Dr. Nyang'ate Nyakang'o, to this position. It is on the following grounds. One, she is qualified in matters accounting and finance.

Two, when she appeared before our Committee, she demonstrated the character of being an independent person who cannot be manipulated by the national Treasury. Three, she has successfully and efficiently served this country over the years.

Four, I know that she can deliver the services she is being appointed to offer, especially issues to do with pending bills, indebtedness and use of resources. It is so that the counties and the national Government do not misuse resources of this country. The country should not get to debt levels that might affect our people and even future generations. She will have to ensure that national Treasury does not act outside the law by either using the IFMIS or giving regulatory circulars, reducing the funds which have been allocated by this House for various agencies of Government, including the NG-CDF and the Judiciary.

I can confirm to you my colleagues that she is also a lady. We have been talking about ladies being left behind. So, this is an opportunity which has been given to ladies. I hope she will perform well so that Kenyans will in future consider more ladies for such an appointment and others.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Baya Yaa.

**Hon. Owen Baya** (Kilifi North, ODM): Thank you, Hon. Temporary Deputy Speaker.

I would like to drive home four points here. One of them is that any appointment that is made in this country must confine itself to constitutionalism. Articles 10 and 232 of the Constitution are very important. Article 10 is very clear on national values, inclusivity and taking care of marginalised communities. Article 232(h) of the Constitution is very clear on the fact that the public service should be put in such a way that everybody in this country benefits from it.

Why I oppose the appointment of Dr. Margaret is the fact that we will sit here and say that she has qualifications but, there are very many people in this country who have the same qualifications; even more and better qualifications than Dr. Margaret Nyakang'o. When we go into Committee and look at the qualifications, only and say she has clearance from the Higher Education Loans Board (HELB), a certificate of good conduct and the like, those are not things that we want to bring this country together.

The only way we can bring this country together is to look at the Constitution and say inclusivity should be the driving point to having the country come together and also ensure the public service is robust and respected by everybody and everybody in this country feels part. Dr. Margaret comes from the same community as the Chief Justice (CJ) who was also vetted by this same Parliament. This Parliament vetted a CS from that community; this Parliament vetted the Controller of Budget; this Parliament vetted the Chair of Central Bank of Kenya; this Parliament also vetted the chairperson of the Independent Policing Oversight Authority (IPOA)...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Oder, Hon. Baya. There is a point of order from Hon. Angwenyi. Let us hear what is out of order.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): On appoint of order, Hon. Temporary Deputy Speaker. Is the Hon. Member in order to discuss a community in this House? If so, can he bring a list of members of all communities in Kenya who hold offices?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Baya, you cannot discuss a community, especially in the negative.



**Hon. Owen Baya** (Kilifi North, ODM): I am not discussing them in the negative. I am actually applauding them for having got these positions. I am not discussing them...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order Hon. Baya! Even if you are applauding, there is no community here. It is an individual. Proceed.

**Hon. Owen Baya** (Kilifi North, ODM): Hon. Temporary Deputy Speaker, the Constitution of this Republic recognises ethnicity. So, you cannot bar somebody from discussing it. That community provided the Chairperson of the Independent Policing Oversight Authority (IPOA). This Parliament vetted that person. The Managing Director of Kenya Ports Authority was discussed, vetted and given the job by this House. Today, we are here discussing Dr. Nyakang'o from the same community and yet other communities in this country continue to be marginalised. They continue to suffer the same things that they suffered before the promulgation of the new Constitution.

**Hon. (Ms.) Jerusha Momanyi** (Nyamira CWR, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Momanyi Mong'ina, you have been persistent. What is out of order?

**Hon. (Ms.) Jerusha Momanyi** (Nyamira CWR, JP): Hon. Temporary Deputy Speaker, is the Member in order to discuss one community as if this House has always been discussing only members from one community? Is the Member in order? We have discussed members from other communities. We have not brought the idea of only members coming from one community. This is a House of Parliament and we are discussing matters of this nation.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Momanyi, I appreciate the sensitivity and emotions around what you are discussing. Hon. Baya proceed from that point. You can tell that there is tension...

**Hon. Owen Baya** (Kilifi North, ODM): Hon. Temporary Deputy Speaker, please add me two minutes. Age-work profiles the world over...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order! We took a few seconds from Hon. Baya. It will be only fair if we give him 30 more seconds. Hon. Baya.

**Hon. Owen Baya** (Kilifi North, ODM): Hon. Temporary Deputy Speaker, Age-work profiles in this country and world over show that work productivity plateaus after 60 years. After that it goes down. We are appointing somebody at 60 who will leave office at 68 years. We are clear that the productivity of this person at 68 years...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Baya, I am afraid your time is gone. Let us have Hon. Kioni. Hon. Jeremiah Kioni, you are extinguishing your time. Order Hon. Kioni! You know, I am giving you the Floor but you are engaging in a bilateral talk.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker. I was negotiating with the Member of Parliament from Meru County. We are suffering from the influence of *Muguka* and *Miraa* in my county. We are wondering how we can reduce the importation of that product to our areas.

I support the appointment of Dr. Margaret Nyakang'o. I have heard what my colleagues have said and I want to reiterate the provisions of the Constitution. This is a constitutional office. The reason why it was made a constitutional office was for the occupiers of the office to wake up

to the reality that, if they do not exercise their independence, they will be taking us back from where we came from as a country when we did away with our first Constitution since Independence. There is unnecessary caucusing led by *Mhe. Baya*. Hon. Temporary Speaker, if you can help...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is it Hon. Kioni? You have the Floor.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Yes, Hon. Temporary Deputy Speaker. But Hon. Baya and the Leader of the Majority party are negotiating for this position. It is already gone. We are about to approve the name. So, *Mhe. Baya* can negotiate for other positions

If I may reiterate the provisions of Article 73 of the Constitution, public offices are still suffering in this country. Kenyans do not have the confidence in those offices and the people serving in them. Clearly, under Article 73, it is important that the gracious lady familiarises herself with the need to ensure that the office wins the confidence of Kenyans. That is the only way. What she produces will also be respected. It is important that she brings honour to this nation by the way she will discharge duties expected of her and ensure that there will be dignity.

Hon. Baya is concerned about the continued recruitment of people from one region according to what he has argued. This can be mitigated if the lady, when in office, decides to avoid nepotism, favourism, tribalism and serves the country. We will stop seeing people from the regions they come from and start seeing them as people capable of serving Kenyans and delivering on what is expected of them. This is a crucial office in the management of finances of this country. We expect Dr. Margret Nyakang'o to take it from where her predecessor left. Her predecessor did well. We must commend her for the work she did. We want Dr. Margret to push it further and ensure that our resources are well managed and incidences of corruption are reduced.

It is okay to say that the lady is 60 years old and the younger generation needs jobs. However, the older ones also need to be given an opportunity to serve because they have something to offer. A blend of the two – young and old – is crucial.

Yesterday, Hon. Baya was engaging me on an issue relating to academic degrees. His position, yesterday, was this: You cannot be given a degree today then you are given a serious office like that of a governor the following day. You need time to get experience and to be seen to understand what you went to do in school. I believe having Dr. Margret who has been in school for a while proves Mr. Baya right. We expect her to perform. She has the experience. It will be a good thing that we support her. She needs to listen to comments of Members because none is done in vain.

As I support this appointment by the President, it is important that she knows one of the things that is being canvassed in the Building Bridges Initiative (BBI) Report is taking political responsibility of decisions made under ones leadership. Unlike before where we were looking at criminal responsibility, we are moving to issues of being held accountable for decisions you make. If we raise the bar to that level, she should be careful to ensure that contradictory statements do not come from her office like what we have been received before.

I support.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kuria, be patient. Your turn will come. I can tell from my screen that Hon. Osotsi was before you. What is it Hon. Rono? You are on intervention.

**Hon. Daniel Rono** (Keiyo South, JP): Thank you, Hon. Temporary Deputy Speaker. Reading the mood of the House and seeing the business still ahead of us is long, I rise on Standing Order No. 95 and propose that the Mover be called upon to reply.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order! Hon. Rono says he has read the mood, but he is unable to do so. It is only me who can read the mood. I will read the mood by putting the Question to Members, so that it is clear from the Members.

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

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Mover.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Speaker, as I rise to reply, I wish to thank the Members who have contributed to this debate. It has been a very good debate. Given that this is a very important office, we expect the holder to have enough teeth and ensure that there is adequate control over the funds in this country. I want to thank the Departmental Committee on Finance and National Planning—they put a lot of effort in vetting—as well as the office of the Clerk, the Speaker and, the Leader of the Majority Party for the support they gave us during the vetting of this candidate. This is the right way of doing things though there are a lot of reservations here and there, but it is normal. This Kenya is big. I expect there will be other positions to be given to any other person.

We expect this candidate to perform well and that is what we are waiting for. The country is waiting for the Controller of Budget. I want to urge the candidate to ensure that this time round the Office is felt. We want this Office to be known that it is not a pushover. We want the Controller of Budget to ensure that serious action is taken against county governments which misuse funding. I also want to urge the Controller of Budget to ensure that priority is given to own-source revenue and ensure that no county is allowed to use a resource without the approval of the Controller of Budget.

I want to end by saying this House should support so that we can move on because the country is really waiting for this position to be filled. I beg to reply.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I am just confirming the numbers because we have a minimum threshold. Hon. Members, we must pend putting the question owing to numbers present in the House.

Next order.

*(Putting of the Question deferred)*

**COMMITTEE OF THE WHOLE HOUSE**

*(Order for committee read)*

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

**IN THE COMMITTEE**

*(The Temporary Deputy Chairman  
(Hon. Christopher Omulele) in the Chair)*

**THE SUPPLEMENTARY APPROPRIATIONS (NO. 2) BILL**

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we are now in the Committee of the whole House to consider the Supplementary Appropriations (No.2) Bill (National Assembly Bill No.81 of 2019).

*(Loud consultations)*

Order, Member for Lari, Hon. Tong'i and Hon. Onyonka! We are in Committee of the whole House and we will proceed.

*(Clauses 2, 3, 4 and 5 agreed to)*

*First Schedule**Vote 1091: State Department for Infrastructure*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the First Schedule be amended as follows—

- (i) The proposed allocation in respect of Programme 0202000 (Development Expenditure) of Kshs5,213,905,726 be deleted and substituted thereof with the figure Kshs5,488,905,726; and,
- (ii) The proposed allocation in respect of the total supply under Vote 1091 (Development Expenditure) of Kshs5,213,905,726 be deleted and substituted thereof with the figure of Kshs5,488,905,726.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Vote 1091 as amended agreed to)*

*Vote 1081: Ministry of Health*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, no! This is not yours. This was by Hon. Keynan, who does not seem to be interested anymore in it. Hon. Keynan no longer being interested to pursue his proposed amendment, it stands dropped.

*(Proposed amendment by Hon. Adan Keynan dropped)*

VOTE 1092: STATE DEPARTMENT FOR TRANSPORT

*Programme 0204000 Marine Transport*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is an amendment to this, Chair.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the First Schedule be amended as follows—  
Programme 0204000 Marine Transport

The proposed allocation in respect of Programme 0204000 (Development Expenditure) of Kshs. 292,500,000 be deleted and substituted thereof with the figure Kshs. 2,192,500,000.

*Programme 0203000 Rail Transport*

The proposed allocation in respect of Programme 0203000 (Development Expenditure) of Kshs. 12,018,003,944 be deleted and substituted thereof with the figure Kshs.10,118,003,944.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): On a point of order.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party, what is out of order?

**Hon. Aden Duale** (Garissa Township, JP): Sorry, Chair. You know this is the Supplementary Appropriations Bill in the Committee of the whole House. Whatever amendments the Chair is moving must be in tandem with the report that was approved by the House. So, he needs to explain to us basically what he is doing. If he is shifting figures, it is unconstitutional, and we discussed in the HBC last night. If he is shifting figures and not complying with Article 114... If you read Standing Order No.240, you cannot amend the Bill contrary to what we adopted. He is my good friend, he can tell us. If it is about commencement date or the same vote he is trying to change, I have no problem.

However, if you are bringing figures from one arm of Government to another...

That is why last night the Speaker in the amendment of Hon. Keynan, said it has to be subject to the relevant Committee. The Chairman of the Budget and Appropriations Committee is a man I know a lot. During the 10<sup>th</sup> Parliament, he played about with errors. He needs to come out very clearly and explain his amendments.

**The Temporary Deputy Chairman** (Hon. Omulele): Hon. Members, The Leader of the Majority Party is absolutely right. That the amendments in this Supplementary Appropriations Bill, the Chair of Budget and Appropriations Committee can only move within the particular votes. He cannot move from different votes. So, on that one he is absolutely right. I hope that the Chair of Budget and Appropriations will adhere to that.

Hon. Dr. Nyikal, do you wish to speak to that?

**Hon. Dr. James Nyikal** (Seme, ODM): I am also concerned in the same way. Have these amendments been discussed with the Committee? We have gone through a long way. The committees appeared before the BAC and the issues were passed here. Suddenly you come to the House to make amendments and changing figures. We do not know whether they went to the Budget and Appropriations Committee and whether the committees involved were consulted. Can we be assured that that is the process?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Ichung'wah, I hope you have heard the concerns of Members.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Chairman, it is rightly said. I want to confirm what the Leader of the Majority Party is asking. Indeed, they are within votes. Two, with regard to what Hon. Nyikal is asking, indeed, all the amendments except the one by Hon. Keynan, which has since been dropped, have been canvassed and approved by the Committee yesterday morning. This specific one is on things that were captured erroneously that are being corrected with a letter from the national Treasury. We have Members of the Budget and Appropriations Committee here. Dr. Makali is present. Maybe, that is what he wants to add to.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Dr. Nyikal, the Floor is yours.

**Hon. Dr. James Nyikal** (Seme, ODM): Again, even if they were canvassed by the Committee, what about the various Departmental Committees? Were they aware? If we get a trend where the Departmental Committees make proposals, come to the House and we approve them... Now the Budget and Appropriations Committee, on its own, is now making amendments

without referring to the appropriate Departmental Committees. I still find that not to be in order. Again, let us be informed on that. Were the various departments also involved?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Dr. Makali, the Floor is yours. Hon. Member for Kikuyu, you might want to listen to Hon. Dr. Makali.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman. Let me just confirm that as the Budget and Appropriations Committee, we discussed these changes. I want to agree with what Hon. Nyikal is saying in terms of whether we went back to the committees. However, what we have said is that these amendments are just kind of cleaning the document. There is nothing to do with changing of figures and activities. I want to give a very good example.

This House passed the Parliamentary Service Commission (PSC) Bill which is now an Act of Parliament. In that Bill, and through miscellaneous amendments, we created a third kind of accounting officer under the PSC called Joint Services. You can only create a vote for that particular office at this level and not before. That is one of the things being done here. The other thing is that the Report we passed as a House cannot be changed in terms of figures and specific figures to programs. I urge my Chairman that as he explains. He needs to say what claim we are doing and that the figures are remaining the same. It is so that the House does not raise issues.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Member for Kikuyu, please, proceed. I hope you have noted the concerns of Members and what the law requires you to do. The Leader of the Majority Party, you want to say something?

**Hon. A.B. Duale** (Garissa Township): Hon. Temporary Deputy Chairman, let me now go on record. You cannot come to the House and say that there were errors and they were wrongly captured. Fine, if there are errors, who did them? I want to be captured by the HANSARD. The Budget office and the national Treasury cannot bring a document which has errors.

In the 10<sup>th</sup> Parliament, the current President, when he was the Minister for Finance, was known for errors. Hon. Dr. Eseli was with me here. He carried the Question of errors. Our Budget office cannot. The men and women working at the Budget office are people I respect. They are serious technocrats same with those at the national Treasury. This House will not be used to correct errors. This must go into record.

What the Chair of Budget and Appropriations Committee is trying to do is to remove money from public works to street lightning and when I ask him, he says there was an error. I agree with him. However, the people who prepare that, why do they do the errors? I can see the Parliamentary Budget Office staff seated here. If you commit an error...

I remember the error the current President committed in 2010 haunted him for five years. Hon. Chair of Budget and Appropriations Committee, if you commit an error... I asked the PS Treasury yesterday if he has got the Appropriations Bill. He said he was given and he was happy with it. I told him to, please, make sure the numbers tally. Many people did not read this thing. I read it last night. Even Hon. Keynan's amendment was a key subject in the House Business Committee. You cannot come at the appropriations stage and want to take money from Health and take it to Parliamentary Service Commission.

It should be put on record that just the way the current President had errors when he was in charge of finance, the Chairman of the Budget and Appropriations Committee, Hon. Ichung'wah, has introduced errors in a Supplementary Appropriations Bill and he should carry the blame.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Leader of the Majority Party, you have my sympathies in your contribution. If there are any errors, we must have reasons on record and what the origin of those errors is. I hope the Chair of Budget and Appropriations Committee...

Going forward, if you are saying you are cleaning any errors in this Supplementary and Appropriations Bill, you should be able to explain to the House what the origin of that error is, who identified it, and how you are cleaning it. I think that would be the best way to have a complete record.

Proceed, Chair of the Budget and Appropriations Committee.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Chairman. I am laughing because the Leader of the Majority Party is trying to insinuate that both His Excellency the President and I, by virtue of coming from the same county, have a very high propensity to make errors and affinity for errors.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chair of the Budget and Appropriations Committee that was not my understanding of the contribution by the Leader of the Majority Party. I have not understood it to mean that you are prone to error and that you are erratic. You are one of the more serious Members of this House. That is why we have given you the duty to deal with these figures and deal with them accordingly so that the House record is clean.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman that is why I used the word "insinuate". The Leader of the Majority Party was attempting to insinuate that I have a high propensity, together with the President, for errors. I was just correcting him that when the President talked about errors in the 10<sup>th</sup> Parliament, he talked about "computer errors". He never spoke about errors that he had made. In the same breath, Hon. Temporary Deputy Speaker, it refers to errors that were captured between our Budget Office and the National Treasury as they prepared the Appropriations Bill. For instance, the figure he is talking to do with public works and street lighting, is a figure of Kshs15 million that had been captured for street lighting, but had been captured in the wrong Department of Public Works instead of the Ministry of Energy. Therefore, it is just that that is corrected and that was the next vote we were going for in 1095.

The one for marine transport is a figure that is captured wrongly and so when the National Treasury noticed, they wrote a letter to us and as Hon. Makali has confirmed, we sat as a Committee, considered all the amendments and the issues that were being raised, approved them in the Committee and that has also been approved by the Hon. Speaker as amendments to the Appropriations Act in line with the law and all our Standing Orders.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, I think it is fair for you to take this higher now as I put the Question.



*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Programmes 0204000 and 0203000 as amended agreed to)*

*(Vote D1092 as amended agreed to)*

VOTE D1095: STATE DEPARTMENT FOR PUBLIC WORKS

*Programme 0103000 Government Buildings*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move:

(i) THAT, the proposed allocation in respect of Programme 0103000 (Development Expenditure) of Kshs. 1,721,285,046 be deleted and substituted thereof with the figure Kshs.1,706,285,046;

(ii) THAT, the proposed allocation in respect of the total Supply under the Vote 1095 (Development Expenditure) of Kshs. 1,605,787,661 be deleted and substituted thereof with the figure Kshs. 1,590,787,661.

That is the figure that had been wrongly captured under Public Works but it relates to the next amendment in Vote D 1152, the Ministry of Energy under power transmission and distribution.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): I want to go on record again. It is not 15 billion. It is Kshs1.5 billion and he needs to move it better. This is another error. Hon. Temporary Deputy Speaker, some of us are not in this House just to shout but we read. Can he confirm if it is Kshs 15 billion or Kshs1.5 billion? If it is Kshs1.5 billion, he should move it again. This is not a joke.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hold on Hon. Ichung'wah. Let us have Hon. (Dr.) Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, I want to agree with the Hon. Leader of the Majority Party. When we are talking figures worth Kshs1 billion... If you used a million per month and you have one billion, you will use it for 83 years and so these are not figures that you just talk about. Every time he mentions an error, we want a very explicit explanation. This money was supposed to be here, it is an error and that program is in this vote. This is so that the HANSARD is also extremely clear. I do not think we can take this casually as it has been done and so we just have it. We want it very clear so that it is clear and recorded.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chair of BAC, the concerns of the Hon. Members are genuine and we must have a clear record. This is a duty that you should apply a little more energy and care to.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, we have sorted out with the Hon. Leader of the Majority Party. I was going to ask him who his maths teacher was because the figures are very clear. The figure Kshs. 1,721,285,046 be deleted and substituted thereof with the figure Kshs.1,706,285,046. The difference between those two figures is the Kshs15 million. This is the same thing with Hon. (Dr.) Nyikal. I have explained but it is just that he was not listening. This figure of Kshs15 million was wrongly captured under Public Works but it is money relating to street lighting. Do you want street lighting to be put in public buildings under Public Works? Street lighting goes under the Ministry of Energy to the streets and not buildings. It is street lighting and not building lighting. It is a matter of English.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nyikal, the Hon. Members for Kikuyu and the Chair BAC has proposed to teach you English and I have a lot of respect for your mastery of the Queen's English. What do you have to say to this?

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, there are things we ignore. It is self-evident that he does not have the capacity to teach me English, but let us ignore that. I want to repeat that what you have done now is what we want in the HANSARD. It was this difference of Kshs15 million which was in this and so, we shall move it in the next amendment to this vote. You may take it lightly but when these things get into the streets and there are audit queries, it will not be a light matter. When we people are talking about these kinds of monies, we cannot take it casually.

**The Hon. Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we need to make progress. Hon. (Dr.) Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon Temporary Deputy Chairman, it is important we put this on the HANSARD that when it comes to reporting on Budget, you do not capture the differences you report. You capture the total figures, but the difference is when you have deficits. For example Kshs1,721,285,046 and the other one is Kshs1,706,285,046, the difference is Kshs15 million. As he is explaining, he is talking about Kshs15 million but the figures for purposes of the document which will go out, we will have to capture the figures cumulatively and not the difference. I thank you.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Hon. Leader of the Majority Party, is it Kshs15 million or still Kshs1.5 billion?

**Hon. Aden Duale** (Garissa Township, JP): If we go to the HANSARD, the only problem I had with the Chair, and I want him to take this matter seriously... I have said when you enter the Chamber, you become serious. It is not when you are in *Tanga Tanga* or somewhere else. He said Kshs15 billion and it is good for him to correct that. We heard Kshs15 billion and that was my only problem. On the Kshs1.5 billion, I have no problem with him. I shared with him my document. The HANSARD will be used in preparing the vellums. This is a procedure. After we finish, the Legal Department will use the HANSARD in preparing the vellums. If what is captured in the HANSARD is different from what is in the Bill, the HANSARD will be used. So, it is good for the Chair to correct the Kshs1.5 billion as he put it.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, Budget and Appropriations Committee, can we have it clear? Is it Kshs15 million?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, on record, it is a figure of Kshs 15 million. I know where the Hon. Leader of the Majority Party comes from. Million and billion are the same.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, please, do not go there. We need to make progress.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Programme 0103000 as amended agreed to)*

*(Vote D1095 as amended agreed to)*

VOTE D1152: MINISTRY OF ENERGY

*Programme 0213000 Power Transmission and Distribution*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move:

(i) THAT, the proposed allocation in respect of Programme 0213000 (Development Expenditure) of Kshs1,541,045,344 be deleted and substituted thereof with the figure Kshs1,556,045,344;

(ii) THAT, the proposed allocation in respect of the total Supply under the Vote 1152 (Development Expenditure) of Kshs3,852,045,344 be deleted and substituted thereof with the figure Kshs3,867,045,344.

This is in relation, Hon. (Dr.) Nyikal), to the figure of Kshs15 million that now ought to be under street lighting and was wrongly captured under Government buildings in the State Department for Public Works. It is now moving to the right Ministry of Energy.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): I have no problem but the Chair of Budget and Appropriations Committee cannot leave a statement hanging by saying the figures were captured wrongly. He should go on the HANSARD and say who captured it wrongly. This is a House of records. Who captured it wrongly? Is it the National Treasury, the Budget Office or the Government Printer? No! I want him to say who captured it wrongly. Every state and public

officer must be accountable for his/her actions, including the Chair of Budget and Appropriations Committee.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Leader of the Majority Party, your concern is legitimate.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman as I said, the Parliamentary Budget Office and Members of the Budget and Appropriations Committee are serious professionals with people like Dr. Makali Mulu, Dr. Mutunga and, of course, myself yours faithfully. The errors were captured by the National Treasury as they published the Bill and that is why they wrote a letter correcting them.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The record is complete. Hon. Kevin Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Temporary Deputy Chairman, I have been seated here looking at these figures and I want to agree with the Leader of the Majority Party. There are almost five items that are wrongly captured. Was somebody up to some mischief? With all due respect, it is not only one error since it is acceptable because human is to err. But, why are the errors repeated in almost all the items read. Can the Chairman explain?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kanini Kega.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Temporary Deputy Chairman. This issue is very serious since it is similar to mine. Our Committee submitted an allocation to a particular vote, but what is here is different from...This is a serious issue because going by the document that was tabled yesterday...

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Kanini Kega.

**Hon. Kanini Kega** (Kieni, JP): Yes Chair.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): We are speaking to vote 1152. I hope your contribution is on this one.

**Hon. Kanini Kega** (Kieni, JP): It is not on this.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): If it is not on this, you will raise your concern...

**Hon. Kanini Kega** (Kieni, JP): I wanted to add weight on the issue of errors and I have identified quite a number of them.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, it is rather embarrassing that a second time MP and a Chair of a Committee can stand before the House to speak about errors that do not exist. What we are considering is the Supplementary Appropriations Bill No.1 of 2019. The Hon. Kanini is speaking about a Report of the Committee that was tabled before this House. He had time to contribute and instead of doing so, he was out there. Now he is back after the House considered the Report and passed it. He is not just taking us back, but also wasting the House's time.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, allow me to put the Question.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Programme 02I3000 as amended agreed to)*

*(Vote D1152 as amended agreed to)*

VOTE D2043 PARLIAMENTARY JOINT SERVICES

*Programme 0723000 General Administration, Planning and Support Service*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Keynan, not being desirous and having walked away, that proposed amendment stands dropped.

*(Proposed amendment to Programme 0723000 by Hon. Adan Keynan dropped)*

Leader of the Majority Party, what is out of order?

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman. You should not have called Keynan, if you read what the Speaker wrote about that amendment. Hon. Keynan wants to take money from the Ministry of Health to Parliamentary Service Commission (PSC). This is illegal and cannot be done at the Appropriation stage because you have to consult the Committee of Health. I think the Clerks at-the-Table should have told you that amendment was dropped by the Speaker. Whether Keynan or his proxy is here, it was dead on arrival.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party, you are absolutely right. But, we have to read it when it is on the Order Paper so that we can deal with it and pronounce ourselves as we have done. We will make progress.

VOTE D1091: STATE DEPARTMENT OF INFRASTRUCTURE

*Programme 0202000 Road Transport*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair Budget.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the proposed allocation in respect of the total Supply under the subclass Total Development in the First Schedule of Kshs62,682,861,275 be deleted and substituted thereof with the figure Kshs62,957,861,275;

THAT, the proposed allocation in respect of the total Supply under the class Total Development in the First Schedule of Kshs73,173,074,113 be deleted and substituted thereof with the figure Kshs73,448,074,113.

This is for the subclass Total Development. For clarity, what we were moving was the Votes and Programmes. Now we go to the sub-class totals and totals.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I see interest from Hon. Mutunga.

**Hon. John Mutunga** (Tigania West, JP): Chair, my interest is not on this particular one. I just want to respond to a question from one of the Members on why they are so many errors. The errors are not many because the Report is wide and so we picked on the areas that had issues. This has made it appear like errors are many and following each other.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well Dr. Mutunga. The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): You know Dr. Mutunga is among the most serious MPs but I want to tell him that there is no excuse for errors, particularly when we are dealing with the budget. There is no excuse because the price is too expensive. Let me go back to Vote 1091. I want the Chair to be very clear. This is because the justification from where I sit is that the funds have been allocated to projects arising from public participation and moved to respective ministries. This is where the Budget and Appropriations Committee Members abuse public participation. This is because some MPs do not sit in the Budget and Appropriations Committee.

So, going forward, this has become a club of Budget and Appropriations Committee. So, they can choose to do public participation in Murang'a and not Garissa. Most counties they go to are where their Members come from. That is not public participation within the reading of Article 118 of the Constitution. So, we must find out how they choose the place to hold public participation. Do you go to Saboti or Garissa Township? We have a problem with a Member from our region...

**Hon. Makali Mulu** (Kitui Central, WDM-K): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party just hold on! But, what you are saying has received a lot of sympathy from me. Let us hear Dr. Makali. I will still give you an opportunity to speak.

**Hon. Makali Mulu** (Kitui Central, WDM-K): On a point of order, Hon. Temporary Deputy Chairman. I am on a point of order, acting Prime Minister. Is it in order for the Leader of the Majority Party to mislead this House about public participation? It is very clear to all MPs because we have a schedule showing that every year, we go to 12 counties and in the fourth year, we will have done the 47 counties.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Dr. Makali that is a point of argument. Hold your horses. What the Leader of the Majority Party is raising is a genuine concern for the rest of the House. I will allow him to speak.

**Hon. Aden Duale** (Garissa Township, JP): People were talking about Article 10 of the Constitution on inclusivity. Equity and inclusivity must begin with this House. The Budget and Appropriations Committee cannot have a schedule for public participation where all the counties

and places they choose are mainly 90 per cent of where the Members of the Budget and Appropriations Committee come from.

**Hon. Richard Onyonka** (Kitutu Chache South, FORD-K): On a point of order, Hon. Temporary Deputy Chairman.

**Hon. Aden Duale** (Garissa Township, JP): Just a minute. Let me finish. No. I do not want to be informed. I am a ranking Member. That is why we have a problem in some counties.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Onyonka, I will give you an opportunity. Let the Leader of the Majority Party finish his contribution.

**Hon. Aden Duale** (Garissa Township, JP): I am only stating that there must be equity. Public participation that is done by the Budget and Appropriations Committee must reflect equity and the resources should go to as many counties as possible. Hon. Makali raised something very important. He said that they have a schedule for public participation. That schedule must be made public so that we are aware that in the next financial year, the following counties will not be considered. It should not be a document.

I am already a victim of the Building Bridges Initiative (BBI). I believe in the parliamentary system. I was short-changed. I do not want to be part of other shenanigans. I was short-changed in the BBI. I believe in the parliamentary system. I do not want to be short-changed by the Budget and Appropriations Committee.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Leader of the Majority Party, you will have to give way to Hon. Onyonka.

**Hon. Richard Onyonka** (Kitutu Chache South, FORD-K): Hon. Temporary Deputy Chairman, I would like to say this so that the Leader of the Majority Party can understand why those projects have been given out as they have. We never went to our constituencies. The Leader of the Majority Party is misinforming this House. After Hon. Chris Wamalwa asked us and we held public hearings at Kitale Polytechnic, money was allocated to it. After that, we went to Kakamega where money was allocated to Kakamega Hospital. After that, we went to West Pokot. None of our constituencies got money. When we go for public hearings, it is the Committee that sits. This has been going on for the last four years. If the Leader of the Majority Party has not received any money in his constituency, please, wait for one more term. The money will be allocated in the next financial year.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party, just relax! Hon. Onyonka, just relax! Hon. Onyonka, you no longer have the microphone.

These are my directions on this issue. I have heard a lot of complaints from Members on this issue of public participation under the Budget and Appropriations Committee of this House. We need to have a way forward on this. My understanding of the entire budget is that it belongs to Kenyans. All Kenyans are members of the same public that we are talking to. We need to develop a very clear guideline on what public participation is. It is the duty of this House, going forward, to deal with the matter of public participation and come up with legislation that will define what public participation involves, so that we do not have those concerns that are raised by Members from time to time.

If Members can recall, there was a time in the last Parliament when the whole Budget and Appropriations Committee was dissolved by this House on this very issue. This is not a new issue that is emerging in the House.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Chair cannot be out of order, Hon. Chris Wamalwa. Hon. Members, let us make progress on this. The House must come up with a clear policy and legislation on public participation going forward.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Programme 0202000 as amended agreed to)*

*(Vote D1091 as amended agreed to)*

VOTE D1071 – NATIONAL TREASURY

*Programme 0718000 - Public Financial Management*

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move:

(i) THAT, the proposed allocation in respect of Programme 0718000 (Development Expenditure) of Kshs319,988,849 be deleted and substituted thereof with the figure Kshs594,988,849;

(ii) THAT, the proposed allocation in respect of the total Supply under the Vote 1071 (Development Expenditure) of Kshs461,988,849 be deleted and substituted thereof with the figure Kshs736,988,849;

I am being distracted by the Leader of the Majority Party who is asking whether it is another error. It is not another error, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Do not get distracted. I am sure you are more confident and braver.

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, this relates to the issue the Leader of the Majority Party was raising on public participation. The Budget and Appropriations Committee goes to the counties. What Hon. Makali and Hon. Onyonka are saying is true. Maybe, just for the information of the House, the Budget and Appropriations Committee in 2018 tabled a report in this House on the structure that we shall follow on public participation to ensure that we go to all the 47 counties over a period of four years. We have so far done 12 counties in 2017/2018 and 2018/2019. In 2019/2020, we did another 12 counties. Next year, we will do another 12 counties and hopefully, the year after, we will do the remaining counties to cover all the counties. We go to the county headquarters.



This amendment relates to the figures that had been captured for public participation. When we go for public participation, we do this out of a figure of Kshs1.2 billion that is provided as a block figure. Therefore, at the time we did the Appropriations Act, we had not identified the particular projects. Now they have been identified and the money is now being moved from the Public Financial Management Programme under the National Treasury to the line ministries.

*(Question of the amendment proposed)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I have nothing to say with regard to the amendment. I want to go on record regarding the procedure. You have made a ruling on how the Budget and Appropriations Committee should deal with the matter of public participation. That is on record. The Chair of Budget and Appropriations Committee talked about a report he tabled. I want you to confirm that your ruling has superseded that report. You need to go on record.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Leader of the Majority Party, you are perfectly well within your rights. The directions of the Speaker stand.

*(Loud consultations)*

Order Members!

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I beg to move:

(iii) THAT, the proposed allocation in respect of the total Supply under the sub-class Total Development in the Second Schedule of Kshs7,456,200,511 be deleted and substituted thereof with the figure Kshs7,731,200,511;

(iv) THAT, the proposed allocation in respect of the total Supply under the class Total Development in the Second Schedule of Kshs18,853,097,197 be deleted and substituted thereof with the figure Kshs19,128,097,197.

This is in relation to the same issue that I spoke about, but it is now with regard to the sub-class and the class.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Programme 0718000 as amended agreed to)*

*(Vote D1071 as amended agreed to)*

*Consequential Amendments*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairman, I wish to move this amendment in an amended form because there was an omission to the consequential amendments to Clause 2. In the Bill, there are usually small figures that are on the side. They had been done, but in the body.

Hon. Temporary Deputy Speaker, I beg to move:

- (i) THAT, the figure of Kshs73,173,074,113 in the marginal note on Clause 2 of the Bill be deleted and substituted thereof with the figure Kshs73,448,074,113;
- (ii) THAT, the figure of Kshs18,853,097,197 in the marginal note on Clause 5 of the Bill be deleted and substituted thereof with the figure Kshs19,128,097,197.
- (iii) THAT, the necessary amendments be effected to Clause 2 to reflect amendments made to the First and Second Schedules.

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman (Hon. Christopher Omulele):** Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): That should be for the record of the HANSARD as another error. We must say it. The Chairman is trying to hide. There was another error from the Parliamentary Service Commission. He should tell us who committed the error. You cannot just commit an error like that. The figures are very small, but it is an error. I want to go on record on that.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(The consequential amendments as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman (Hon. Christopher Omulele):** Let us have the Chair reporting.

**Hon. Kimani Ichung'wah (Kikuyu, JP):** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.81 of 2019) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT, CONSIDERATION OF REPORT AND THIRD READING

### THE SUPPLEMENTARY APPROPRIATION BILL

**The Temporary Deputy Speaker (Hon. Patrick Mariru):** Let us have the Chairperson.

**Hon. Christopher Omulele (Luanda, ODM):** Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole of House has considered the Supplementary Appropriation Bill (No.2) Bill (National Assembly Bill No.81 of 2019) and approved the same with amendments.

**Hon. Kimani Ichung'wah (Kikuyu, JP):** Hon. Temporary Deputy Speaker, put the Question.

**The Temporary Deputy Speaker (Hon. Patrick Mariru):** Mover. Hon. Ichung'wah, we cannot put the Question before you have moved.

**Hon. Kimani Ichung'wah (Kikuyu, JP):** Hon. Temporary Deputy Speaker, it is the Leader of the Majority Party who is saying that you put the Question.

Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said report.

I request Hon. Kanini Kega to second the Motion for agreement with the Committee of the whole House.

**The Temporary Deputy Speaker (Hon. Patrick Mariru):** Hon. Kanini Kega.

**Hon. Kanini Kega (Kieni, JP):** Hon. Temporary Deputy Speaker, I beg to second.

**Hon. Members:** Put the Question.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is your point of order, Leader of the Majority Party?

*(Hon. Ben Momanyi walked into the Chamber when the Hon. Temporary Deputy Speaker was on his feet)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, is it in order for a whole commissioner and a second term Member of Parliament to walk in the Chamber when you are on your feet? This is very shameful to the House. Hon. Temporary Deputy Speaker, you need to deal with him. We are not in Nyamira! We are in the National Assembly.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Member, you do not have a right to reply. But the Hon. Member is not very tall. So, I did not see him. Had I seen him, he would have got the wrath of the Hon. Temporary Deputy Speaker.

*(Laughter)*

Let us have the Mover of the Bill.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I beg to move that the Supplementary Appropriation (No.2) Bill (National Assembly Bill No.81 of 2019 be now read the Third Time.

I request Hon. Aden Duale, Member for Garissa Township to second.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I second.

Hon. Ichung'wah has joined the list of people who bring errors into the Chamber. I want to go on record on that. It happened in the 10<sup>th</sup> Parliament with our current President as the Minister for Finance. Today, we had a number of errors.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ichung'wah, do you want me to propose the Question? You look agitated, Hon. Ichung'wah. What is the problem? You have 30 seconds.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, this is a House of records. This is the second time Hon. Duale is saying that myself and His Excellency the President are prone to errors. He must recognise that I do not work in the national Treasury. The errors we have corrected were made by the national Treasury and not the Budget and Appropriations Committee and not by the Parliamentary Budget Office. Therefore, if the Leader of the Majority Party has a problem with the President when he made errors at the national Treasury at the time, or with the national Treasury as it continues to make errors, he should not do it...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Member. I am not going to allow that crossfire between two friends, Hon. Ichung'wah and the Leader of the Majority Party.

*(Question proposed)*

**Hon. Members:** Put the Question.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, I have confirmed that we have the numbers.

*(Question put and agreed to)*

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

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Members. Before we get to Order No.17, for the convenience of the House, I will re-organise the Order Paper. Remember earlier on the Mover had replied on Order No.15: approval of a nominee for appointment as the Controller of Budget, but I did not put the Question. I will proceed to put the Question for Order No.15 and then we proceed with the rest.

*(Hon. Sakwa Bunyasi consulted with Hon. Aden Duale loudly)*

Order, Members. Hon. Bunyasi, you are used to staying on my left. You are consulting the "Prime Minister". I am not aware that there is a Prime Minister.

## MOTION

### APPROVAL OF A NOMINEE FOR APPOINTMENT AS THE CONTROLLER OF BUDGET

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in its report on the vetting of the nominee for approval as the controller of budget, laid on the table of the house on Tuesday, 3<sup>rd</sup> December 2019, and pursuant to the provisions of Article 228(1) of the Constitution, Section 4(10) of the controller of budget act, 2016 and section 8 of the public appointments (parliamentary approval) Act, 2011 this House approves the appointment of Dr. Margaret Nyang'ate Nyakang'o as the Controller of Budget.

*(Hon. David Mboni on 4.12.2019 morning sitting)*

*(Debate Concluded on 4.12. 2019 morning sitting)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order Members. Debate on Order No.15 had been concluded. The Mover had replied. So, I proceed to put the Question.

*(Question put and agreed to)*

### MOTION

APPROVAL OF HON. AMINA ABDALLA FOR APPOINTMENT AS A REPRESENTATIVE  
OF PARLIAMENTARY SERVICE COMMISSION TO SRC

*(Loud consultations)*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I ask you to protect me from the loud consultations. There is a lot of excitement.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I do not know whether the excitement is because of the business already concluded or the business to come. Order, Members! I do not know what Hon. Manje is caucusing on. Let us give Hon. Limo time and space.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in its Report on the Vetting of the Nominee for approval as a representative of the Parliamentary Service Commission to the Salaries and Remuneration Commission, laid on the Table of the House on Tuesday, December 3, 2019, and pursuant to the provisions of Article 250(2)(b) of the Constitution and Section 7(11) of the Salaries and Remuneration Commission Act, this House approves the appointment of Hon. Amina Abdalla as the representative of the Parliamentary Service Commission to the Salaries and Remuneration Commission.

This position arose following the proposal which was not supported by the House previously during the approval of the other commissioners. That is why today we are still on this appointment. To bring Members up to speed, there was a rejection of the appointment of a Member, Hon. Halima Abdile Mohammed, to the SRC representing the Parliamentary Service Commission by the National Assembly on 7<sup>th</sup> September 2018. The Commission, therefore, had to initiate fresh nomination for this nominee to SRC. On 19<sup>th</sup> December 2018, PSC advertised this position. There were 66 applications which were received and long listed.

On 15<sup>th</sup> January 2019, Hon. Halima Abdile filed a petition in the High Court seeking conservatory orders restraining Parliamentary Service Commission from continuing with this replacement. That is why it was delayed. Thereafter, on 24<sup>th</sup> May 2019, the Petitioner filed and served the Parliamentary Service Commission (PSC) with a notice of intention to withdraw. Thereafter, this process resumed. Hon. Temporary Deputy Speaker, upon receipt of the 66 applicants, six were qualified and were shortlisted and they were interviewed by way of advertisement carried on the newspapers of 20<sup>th</sup> September and they were invited to attend an

interview which was conducted on 30<sup>th</sup> September 2019. Following the interview, the candidates performed as follows:

Hon. Amina Abdalla, 88.55 per cent; Hon. Andrew Toboso Anyanga, 72.15 per cent; Abdiraham ali Hassan, 68.75 per cent; Hon. Rachel Ameso Amolo, 64.65 per cent; Hon. Isaac Kipkemboi Melly, 63.95 per cent and finally, Hon. Michael Aringo Onyura, 61 per cent.

On 30<sup>th</sup> September 2019, the PSC resolved to forward the name of one nominee to the President following the interview and, therefore, consideration to be sent to the National Assembly. Accordingly, the name which was forwarded to the CS of the National Treasury and Planning was that of Hon. Amina Abdalla as nominee for the PSC. That is why we are here to consider this nominee.

Hon. Amina Abdalla is not new to Parliament. She was here; she has served in this House and she is among the ranking Members having served three terms. She was nominated to serve in this House in the 9<sup>th</sup> Parliament, the 10<sup>th</sup> Parliament and the 11<sup>th</sup> Parliament. Those are three consecutive terms. I want to say that she is not new.

Just to sum up on her CV, Hon. Amina Abdalla holds a Master's Degree in International Development from the Cornell University in the USA as well as a Bachelor of Science Degree, Agriculture and Home Economics from Egerton University in Njoro.

On work experience, Hon. Abdalla has 25 years' experience in the public sector, oversight and the international natural resource management, having served as a Member of Parliament (MP) for a record 15 years. While she was in the National Assembly, she served as the Chairperson of the Departmental Committee on Environment and Natural Resources in the 11<sup>th</sup> Parliament and the Chairperson of the Select Committee on Delegated Legislation in the 10<sup>th</sup> Parliament. Additionally, she is serving as a member of Presidential Tribunal set to investigate the conduct of Justice Lucy Njoki Waithaka, Njagi Marete and Martin Muia, from August 2019 to date. She also served in the Presidential Tribunal set up to investigate the conduct of Supreme Judge Hon. Jackton B. Ojwang', from April to August 2019. Besides that, she has served as a regional projects coordinator at the World Conservation Union, regional office for East Africa in Nairobi, from June 2000 to January 2003, among others. She has a long list of various places she got opportunity to serve. I will encourage Members to refer to the Committee Report which we tabled, because it is a very long list. This particular nominee has serious, outstanding experience from various sectors, including non-governmental organisations.

Hon. Amina Abdalla has served the public very well. She was able to get awards, distinctions and others. Just to mention a few, she was awarded water ambassador by the Government of Kenya for her contribution to the review of the Water Act in 2016. She was also awarded the Presidential Award of the Chief of the Burning Spear (CBS), First Class, for her contribution to the legislative reforms in the natural resources sector in 2015. She was also awarded the NACADA award for sponsoring the Bill that anchored the agency into law in 2012.

During the engagement with the Committee, she showed a lot of capability in terms of handling the position to which she has been nominated. She was able to really inform us that she is aware that there have been a lot of relationship problems between the SRC and other government bodies for obvious reasons. Given that the SRC is a Commission which deals with

remuneration, it is bound to have conflicts. However, if the Commission is competent enough, it is expected to work in good faith and ensure that they use all the skills available to ensure that the people who are affected by the various policies on remuneration are convinced somehow, in a good way, diplomatically. She was able to inform the Committee that she will be able to ensure that the SRC moves away from the negative perception which has been the order of the day, where it has been seen to be a commission fighting with various commissions, including the Parliamentary Service Commission and the Teachers Service Commission when it comes to the review of salaries. It is because of the failure of the Commission to display that they are diplomatic and they are able to convince stakeholders and use their authority in a good way to ensure that there is harmony between them and various stakeholders. She promised that she is going to be a voice of reason.

I hope she will live to our expectations. More often, we have appointed public servants here on the Floor of the House but, as soon as they take office, they forget to serve the public in good faith, using good language. They have turned themselves to be modern-day dictators. There is a problem in the public sector. Many workers in this country are not motivated to work, because some of the people we appoint become dictators and they do not want to listen to anybody. I have to say this: I hope this honourable Member, who we really trust because she has been here and she has been showing a lot of independence in her mind, is going to discharge her duties independently and ensure that the Constitution is upheld at all the time by the Commission.

We have been working with this Commission. In the 11<sup>th</sup> Parliament, SRC was working part time. Then there was an issue that, because it is a new Commission, they are required to be full time so that they can put in many policies which are required. Therefore, we brought in an amendment to the SRC Act to make them full time. In fact, we are not seeing any improvement. This Commission has been working against the Constitution. We have just been discussing the Supplementary Budget. I want to put it on record that when SRC came before us, they had already planned to do a workshop; a salaries review workshop without a budget. The Constitution is very clear that there is no procurement by anybody in this country without a budget. Budget is done by none other than the National Assembly. Therefore, we wonder why they did that. In fact, we want to invite the Auditor-General to investigate and do a special audit of SRC. They spent public money without the approval of this House.

Currently, we have not passed the Appropriations Bill but, already, they have spent. They did a workshop. There was no allocation nor was there an approval. So, how did they find themselves doing the workshop without the approval of the National Assembly? What we are saying is that SRC has become a rogue Commission. We want to take this opportunity to ask Hon. Amina Abdalla, once she is finally approved by this House, and appointed by the President, she must go there with a voice of reason and turn that Commission to become what it was intended for by the Constitution. The Commission was supposed to work in good faith and follow the Constitution to the letter. The Constitution does not allow anybody to break the law. Therefore, the civil servants who we appoint in this House should work and ensure that civil servants and other people who work under them are actually well taken care of and the Bill of Rights of those people are also considered.



I have to give another example. Our children have just done an examination and currently, the examination is being marked. However, the teachers who are marking are really complaining. They wake up at 4.00 a.m. and sleep at 11 p.m. How do we expect them to deliver quality work as required when the managers of the education sector have turned rogue? They are dictating to everybody. The CS for Education is painting a very bad picture in the country. We need to ensure that the people we appoint are people of integrity. They are people who have displayed that they are able to work with other people. The fact that you are given work as a commissioner does not mean the staff working under the commission is not supposed to be respected. You must respect the rights of that individual. Everybody has a right to sleep for eight hours to be productive. However, you find teachers being asked to sleep for five hours and are supposed to deliver good results. That is not going to work.

I encourage SRC to not only look at salaries but also the conditions of work. If the conditions of workers including teachers are vulnerable, then they are building a bad culture and our children are going to suffer. I want to support what the former President Mwai Kibaki used to say. He used to say: "Let us not work very fast as if there is no tomorrow." In Kiswahili, he used to say: "*Tuko na haraka ya kwenda wapi na kesho iko? Hata kama unaharakisha kwa sababu unataka kufa, kufa!*"

**The Temporary Deputy Speaker** (Hon. Mariru): Order, Member! I am not sure if you are quoting him now.

**Hon. Joseph Limo** (Kipkelion East, JP): But I had to put a quote.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): There is no quote.

**Hon. Joseph Limo** (Kipkelion East, JP): I said Hon. Kibaki said this...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Limo you must stick to the rules.

**Hon. Joseph Limo** (Kipkelion East, JP): All right. I am guided. I will be pointing out that I am now starting the quote so that I am not misunderstood. Otherwise, I was quoting what he was saying: "Let us do the work procedurally. Let us follow the law; let us not break the law because we want to be very fast and do things in a very fast manner to the extent that we compromise on quality." So, as we approve this nominee, I have no doubt in my mind that she is capable. But if we want to see those fruits coming fast... We have had Members approved before. We used to have Hon. Oloo Aringo. When he was appointed by this House, he went there and forgot the employer. He was not speaking on behalf of the Parliamentary Service Commission (PSC). We also had Hon. Dalmas Otieno. We have been asking him why we do not see him as he used to be here in the 11<sup>th</sup> Parliament. Whenever we used to have issues on the Floor of the House in the 11<sup>th</sup> Parliament, we used to shout here by demand that Hon. Dalmas speak because he was a voice of reason. We also want to see Hon. Dalmas join hands with Hon. Amina Abdalla to be a voice of reason and to ensure we change the name of the Salaries and Remunerations Commission (SRC) to be a good commission which the Constitution intended.

As I conclude, I urge Members to go through this Report. You will see that the very good things which have been covered here about Amina Abdalla will leave no doubt that she is somebody whom we expect to deliver. I thank Members of the Departmental Committee on Finance and National Planning because they put a lot of effort despite the fact that the timelines

were very tight and we had another nominee, the Controller of Budget, who was important at the same time. They came up with a good Report.

I also thank the Office of the Clerk for the support they gave to our Committee during that process and equally thank the Office of Hon. Speaker. I also thank the various Members of this House who have interacted with us in various times and had some good comments about Hon. Amina Abdalla. All in all, we contributed to the recommendations given here and so our Committee is recommending that this House approves the nomination of Hon. Amina Abdalla to join SRC as a representative of PSC.

I end by urging all of us to support and call upon Hon. Jimmy Angwenyi to second.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Thank you, Hon. Temporary Deputy Speaker. I am a member of the Departmental Committee on Finance and Planning Committee which vetted this Member. She qualified in all required aspects by law for this position. Besides, she demonstrated to us that she can represent the PSC adequately where our former MPs have failed. We looked at the work done by Hon. Aringo. He is the person who initiated the PSC establishment. He also initiated the Budget Office in Parliament. But when he went there, he was overwhelmed by those other Commissioners.

To that extent, he hardly represented us. Hon. Amina Abdalla suffered in the last Parliament, when the salaries of MPs was reduced from Kshs860,000 to Kshs532,000. It was reduced by more than 30 per cent, including allowances. So, she knows what we went through and has confirmed that she will defend the interest of Members and Kenyans. So, SRC should harmonise the Wage Bill of this country by conducting research.

We enacted a law that allowed the Commissioners to become permanent and fulltime for the five years instead of temporary or casual. We have not seen any difference in the performance of that Commission. I strongly believe that by nominating Hon. Amina, she will mobilise the Commissioners to deliver better services to Kenyans and particularly this House. Also, she will work hard to improve the relationship between Parliament and SRC. We need to engage each other instead of rushing to court. This will avoid us spending public resources to accuse each other because it costs the people of Kenya a lot of money.

As the Chairman said, they should adhere to the laws of Kenya on budgetary allocations. Early last year, SRC used over Kshs.95 million to purchase vehicles. That money was not allocated for in the Budget. So, they acted outside the law. They have gone ahead to organise a conference without a budgetary allocation. The Chair of the Departmental Committee on Finance and National Planning, Hon. Limo, as well as Parliament, should scrutinise the performance of the Commissioners with regards to adherence to the law. You cannot procure anything that is not covered in a budget.

I am sure Hon. Amina will educate them on this. They need further training and induction so that they can adhere to the law. If they fail to do so, Parliament should take it up and sanction them. We are the oversight agency and so, we should sanction them when they go against the law. This is because in this country, we cannot have an institution that does not adhere to the laws. We will end up being a lawless country. I urge my colleagues to approve the nomination of Hon. Amina and I am sure she will deliver what we have sent her to do.

With those few remarks, I beg to second.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, I will propose the Question.

*(Question proposed)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time is 1.00 p.m. Hon. Angwenyi is saying it is 7.00 p.m. according to where he comes from. Hon. Members, the time being 1.00 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.