

# PARLIAMENT OF KENYA

## THE NATIONAL ASSEMBLY

### THE HANSARD

### SECOND SITTING

Thursday, 25<sup>th</sup> June 2020

The House met at 6.45 p.m.

*[The Temporary Deputy Speaker (Hon.  
(Ms.) Soipan Tuya) in the Chair]*

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### COMMITTAL OF DIFFERENT PROVISIONS OF THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL TO DEPARTMENTAL COMMITTEES

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, this is a Communication on committal of different provisions of the Statute Law (Miscellaneous Amendments) Bill, 2020 to various Departmental Committees.

As you are aware, the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.15 of 2020) was published on 5<sup>th</sup> June 2020 and read the First Time on Tuesday, 23<sup>rd</sup> June 2020. The Bill which is sponsored by the Majority Party seeks to make amendments to various statutes which do not warrant publication of separate Bills.

The Bill proposes amendments to 38 statutes. In accordance with the provisions of Standing Order No.127, the said omnibus Bill is hereby referred to the various relevant Departmental Committees for consideration and public participation as follows:

(i) The Departmental Committee on Justice and Legal Affairs will deal with the following provisions:

- (a) The Interpretation and General Provisions Act (Cap 2);
- (b) The Records Disposal Act (Cap 14);
- (c) The Penal Code (Cap 63);
- (d) The Criminal Procedure Code (Cap 75);
- (e) The Evidence Act (Cap 80);
- (f) The Anti-Corruption and Economic Crimes Act 2003 (Act No. 3 of 2003);
- (g) The Public Officer Ethics Act 2003 (Act No. 4 of 2003);
- (h) The Proceeds of Crime and Anti-Money Laundering Act 2009 (Act No. 9 of 2009);
- (i) The Judicial Service Act 2011 (Act No. 1 of 2011);
- (j) The Political Parties Act 2011 (Act No. 11 of 2011);

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- (k) The Kenya National Commission on Human Rights Act 2011 (Act No. 14 of 2011);
  - (l) The Employment and Labour Relations Court Act 2011 (Act No. 20 of 2011)
  - (m) The Ethics and Anti-Corruption Commission Act 2011 (Act No. 22 of 2011);
  - (n) The Public Appointments (Parliamentary Approval) Act 2011 (Act No. 33 of 2011);
  - (o) The Leadership and Integrity Act 2012 (Act No. 19 of 2012);
  - (p) The Kenya Law Reform Commission Act 2013 (Act No. 19 of 2013);
  - (q) The Court of Appeal (Organization and Administration) Act 2015 (Act No. 28 of 2015);
  - (r) The Bribery Act, 2016 (Act No. 47 of 2016); and,
  - (s) The Witness Protection Act, 2018 (Act No. 16 of 2018).
- (ii) The second one is the Departmental Committee on Administration and National Security, which will deal with the following provisions of the Bill:
- (a) The Firearms Act (Cap 114);
  - (b) The Official Secrets Act (Cap 187);
  - (c) The Counter Trafficking in Persons Act, 2010 (Act No. 8 of 2010);
  - (d) The National Police Service Commission Act 2011 (Act No. 30 of 2011); and,
  - (e) The Kenya Coast Guard Service Act 2018 (Act No. 11 of 2018).
- (iii) The next one is the Departmental Committee on Finance and National Planning, which will consider the following:
- (a) The Statistics Act 2006 (Act No. 4 of 2006);
  - (b) The Accountants Act 2008 (Act No. 15 of 2008);
  - (c) The Retirement Benefits (Deputy President and Designated State Officers) Act 2015 (Act No. 8 of 2015);
  - (d) The Investment and Financial Analysts Act 2015 (Act No. 13 of 2015); and,
  - (e) The Public Procurement and Asset Disposal Act 2015 (Act No. 33 of 2015).
- (iv) The fourth one is the Departmental Committee on Labour and Social Welfare, which will consider the provisions of the Bill proposing to amend the Public Holidays Act (Cap 109) and the Employment Act 2007 (Act No. 11 of 2007).
- (v) The fifth one is the Departmental Committee on Transport, Public Works and Housing, which will consider the provisions of the Bill proposing to amend the Housing Act (Cap 117) and the Kenya Roads Board Act 199 (Act No. 7 of 1999).
- (vi) The sixth is the Departmental Committee on Education and Research, which will consider the provisions of the Bill proposing to amend the Universities Act 2012 (Act No. 42 of 2012) and the Basic Education Act 2013 (Act No. 14 of 2013), whereas the Departmental Committee on Communication, Information and Innovation is to deal with the provisions proposing to amend the Films and Stage Plays Act (Cap 222).
- (vii) Hon. Members, the Departmental Committee on Trade, Industry and Cooperatives will consider the provisions amending the Scrap Metal Act 2015 (Act No. 1 of 2015).
- (viii) Finally, the Departmental Committee on Energy will consider the provisions of the Omnibus Bill, proposing to amend the Energy Act 2019 (Act No. 1 of 2019).
- Hon. Members, the cited committees should move and consider their relevant portions of the Bill and facilitate public participation, following which, they should file their respective reports with the Departmental Committee on Justice and Legal Affairs, which will be the lead Committee

on the Bill. The lead Committee is, thereafter, expected to table the consolidated report in the House prior to commencement of the Second Reading of the Bill.

The House is accordingly informed. I thank you.

Next Order!

## MOTION

### ADOPTION OF REPORT ON THIRD SUPPLEMENTARY ESTIMATES - 2019/2020 FINANCIAL YEAR

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Vice-Chair of the Budget and Appropriations Committee, Hon. Moses Lessonet.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Hon. Temporary Deputy Speaker, at the outset, I want to thank this House for allowing us to have this Second Sitting so that we can prosecute the Supplementary Estimates for the Budget of 2019/2020 Financial Year.

Hon. Temporary Deputy Speaker, equally, as I move this Report, I also want to thank Members who have taken their time to exceed today's Sitting to be available for this Second Sitting so that we can be able to finalize the third Supplementary Estimates before the end of the 2019 Financial Year - which we well know is coming to an end next week on Tuesday. So, just for the sake of Members, the urgency for this Sitting is so that on Tuesday next week, we can prosecute the Appropriation Bill towards the Supplementary Estimates III.

Hon. Temporary Deputy Speaker, these Supplementary Estimates were necessitated by the fact that we needed resources towards COVID-19. You are all well aware that the health workers, just as an example, have been complaining and striking about allowances amounting to a total of Ksh3.4 billion, which they had been promised by the various governments, including the national Government and county governments, so that they can handle the issues of COVID-19. This could not wait for the next financial year. We could not...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Moses Lessonet, did I hear you moving the Motion? For the record, you need to move.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Hon. Temporary Deputy Speaker, I thought I moved but...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You could just do it again. There is no harm.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Hon. Temporary Deputy Speaker, let me read the entire Motion.

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

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Third Supplementary Estimates for the Financial Year 2019/2020, laid on the Table of the House on Thursday, 25<sup>th</sup> June, 2020 and, pursuant to the provisions of Article 223 of the Constitution of Kenya, Section 44 of the Public Finance Management Act, 2012, Public Finance Management Regulation 40 and Standing Order No.243-

- (i) approves an increment of the total recurrent expenditure for Financial Year 2019/2020 by Kshs9,232,000,000 in respect of the Votes specified;
- (ii) approves an increment of the total development expenditure for Financial Year 2019/2020 by Kshs2,068,000,000 in respect of the Votes specified;

- (iii) approves an overall increase in the total budget for Financial Year 2019/2020 by Kshs11,300,000,000 in respect of the Votes as specified; and,
- (iv) rejects the reallocations in the said Third Supplementary Estimates, including those intended to affect the ring-fenced funds under the Ministry of Health and necessary adjustments be made before publication of the resultant Supplementary Appropriation Bill, 2020.

I am contributing to that Motion. I was giving the reasons why this Third Supplementary Estimates were necessary at this time - seven days to the end of the financial year. A sum of Kshs3.4 billion is being allocated to health workers. It is necessary that those resources be availed now. We needed a further Kshs1.8 billion to be allocated towards the Nairobi Commuter Rail Service. This could not wait for the next financial year.

A sum of Kshs1.5 billion has been allocated to the security surveillance system which is long overdue. It was pending an audit. The providers of that surveillance system were on the verge of shutting it down. It was necessary at this time that Kshs1.5 billion is availed.

In this Third Supplementary Estimates, there is an allocation of Kshs5.8 billion for Recurrent Expenditure to support county governments in the mitigation of COVID-19. For the avoidance of doubt, this money was promised by the President, His Excellency Uhuru Kenyatta, sometime back. It is now being actualised through this Third Supplementary Estimates. The actualisation of this Kshs5.8 billion is through the Ministry of Health. There was no time to amend the Division of Revenue Bill or Act so that we could process the Kshs5.8 billion through the counties. However, it was properly processed and the Ministry of Health shall be accountable for this Kshs5.8 billion. That could also not wait for the next financial year.

There is Kshs324 million for Recurrent Expenditure which is being reallocated within the Judiciary from operations and maintenance to salaries. This was the shortfall towards salaries at the Judiciary. This could also not wait despite the seven days left before the next financial year. The employees of the Judiciary, including judges and other employees, need to be paid by 30<sup>th</sup> June.

That is basically the import of the Third Supplementary Estimates. We did not have time to interrogate the Estimates considering the Report was tabled on Tuesday. The Departmental Committees did not even have enough time to scrutinise it and make presentations to the Budget and Appropriations Committee.

It is for that reason that we thought that we could push other proposals by the National Treasury to the next financial year.

Hon. Temporary Deputy Speaker, that includes Kshs1.1 billion for Loiyangalani Project which we, as a Committee, did not get sufficient information from the Departmental Committee on Energy. The Chair of the Committee is here. He has promised that between now and Tuesday, he is going to give us all the information on the Loiyangalani Project.

There is also Kshs1.9 billion for defence. The Departmental Committee on Defence and Foreign Relations did not come to us to justify the urgency in paying Kshs1.9 billion to the Ministry of Defence seven days to the end of the Financial Year. It is for that reason that we did not approve Kshs1.9 billion for defence.

There is also a further amount of Kshs2.4 billion. We did not get sufficient information from the Departmental Committee or proper justification from the National Treasury for us to approve Kshs2.4 billion for Nairobi Metropolitan Services. We approved 80 per cent of the proposals by the National Treasury in this Third Supplementary Budget. What is important to Members - and you have seen it in the Motion - is Kshs3 billion which this House proposed to be ring-fenced for COVID-19 pandemic for particular hospitals. There is Kshs400 million to Moi

Teaching and Referral Hospital (MTRH), Kshs500 million to Kenyatta National Hospital (KNH), another amount to Kenyatta University Hospital, a decent amount to Jaramogi Oginga Odinga Teaching and Referral Hospital in Nyanza and Coast General Teaching and Referral Hospital.

We declined the request which required us to give Kshs1.5 billion to Kenya Medical Supplies Authority (KEMSA) by the National Treasury. We rejected it and stuck with the original proposal which was approved by this House during the Second Supplementary Budget. We did not see good justification that we needed to give Kshs1.5 billion to KEMSA while we know that there was a huge raid by Ethics and Anti-Corruption Commission (EACC) there today. If we process Kshs1.5 billion to KEMSA, they will definitely not spend it in the purported purchase of reagents. Such reagents can still be purchased by KNH and MTRH directly, and procuring agencies which oversee the county referral hospitals, including Jaramogi Oginga Odinga Teaching and Referral Hospital and Coast General Teaching and Referral Hospital.

With those remarks, I beg to move and invite Hon. John Mbadi to second the Motion. I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Hon. Temporary Deputy Speaker, as I second this Motion, I want to state that in the history of this country, this is the first time we are confronted with approval of the Third Supplementary Budget. It has never happened.

I want to put it on record that this country has never entertained more than one Supplementary Budget before the 11<sup>th</sup> Parliament. Hon. Amos Kimunya, Hon. Naomi Shaban and Hon. Kioni can confirm this. We started habits of entertaining two Supplementary Budgets in the 11<sup>th</sup> Parliament. They have now reached three. This year is a bit unique. I want to put it clearly that I do not know whether the Chair of the Budget and Appropriations will continue to be the Chair. I sit in that Committee. Hopefully, he will. Even if he does not continue to be the Chair, the one who will take over from him must discourage this idea of three Supplementary Budgets in a year, which makes us look really bad. One may excuse the Government this time.

*(Applause)*

But again, when you critically look at this budget, you realize that there are certain expenditures that, because of oversight here and there, and laziness and carelessness in the budget process, that has led us to where we are now. Going forward, this is something that we must stop.

Let me now come to the provisions in this Report for Members to understand. I want to start with the ones we have rejected. We have rejected the reallocation of the Ksh3 billion that we ring-fenced as a House. That money was part of the Parliamentary Service Commission's budget. And out of the magnanimity of this House, because of the situation before us, we decided to ring-fence it and give it to specific health facilities. We are also aware that you give money to the Ministry at the headquarters, but there is misuse of the same. We decided to give KNH Kshs600 million, Kenyatta University Teaching and Referral Hospital got Kshs500 million, Kshs400 million to Coast General Hospital, Kshs400 million to Jaramogi Oginga Odinga Hospital, Kshs400 million to Moi Teaching and Referral Hospital, Kshs300 million to Kitui General Hospital and Kshs300 million to Garissa Referral Hospital.

Then someone sits somewhere, after we have allocated money which was meant for Parliament, and decides to take it to Kenya Medical Training College (KMTC) for isolation facilities, and also took Ksh1.5 billion to Kenya Medical Supplies Agency (KEMSA) for buying

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of reagents and testing kits and yet, this Government knows very well that testing is the main activity in the fight against COVID-19. They should have provided money for it. Our Committee rejected that. Let that money remain intact in the agencies where we had allocated it.

Hon. Temporary Deputy Speaker, it is not the first time the money for Loiyangalani-Suswa High Voltage Power Line is coming before us. There are certain questions we raised which have not been addressed concerning the sum of Kshs1.1 billion. The Committee felt like it was an insult for us to again entertain the same amount which we had rejected. We have been seeking more answers, but they have not been supplied to us. I think the House will agree with us on that one.

Now, regarding some of the amounts that we have approved, the President talked about the Kshs5 billion that we approved that was supposed to go to counties. I am sure all of us who have been following the President's speeches would imagine that, that money has gone to the counties. They claim to have paid it. Actually, the Accountant-General confirmed to us that it has already been paid, but the regularization has taken this long. We indict the National Treasury but it is something that we felt we could not reject because it is money that is going to counties to help fight this COVID-19. Remember, the counties were complaining the other day that they had not received that money. Now that it has been confirmed that the money has been disbursed, we felt that was important to regularize it.

Hon. Temporary Deputy Speaker, we had initially rejected the Ksh1.5 billion for surveillance. But again, the Government has put a lot of pressure on the Committee, not pressure that we could not resist; but pressure with explanation that they had already committed to make that payment. Of course, the money has already been released from the Consolidated Fund to the Ministry to make payments to the service provider. If that is not done – and I am not an expert on security – I am told, the service provider may switch of the surveillance system and we may be left at the mercy of the thugs.

We want to insist that the Ministry should be decent in the way it handles its affairs in future. There is also lack of neatness. These are foreseen expenditures. Why should you bring them under Article 223?

Finally, I can hear my Chair Emeritus. There is something that I have even been arguing with my Whip over here and I am trying to persuade him to see it my way. I can lead him, but he is the one who can whip him or de-whip me for that matter. By the way, if he decides to de-whip me, that will be a matter for discussion whether it is legal or not, but he will have done it. I ask my Whip not to de-whip me as I am also not going to mislead him.

On the money that has been allocated to the Nairobi Metropolitan Railway, this is the explanation we got. We had actually rejected it, but the Ministry explained it as follows and I want the House to really understand the explanation that was offered to us.

One, the total allocation in the original Budget, I am sure my former Chair knows this, was Kshs3.6 billion. The National Treasury on their own volition - and this House did not prompt them - brought a recommendation under Supplementary Budget II to reduce that amount from Kshs3.6 to Kshs900 million, a reduction of Kshs2.7 billion. Now, the National Treasury has owned up that they made a mistake; that they had already issued an Exchequer to the Ministry to implement this project. Therefore, for the Kshs2.7 billion, they can only surrender Kshs900 million and were asking us to return the Ksh1.8 billion which already has been released to the Ministry and the Ministry is already spending it, anyway. So, it is already committed and the Ministry is spending it. We asked, as my Whip and the Chair Emeritus asked me: "How is this an emergency?" We also asked the same question that how can Ksh1.8 billion for railways be an emergency? The answer we got is that this money had been released. They were right to release it because Ksh3.6 billion

was the budget then. But the mistake the National Treasury made, and that is the quarrel we have with it, is: How could the National Treasury release money and then ask the House to re-allocate the same money they had already released to the line Ministry? That sounded a little funny but we realise there has been a transition in that Ministry that I find taking too long. I ask my friend Ukur Yatani to settle in that Ministry properly. I know there could be people who are not doing things right there. But, that is where we are.

I do not want to go further. There is the Kshs280 million and Kshs350 million. Those are donor funded. So I have no issue or quarrel with them. I have no quarrel with donor funded projects. On the Kshs3.4 billion, my Vice-Chair who is now the Acting Chair has ably explained that it is money to pay health workers. Again, we were concerned a bit but that is money going to frontline health workers. What I would ask the departmental committee is to oversee it and make sure it is spent on that line.

My final comment is on the Judiciary. There is Kshs324 million that the Judiciary requested to re-allocate from operations and maintenance to salaries because there were some arrears of salaries the Judiciary needed to pay. We debated this and we felt that there was no need of denying the Judiciary the request to re-allocate money from operations and maintenance to salaries because really, operations and maintenance is just recurrent expenditure. Salaries, to me, are a better recurrent expenditure than operations. Operations and maintenance is money for people to enjoy themselves with. But salaries are something that makes livelihood of people. So, we asked ourselves why we should stop the Judiciary from re-allocating money from one line to another within the framework of recurrent expenditure.

Hon. Temporary Deputy Speaker, I have done justice to this Motion in seconding it. I do not think I could do more.

I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, do you want us to summarise this? I can see Members who are interested. I will allow interested Members to contribute. I can see that my list here has been constant. I hope it is the same people who are desirous of contributing. So, I will go by the list. The first person up here is Hon. Wambugu Ngunjiri.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): No, Hon. Ngunjiri is right there, unless he was to contribute on something else.

**Hon. Ngunjiri Wambugu** (Nyeri Town, JP): I do not know why people are sending me away when I am still here.

Hon. Temporary Deputy Speaker, I am one of the people who were saying, "Put the Question". It is because, in my opinion, the explanations we have heard from the Vice-Chair or Acting Chair as well as the arguments we have heard from the Leader of the Minority Party – who is also a Member of the Committee – on the decisions that have been made in regard to this Supplementary Budget III are sufficient. I was trying to remember ever having heard of Parliament discussing a Supplementary Budget III. By the fact that we are here, we are going to assume it is because we have an international crisis that has also never been lived in our lifetime.

I stand to support. I am standing to support especially because of the budget we had ring-fenced. It is the money that was to come to Parliament and money we ring-fenced to go to certain expenditures. That the money had been re-allocated is quite interesting because this was money

that was being moved from one fund to somewhere else. It would be quite interesting if somebody had seen the need to take this money to a place we had not committed it to. I will not go into the details of where it had been taken. I am glad the decision was made to ensure that the money remains where it had been allocated.

I was initially not very happy about how the money was allocated. The Nyeri Provincial General Hospital, which serves about four counties, was one of the places we expected would receive a part of these funds as the money was being allocated. However, the decision of the majority prevails. That is why we are a democracy. The fact that the money was taken to places that are immediate and direct interventions of what we are living in as a country is something I hope and believe Kenyans are going to appreciate as we move to expend this budget.

So, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Very well. Let us have Hon. Junet Mohamed.

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Temporary Deputy Speaker. I stand to support this Report but with a lot of reservations. This is not the way to run the economy and the National Treasury. You do not have to go beyond the Report of the Committee if you want to know that there is something wrong with the Supplementary Estimates III. The Committee did a good job; they have brought out all the issues that pertain to the way this has been done improperly.

As the Leader of the Minority Party has said, it is the first since Parliament was granted powers to make the Budget and since I joined Parliament that we are dealing with Supplementary III. It is very clear that Article 223 of the Constitution is being misused. The whole amount of Supplementary III is under Article 223. It has been brought here so that we can ratify it and even if we do not, there is nothing we can do because the money has been spent. Article 223 of the Constitution was meant to cushion on emergency and unforeseen issues and not on ordinary issues like paying Loiyangalani.

We have broken the Public Finance Management (PFM) Act. There are programmes here that have exceeded the 10 per cent threshold. It is a requirement of the law that they can only spend 10 per cent. They have now brought a Supplementary Budget that has exceeded the 10 per cent. As a law-making body, if we allow these things to continue, then there is no business of us being here. These laws are made so that people can follow. We cannot allow the National Treasury to operate in this manner. As much as I support, it is my obligation and duty as a leader to point out that you have broken the law. We will not allow it again. This is the last time I am supporting a Supplementary Budget that has broken the law under Article 223 of the Constitution and one that has exceeded the 10 per cent threshold that is required.

I want to thank the Budget and Appropriations Committee for a job well done because they have pointed out that information has not been provided on how additional expenditure will be financed suggesting that financing will be accrued from debt. That means we are living on debt. The National Treasury has not provided documents for the Committee to ascertain when the first withdrawal was done. This money might have been used at the beginning of the financial year. Those are not my words but it is in the Report. The National Treasury must put its act together. I am not sure whether they are doing this out of incompetency or the *utado* mentality that Parliament will just approve whatever they submit. We are not morticians who rubber stamp whatever is brought here. We have a cardinal responsibility and duty constitutionally to make sure that things are done in the right way. I know I am making Hon. Ichung'wah happy. I am a cow as I told you yesterday. I am not retracting my statement. At times, the cow speaks the truth and that is why we are in Parliament.



*(Laughter)*

I am doing this for the good of the Government. The National Treasury might be misleading other arms of Government. It is our responsibility to oversee and legislate. Part of what I am doing is oversight.

I agree with the proposal to pay the health sector Ksh5.8 billion. The reason we have the Supplementary Estimates III is because of the extraordinary times we are living in this financial year caused by the COVID-19 pandemic. It is granted. The health issue could be an important issue, but the other issue I am seeing here... In the spirit of the “handshake” let me support this. I urge my people that they must vote for this.

Thank you. I have nothing to add.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): That is interesting, Hon. Junet. You know, it is one thing for somebody to make disparaging remarks about somebody else and another one for someone to disparage themselves. I am talking about the cow story. I think he has a right to describe himself whichever way. Let us have the Hon. Chair for the Departmental Committee on Health, Hon. Sabina Chege.

**Hon. (Ms.) Sabina Chege** (Murang’a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, I support. However, as Hon. Junet has said, health has been one of the beneficiaries of this Supplementary Budget III because of the COVID-19 pandemic. Notably, we have also received money from donors like the Danish International Development Agency (DANIDA) that we had to put in the budget. Even though we have Ksh5.8 billion, as the money that has been allocated by the President to the counties, I want to urge Members that as they go back to their constituencies, they take time... I know the Senate is supposed to be overseeing what the counties are doing, but we need to be sure that the money we are giving to counties, Ksh5.8 billion, is put to proper use.

This is not little money. I know some counties had already reserved some money for COVID-19 pandemic. We are anticipating that each county in the country will have at least a 300 bed capacity hospital that can be used as an isolation center for COVID-19 pandemic. However, we will need to interrogate whether this money that has been given to the counties is utilised for health purposes. We have given counties Ksh3.4 billion for frontline health workers. That is encouraging. We needed to boost their morale. I am happy that this money has finally been allocated to the frontline health workers in the national and county governments.

There was money that was supposed to go to the medical facilities that Hon. Wambugu alluded to. That money was ring-fenced by this Parliament. It is sad to know that since Parliament allocated that money, it has not been released to these facilities. The Ministry in its wisdom requested for some of this money. It was Ksh3 billion where Ksh2 billion was for the testing kits, reagents and to take care of isolation facilities at KMTC. I want to urge the Budget and Appropriations Committee to look for a way of getting Ksh700 million that had been requested by KMTC. Once we reinstate this money, it means KMTCs that we have been using as quarantine centers will be left with a debt. The facilities that we ring-fenced money for, the Ministry of Health had allocated them money. The Government is also allocating money to the Coast General Hospital in Mombasa County and Kisumu County, which were the greatest beneficiaries, and Kitui County.

We only have three referral hospitals, that is, Moi Teaching and Referral Hospital (MTRH), Kenyatta University Teaching, Referral and Research Hospital (KUTRRH) and the Kenyatta National Hospital (KNH) that were allocated this money. If I find favour with the Budget and Appropriations Committee, we may need to reconsider the Ksh3 billion that was ring-fenced for COVID-19 pandemic to take care of reagents and testing kits...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order Hon. Sabina, I see Hon. Ichung'wah is on a point of order. What is out of order Hon. Ichung'wah?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I am sorry I have to interrupt the good lady Chair of Departmental Committee on Health. My point of order is on relevance. We are debating the Report of the Budget and Appropriations Committee. What the Chairperson seems to be doing now is taking us back to her presentation before the Budget and Appropriations Committee prior to the submission of this Report. I have heard her justify the case for reallocating what was ring-fenced. The Leader of the Minority Party has gone into great lengths to explain to the House that these were funds that were ring-fenced by this House through a House resolution. Therefore, it is only this House, by resolution, that can undo what was done. What the Chairperson is doing seems to be a re-justification. I have heard her saying that the hospitals that were allocated the COVID-19 money have been allocated some money by the Ministry. But remember the House resolved to allocate this money for specific purposes: ring-fenced it to provide PPEs to healthcare workers. The Whip of the Minority Party has said that EACC detectives raided KEMSA because of substandard PPEs that are being issued to our frontline health workers. As the people's representatives, the House chose to provide money to those particular hospitals to ensure that they acquire quality PPEs. Therefore, I want to beg the Chair to stop dragging the House back and debate the report that is before the House.

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): Order Members! Hon. Sabina, I am sure you know the rule on relevance, so you will confine yourself to the debate. I just want to clarify to the House that you were debating the Motion before the House.

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): I was actually on the Motion, Hon. Temporary Deputy Speaker. You know nowadays there is a bug of opposition that has bitten Hon. Ichung'wah, so he has to oppose everything for the sake of opposing. We understand you and we feel you, Hon. Ichung'wah. All the best in the opposition docket. You know we went through this Supplementary Estimates today and I support what the Budget and Appropriations Committee has done. I have also said that the Ministry had proposed reinstating the money. That is why I said I would like guidance from the Budget and Appropriations Committee.

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

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): What is out of order again, Hon. Junet?

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Temporary Deputy Speaker. I just wanted to inform Hon. Sabina that Hon. Ichung'wah is suffering from what is called withdrawal syndrome. He is withdrawing from the government to the opposition. He has been having problems for the last one week.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): Hon. Sabina proceed.

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): I want to thank the Budget and Appropriations Committee for the work they have done. I want to assure the frontline health workers of this nation

that they are safe now. I am very sure whatever we will not have covered within the Supplementary Estimates III, we will be able to reallocate money as we move into the new financial year.

Hon. Temporary Deputy Speaker. I support. About withdrawal syndromes, I have no idea. Thank you.

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): Hon. Oundo, you have the Floor.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Speaker, thank you for this opportunity to contribute. I do not know what the reference to withdrawal means, especially for the former BAC Chair. I do not know where he is withdrawing from; only God knows.

I stand here to support the report of the Budget and Appropriations Committee but with reservations. First of all, it is unimaginable that seven days to the end of the financial year, we are still talking about a supplementary budget. Even if it is to actualise the President's commitment to the county governments to fund them, he made this commitment way back; I thought this should have been captured much earlier. Secondly, when we talk about development budget, even though my party chair and the Leader of the Minority Party has strenuously tried to explain that some of the requests are already committed, everybody wonders: Seven days to the end of the financial year, you are talking about development expenditure. How long will it take to go through the procurement process and expend this money? Are we legislating in vain? Or are we rubberstamping an action which has already been actualised?

Hon. Temporary Deputy Speaker, I would have imagined probably at this time that there are areas in this country that are facing extra-ordinary times; Busia County specifically. I would have imagined probably any kind of Supplementary Budget at this time of the day or the year should have actually tried to address the danger and the crisis that we have at the Busia border of Busia Town and Malaba. As usual, we the people from Busia are excluded where decisions are made. We will carry our burdens and suffer silently. One day, God will come to help us out.

As I conclude, I am worried that, indeed, the National Treasury and the Executive are misusing Parliament as far as Articles 2 and 3 are concerned. It is explicitly clear that it should not exceed 10 per cent of the initial Budget and of course, there is a rider that Parliament can approve a higher ceiling based on the circumstances. It is improbable to imagine that COVID-19 could be such a circumstance that surely requires us to provide funds to do nothing to do with COVID-19 and nothing that actually sounds like emergency. Probably it is time we, Members of Parliament and Committee on Budget and Appropriations, really have a serious meeting with the Cabinet Secretary (CS) and the Principle Secretary (PS) and clearly explain to them the need to respect the Constitution and Members of Parliament. They must not put us in a precarious situation that because of public good, we simply have to approve otherwise then we are left holding the baby in our hands.

Finally, I hope the various departmental committees will call these particular ministries and SAGAS to clearly account for this money. It is always a habit that these things done in a rush become an avenue for corruption. I just hope and pray that the stolen PPEs that were donated, the fake PPEs that have been in various stores will not be used as a conduit to steal this money.

Hon. Temporary Deputy Speaker, with those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us now hear Hon. Shaban Namsi.

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Thank you, Hon. Temporary Deputy Speaker. Although this Supplementary Budget is coming very late, I think these are extra ordinary times that require extra ordinary measures. However, all the same, I think what is very important is the

fact that whatever funds that are allocated to whatever facility or whichever ministry have to be utilised for the good of the people of our country.

We have seen a number of county governments doing the right thing, but we have also seen a number of county governments playing around and really, I would say misusing funds which are meant to help our people. We come from a border county and I have seen many problems at the border. We have seen many problems in more than three quarters of the counties in our country because of the number of patients who are increasing in their bounds. Yet, what our county governments are doing is just a joke. Most of the governors and their executives would sit down, allocate funds to anything including what they call "public participation" and we have not seen any public being involved in anything because during Corona times nobody was having any meetings anywhere.

Second, you would see money being used for supposed caravans, which are non-existent. So much money has been misused. This has to stop. In addition, from where the Executive sits, His Excellency the President must crack the whip because if he does not then it will be too late for this country. This is because as it is, we are just in the middle of the crisis we have not even got to the real levels of the crisis and yet it is very difficult for people to do the right thing. Our frontline workers - the medical staff - are really suffering even when they ask for minor things like the batteries for the thermo-guns. It is a shame. We need to do something about it. As Parliament, we are doing oversight. We need to push the Executive to ensure that funds being allocated are properly used.

I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us hear Hon. Wandayi Opiyo

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Temporary Deputy Speaker. I support the Report of the Budget and Appropriations Committee (BAC) on the Supplementary Estimates 3 with a lot of reservations because those of us who sit in the Public Accounts Committee (PAC) have faced a lot of challenges with these additional Supplementary Estimates.

Hon. Temporary Deputy Speaker, you know that once this House enacts an Appropriations Act, it gives the procuring agencies the go-ahead to commit funds because they have got the Budget line officially. However, when we introduce these Supplementary Estimates, we kind of frustrate the Budget execution process. This is what leads to the unnecessary pending bills that we have to confront every now and then. So, it is an issue that this House must address conclusively in the fullness of time. Having said so, I am also cognisant of the fact that we are living in extraordinary times that have been brought about by the raging COVID-19 pandemic. On that account alone, I support this Report, especially on the matter of healthcare.

However, even as we support the Report on account of healthcare provision, we must ask ourselves for how long our counties are going to be babysat by the national Government. One thing that the COVID-19 pandemic has done is to expose the soft underbelly of the county governments. It has caught them totally flat footed in a manner that you cannot imagine. I am refraining from mentioning county names for good reasons. I want to be on the right side of history.

**Hon. Members:** Siaya! Siaya!

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Temporary Deputy Speaker, I am hearing Members shouting "Siaya! Siaya" but that is coming from Members and not from me. I am one person who has been very hesitant at the prospect of re-opening debate on Schedule 4 of the Constitution. I am sure that Members know what that Schedule contains. It is the Schedule on allocation of functions to the two levels of government. However, given the way the county

governments are handling the health function, I am beginning to have a second thought even though my party's official position is that health must remain devolved.

The second issue of concern is security. That is one reason why I may want to support this Report. We must also give credit where it is due. In the recent past we have had fairly stable situations security-wise across the country despite the challenges caused by the COVID-19 pandemic. I know that security is an integrated system. Therefore, if we fail to support the security surveillance system, we might have a problem and create a weak link in the security system – which might cause us a lot of harm. Therefore, I would like to support this Report.

Finally, this House must continue to protect the Constitution. I am beginning to think that we need to reopen debate on the provisions of Articles 2 and 3 of the Constitution.

I do not think for sure it was the intention of the framers of the Constitution that the Article be used in the manner it is being used currently.

Hon. Temporary Deputy Speaker, with those few remarks, I support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): The Leader of the Majority Party, do you want to contribute? You know you have priority in contributing unless, you do not want to enjoy that priority because you were way down in the list.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I want to take very brief time because I would want as many Members as possible to share the little time we have.

From the outset, I support the Report of the Committee and congratulate them. This is because on Tuesday I tabled the Report, it was committed to them and they have worked hard on it and produced a Report, under very difficult circumstances. I want to assure this House that I was not happy with the bringing of the Third Supplementary, on Tuesday with only two days to process it. Today and Tuesday next week.

Be that as it may, I believe the House has already expressed itself. I will be taking this up with the National Treasury. This is so that, at least, we are left with enough free time for the House to interrogate and look at some of these things. Having said that, I have heard Members referring to Article 223. The more people talk about it, the more I am convinced that perhaps we have not quite internalised what it entails.

Just for the benefit of the Members who are here, Article 223 states:

“(1) Subject to clauses (2) to (4), the national government may spend money that has not been appropriated. In the two circumstance which is that the amount appropriated if—

- (a) The amount appropriated for any purpose under the Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act, or
- (b) Money has been withdrawn from the Contingencies Fund.”

I believe the situation we have here is that we are talking of money that was not sufficient. For example, the amount for commuter rail. We provided money in the initial budget and the Supplementary two reduced it beyond the need that was there. Hence now, we are reinstating what was already in the previous allocation.

Technically, there is nothing wrong the National Treasury has done by bringing Supplementary One, Two, Three or even Four. This is because the Constitution basically says whenever you spend money beyond what was appropriated, you must come to Parliament within two months and report it.

We want to urge the National Treasury to get it right at budgeting upfront. So, we do not have to change the budget every other day, in as much as it is allowed in the Constitution. I will

undertake to be part of that training process on behalf of the House. So that, the new leadership at the National Treasury can spend more time on implementation rather than bringing Supplementaries.

We also do not want the Committee to be dealing with budgeting throughout the year. We would want them to spend more time on oversight after the budget rather than reviewing budget after budget. I wanted to highlight that legally they are okay. But administratively this is not the kind of thing we would want to encourage. Certainly, this is not the kind of thing I want of pleading with Members to stay here beyond their time. I want to thank the Members for creating this session because of a crisis that has been created by somebody else. This could have been averted had these figures been brought last week. We would have sorted things better.

Hon. Temporary Deputy Speaker, with those words, I support and ask Members that perhaps we need to speed up this so that we can also include one or two other businesses today for another 10 minutes and go home feeling that this session was worth extending. I hope that we can fast track this now and then we clear. I do not want to invoke Standing Order No.95 but I want Members to help so that we finish this soon and move to the next item.

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): Hon. Peter Kaluma, you have the Floor.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I thank you, Hon. Temporary Deputy Speaker. I join issues with all Members who have raised concern.

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): Hon. Gikaria, what is it?

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Temporary Deputy Speaker, I wanted to make a plea to the Budget and Appropriations Committee because of the rejection of the Ksh1.16 billion for Loyangalani. I have reasons, Hon. Temporary Deputy Speaker, if you would allow me as a Committee so that once...

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): Hon. Gikaria, I understand the interest with your Committee but let Hon. Kaluma prosecute his point.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, I am going to be very brief to allow colleagues time to say something. I was saying I join issues with colleagues who have raised concerns about these multiple supplementary budgets and the lateness of these estimates, but I also join Members in supporting.

Those aspects dealing with security came before the Departmental Committee on Administration and National Security yesterday. Allow me to urge Members that there is the budget for security surveillance which is money being paid to the provider of that system. Just today there is a video of a person being robbed somewhere in Kilimani in broad daylight. We are only able to see it and we are only able to track it because of that surveillance. The Committee is alive and we authorised our Chair to liaise with the Budget and Appropriations Committee and confirm it to them that there is the danger and real apprehension that if that money going for security surveillance is not appropriated by this House in the manner proposed, then that critical security system is going to be suspended. The very seriousness of that matter is among other matters within the administration and security docket in the budget. For that reason and many others that the Members are alive to and for the sake of saving time, I request Members that we bend backwards as a House on this particular occasion also taking into account the situation the country is in. However, we undertake to guard the measures around the Constitution in Article 293 in future.

I, therefore, support and urge colleagues, for the sake of security, more so during this pandemic where people are being robbed in broad daylight, we need adequate measures around those issues to support this thing. I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): Let us hear Hon. Gikaria.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I do not want to invoke Standing Order No. 235 that talks about the presentation of budget estimates and committal to committees and Article 243 of the Constitution that talks about the supplementary estimates. I appreciate what has been said. When you listened to the Chair of the Budget and Appropriations Committee when he was moving, he alluded to the fact that these are unprecedented times and we totally agree. Our Committee did not have an opportunity to appear before the Budget and Appropriations Committee to try and justify this allocation of Ksh1.16 billion.

However, that notwithstanding, I totally agree with what Hon. Junet was talking about and our Committee did allude to the fact that Article 223 of the Constitution... This was explained by the Leader of the Majority Party, and we recommend that Article 223 needs to be looked into seriously. The Article is being misused at some point. The Speaker ruled just the other day... It was the recommendation of the Budget and Appropriations Committee that justification must be brought for purposes of evidence in order to show payment was actually made and its purpose.

Secondly, Hon. Temporary Deputy Speaker, and on this one, again, I would want you to make a ruling. In the 11<sup>th</sup> Parliament when we were vetting Cabinet Secretaries, assuming our CS is vetted today, would he or she still be vetted in the next Parliament? I think a decision was reached that we no longer vet CSs who are being re-appointed. So, say, in the next Parliament, they do not necessarily go through vetting. That is the other thing that I want you to make a ruling on. When an approval by the Budget and Appropriations Committee and the House has been done on a matter, does it have to come back for approval again?

This payment was meant for the 2018/2019 Financial Year, which was approved towards the weird days, just like today. It was towards the very last minute. It was approved by the Budget and Appropriations Committee and the House, but the payment came in the subsequent financial year. When it comes in the subsequent financial year, then, again, it is subjected to approval. I think that is a matter that you need to make a ruling on because we had already got an approval for the same where we agreed that it should be paid. It was paid on 1<sup>st</sup> August 2019. All the same, that notwithstanding...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): What is out of order, Hon. Mark Nyamita?

**Hon. Mark Nyamita** (Uriri, ODM): Hon. Temporary Deputy Speaker, I rise on a Point of Order.

I hear the Chair for the Departmental Committee on Energy making his submissions and I want to say that the Chair is completely misleading the House. The very Chair, on more than one occasion, has presented a report to the Budget and Appropriations Committee and in his report, they are the ones who advised the Budget and Appropriations Committee not to approve the very amount. So, when he comes now and says that it has been approved and we are seeking approval all over, it is not the case.

There was a resolution towards that very payment that they needed to do due diligence. The last time he appeared before the Budget and Appropriations Committee, in which I sit in, the Chair was asked to present a finding of the due diligence because he was asked to do an audit of

the whole payment. So, for him to come here and say that we are playing a game of musical chairs, the Chair is completely out of order and is misleading the House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. David Gikaria, put the record straight.

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Temporary Deputy Speaker, I am very competent. Hon. Mark Nyamita, bring the minutes to that effect of approval. I am talking about the 2018/2019 Financial Year. But for this other one, when it came back, the Chair was not in the meeting. I am talking about the last financial year when they were looking into the Supplementary Budget for the one we are talking about. That is when this Committee made that recommendation and I totally agree with that. However, the very first one, which I will bring minutes to that effect, we did approve. I remember we did a budget on that one. I plead with the Budget and Appropriations Committee that because we have evidence and the fact that we have now sat as a Committee and agreed that it should be regularised, can we be allowed to...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Are you also on a point of order, Hon. Junet Nuh? Then I will give you a chance and then Hon. Kimani Ichung'wah.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Temporary Deputy Speaker, I want to help the Chair of the Departmental Committee on Energy that he is pleading with the House. After all, the payment he is asking the House to approve is part of the Article 223, the ones that have already been paid. He is in charge of that departmental committee. I plead with the House that we make it part of the approval. The Chairman should table an amendment in the next Sitting. I plead with the House to help the Chairman. He just wants to tidy up his department. After all, the money has already been paid to Loiyangalani even if we refuse.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Gikaria, are you done with your contributions?

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Temporary Deputy Speaker, I thank Hon. Junet.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Actually, your time is over. Just wind up.

**Hon. David Gikaria** (Nakuru Town East, JP): Yes. The money has already been paid and as Hon. Junet puts it, I am just pleading with the House. We will table an amendment during the Committee of the whole House on the Third Supplementary Estimates and then it can be approved.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have Hon. Jesire Cheruiyot.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Temporary Deputy Speaker. I had lost hope of contributing, but thank you so much.

The funds that have been allocated to counties are causing a lot of trouble, especially for the Departmental Committee on Health. Sometimes we find ourselves a bit helpless. It was important for the Budget and Appropriations Committee to also tell us whether they interrogated and found out how much money the counties had already allocated to COVID-19 before giving out the Kshs5.8 billion. We cannot be allocating funds left, right and centre, as if the funds they had already allocated are nothing to the taxpayer.

It is important for us, as a Committee, to also know how the Kshs5.8 billion will be paid. Will it go directly to the counties or through the Ministry? That is also amiss. It is also important to get to know the mechanisms through which those funds can be tracked and for it to be established that they have been used in the right manner. In my county, the rumour was that they had previously allocated Kshs200 million. When they had a meeting at State House, they were



given an additional Kshs84 million. That amounts to Kshs284million. Do we see the funds benefitting the people? If you walk around your constituency or the county, do you see the money? We have to see something that shows there are funds being used for mitigating COVID-19.

We have a lot to do as a House. If we are really overseeing those funds, it is important that we get into the details. Nowadays, we talk of billions as if they were just a coin. I heard of billions the other day. The late Hon. Michuki - may his soul rest in peace - once said that if you gave someone Kshs1 billion for free, they would be able to withdraw at least Kshs1 million per day for the next three years. However, when it comes to billions, this House talks about it as if it is nothing. We are reducing money to something very small. We allocate it as if nothing is happening. If we are really overseeing the funds, it is important for this House to look for mechanisms of making sure that those funds that go to the counties, either through the Ministry or directly reach the people and build trust. We should not look like a House that just funnels money that ends up being used corruptly.

We need this money like never before. Some money has been spent and some has not. The National Treasury might have spent the money and given it out to the counties. The counties have already spent the money. That is another question that we need to ask ourselves.

Hon. Temporary Deputy Speaker, it is true that we are living in extraordinary times which need extraordinary solutions to cushion the country from COVID-19 pandemic. We should not put this as an excuse and rob Kenyans their money. It is not only about the disease, but we also have many other things that are disturbing our people like hunger and floods. We cannot be talking of the COVID-19 pandemic only as if it has sorted out other things. We have other things to do. Money has many other functions that can assist our people.

With those many remarks, I support the Motion with a lot of reservations. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Temporary Deputy Speaker. Unlike the expectations of a few, I rise to support this Report. I know there are those who expect otherwise. Sorry to them.

I want to educate the Member for Baringo who has just finished speaking that if you withdraw Kshs1 million every day, you cannot spend Kshs1 billion for over 3 years. Simple arithmetic tells you that, that cannot happen. If you were to withdraw Kshs1 million every day from Kshs1 billion, you will only need three years which is Kshs365 million a year.

Two, she has raised a pertinent issue on the question of Kshs5.8 billion that is going to the counties. It is also good to inform her that Kshs5.8 billion is part of what His Excellency the President promised and committed to counties before or at the time we were doing the Second Supplementary Budget. Therefore, that money has already been paid out under Article 223 of the Constitution. That is what Hon. Kimunya has told you. At the time the President announced that Kshs5.8 billion would be given to the counties, that money had not been appropriated. Therefore, that money has already been paid out under Article 223 of the Constitution and it is justified. However, that does not negate the fact that Article 223 of the Constitution is not only being misused, but also being abused. We said it. I am also choking like the Leader of the Majority Party. Our last two reports spoke at length on the purported misuse or abuse of Article 223 of the Constitution.

Article 201 of our Constitution is also quite clear on the principles of public finance which we are speaking about now. Article 201(a) of the Constitution says that there shall be openness and accountability, including public participation in financial matters. Therefore, we, as a House

of procedures and the rule of law, must ask ourselves whether we adhere to Article 201 of the Constitution as we pass these third supplementary appropriations next week. Will they have gone through public participation in line with Article 201 of the Constitution and Public Finance Management (PFM) Act that we passed in this House? Those are questions that we must ask ourselves. Hon. Junet has said that we are in the era of *handshake*. It does not replace the Constitution and our statutes. We must adhere to the rule of law and our Constitution.

The other issue that I want to speak to is Kshs1.16 billion for Loiyangalani-Suswa line that the Chair of the Departmental Committee on Energy has spoken to. It is true the money has already been paid out. As the Member for Uriri, Hon. Nyamita, said, the Chair was not misleading the House. Maybe, it is the way he was explaining it. It is true the money has already been paid out. However, there is a resolution by this House that emanates from a resolution from a Report of the Departmental Committee on Energy that says that, that amount would not be approved until an audit is done and reported to them. I want to advise the Chair, as Hon. Junet has done, because that resolution emanates from a Report by his Committee, as the Chair of the Committee, that he needs to move an amendment and put it on record before this House that as the Departmental Committee on Energy, you are now satisfied that there is no impropriety and that money is rightfully paid.

This House has powers to negate its own resolutions. That would be the best way to clean it up, but we must be cautious on things that are paid under Article 223. I have mentioned here before that the Ruaraka Land Scandal came under Article 223. In the Financial Year 2017/2018, we approved Kshs5.7 billion for the Loiyangalani–Suswa High Voltage Power Line in the first Supplementary. This is Kshs5.7 billion shillings that was not going to provide power to the people of Kenya, but to pay for penalties for dimmed energy because we slackened in the implementation of Government projects.

That begs the question that Hon. Opiyo Wandayi raised, that when we bring all these supplementary budgets, we slow down the implementation of projects, create pending bills and create the kind of problems that we are seeing with Loiyangalani-Suswa Power Transmission Line.

With that, Hon. Temporary Deputy Speaker, I beg to support the Committee's Report and insist we be a House that follows the Constitution.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuiya): Hon. (Dr.) Makali Mulu.

**Hon. (Dr.) Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I was almost giving up. I want to join my colleagues...

**The Temporary Deputy Speaker** (Hon. Soipan Tuiya): You do not need to give up because there is a lot of interest in the Motion and there is time.

**Hon. (Dr.) Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I want to join my colleagues in supporting this Motion. Just as they are saying, we must make some observations because we really need to improve.

Looking at the timing of this Supplementary Budget III despite the COVID-19 issue and all of us saying that we are living in abnormal times, this Supplementary Budget coming only about seven days to the end of the financial year, raises serious credibility issues of the budget-making process. We cannot bury our heads and say that this is the way we want to go.

As we move forward, Kenya as a country will be compared to other countries in terms of how they manage their budgets. If you look at how budgets are managed in other countries, because we are not an isolated country, we are part of the Commonwealth and the International Community and there are many people who analyse how budgets are done in different countries, we might score low in terms of budget-making. We are putting the whole issue of credibility at risk. I urge the National Treasury to improve on this area. I like what Hon. Kimunya said that, that is an area

he can engage the National Treasury, being the Majority Leader, to make sure that we improve on it.

The second point is the issue of Article 223. Well, I agree that that room is provided that we can spend and then Parliament regularises, but it is important that even as we regularise as a House, we make sure that these payments are going to help Kenyans. We do not just want to regularise payments which at the end of the day might land into people's pockets. This is what people are saying. That time has come, as a House, that departmental committees take the work of oversight seriously. If you hear Hon. Gikaria talk, he is the same person who recommended that we demand for an audit and now he is saying that things have been done correctly. We need to see a report in this House, so that once they clear that particular resolution, we will approve the money to be released, but we cannot allow money to be released without such a report.

The third point is when you look at some of the proposals, I really think Hon. Kimunya having being a Cabinet Secretary for the National Treasury needs to help his colleague who is there. When you look at this Supplementary Budget, there is money which is being allocated to purchase vehicles. There was proposal to purchase office furniture and general equipment and there was money which was being proposed to go to research and feasibility studies. Then there is money proposed to procure fuel oil and lubricants. When you look at the whole process of procurement, you may ask yourself: At what time do they advertise for the tenders? At what time do they process the tenders? At what time do they award the tenders? And at what time do they get the goods delivered? Where is the time to make the payments?

To me, these are the kinds of things that we are saying that as a House, the National Treasury is trying to put us in an awkward position. Kenyans are watching what is happening. It is important that we improve our discipline in budget-making. This can only work when the National Treasury do their work properly and in good time. They want their own emergencies to become emergencies of this House. We cannot have our calendar on budget-making and when they fail to plan on their side, they also cause us to fail to plan. People can choose to plan to fail. When I look at this, I ask if this is an attempt of people planning to fail. I see some signs. I encourage the National Treasury to make sure that they plan not to fail. If you plan not to fail, then you will do things correctly.

Despite those observations, I support the Supplementary Budget III.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Ndaragwa, Hon. Kioni.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, I support the Supplementary Budget III.

When we gave ourselves a new Constitution, two fundamental changes happened. The first one is when we allowed ourselves to have Cabinet Secretaries appointed from outside Parliament. The second one is that we gave ourselves the major responsibility of budget-making. As the Constitution Implementation Oversight Committee (CIOC), we are now in a process of evaluating the status of implementation of our Constitution. I fear that one of the findings will be that Parliament has failed in its responsibility of implementing the Constitution we gave ourselves in 2010.

We have heard from those who have spoken before me on the issue of Article 223 of the Constitution. I agree that we are misusing it. Although the Budget and Appropriations Committee has helped us misuse Article 223 of the Constitution, it has also helped us get where we are. In a big way, it has actually frustrated the implementation of the Constitution because of the way we are handling the budget-making process. We now know for a fact that we have pork barrel politics

within the Budget and Appropriations Committee. They have completely sold their birth right. Since the Committee has allowed unconstitutional politics within it, the Executive would always be happy to do what they are doing to us at this eleventh hour.

Last night, my son asked me what this Supplementary Budget is for because he thought we had passed the Budget the other day. Laymen out there can tell that something is not right. We have lamented here the whole evening and we sound like we are doing something better, but in the process, we realise that we are just hopeless because we have come here to regularise what has already been done elsewhere. If the Ministry knew that we could say “no”, they would not have done what they have done to us today. It is because they know that we will agree to another Sitting at night and regularise what they have already done, and this will happen again next year.

As Members of Parliament, we must wake up so that Kenyans can benefit from the Constitution of Kenya, 2010. It is a good Constitution, but we are making nonsense of it. What is it that we are doing here tonight? We should have gone home. Hon. Gikaria read out the Standing Orders, trying to say that we should all be brought in to do what he did not do. But I agree that we are not in the times we are used to.

In this Supplementary Budget, only items (i) and (viii) relate to the extraordinary times of the COVID-19 pandemic. The other issues should have been managed by the Cabinet Secretaries, who should have done their work well; and by the Budget and Appropriations Committee, which should have put the Ministry on its toes.

Let me say this as I conclude. Under the old Constitution, there was a penalty for any minister who would have caused us this kind of embarrassment in the night. I was just one pound. We would knock off one pound from the budget. Against that penalty by Parliament, the President would take action against that minister. Today, I can assure you that this will be done on us again next year. I think it is important that we call upon the ministries to wake up, but I can only speak for our Committee. As it is being reconstituted, I know everybody wants to go into the Budget and Appropriations Committee, so that they can be part of this pork barrel thing. Pork barrel is where Members of Parliament allocate themselves money directly to their constituencies outside the proper procedures. That is unconstitutional. You cannot be trusted to do any other work in a proper way.

I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Samburu North, Hon. Lentoimaga.

**Hon. Alois Lentoimaga** (Samburu North, JP): Thank you so much, Hon. Temporary Deputy Speaker for giving me this chance.

**Hon. Peter Mwathi** (Limuru, JP): On a point of order.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): What is out of order, Hon. Mwathi? Just a minute, Hon. Lentoimaga.

**Hon. Peter Mwathi** (Limuru, JP): Hon. Temporary Deputy Speaker, I have listened to everybody speak. Most of them are supporting. I am standing on a point of order under Standing Order No. 95 to persuade you that you invoke that Standing Order to call upon the Mover to reply.

I thank you.

*(Applause)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Very well, Hon. Mwathi. That is in order, but let us have Hon. Lentoimaga finish, then we can move to that Motion.

**Hon. Alois Lentoimaga** (Samburu North, JP): Thank you so much, Hon. Temporary Deputy Speaker, for giving me this opportunity.

I do not want to belabour on the issue of the Supplementary Budget, but from my experience and training, supplementaries are done only to relook at budgets. It used to be done in February and only once in a financial year. But this Supplementary Budget we are going through now has come because of a habit we have formed for the last three years. I remember, two years ago, even before we operationalised the budget that was passed in June, we put a Supplementary Budget maybe around September. Supplementaries are always, as we all know, meant to address unforeseen circumstances - things that were not taken care of during budgeting. In my experience, these sometimes are issues of war and pandemics like COVID-19, floods, drought and any other unforeseen circumstances that are not covered during the actual budget-making process.

So, a supplementary budget is becoming meaningless. It is becoming uncalled for. Maybe it is meant to create spending sprees. I think this House should start looking at it critically. When do we have a supplementary budget? That is so that we do not create a situation where we become rubber stampers.

On the issue of health, so that I can move quickly, I support this Supplementary Budget because of COVID-19. If it were not for COVID-19, we would have objected to this Supplementary Budget. I have heard Members talk so much about health. It is important to address the issue of health and to fund it. I have seen the counties that are being addressed and given money. Some of our counties are not mentioned. Samburu is far away from Nairobi. Around us are Laikipia, Marsabit and Turkana across the lake. They have all reported positive cases. We have not reported a positive case. It is not that we do not have a positive case. It is because there is no testing. I am certain about that. Testing is done more than 600 kilometres from Samburu. So, I thought some of these cases of counties which have not reported any positive case should be protected and equipped. We do not have a single ICU bed in Samburu. So, we should have invested more in counties which have not reported any positive case to prevent COVID-19 from happening.

I do not think this Supplementary Budget is cast in stone. If the Committee brings a report on the Supplementary Budget to the plenary, we have a right to amend it. We are right to discuss it and also make an input on it. Let us not be gagged that one will not bring an amendment. Why not? We should be allowed to do that.

On Loiyangalani-Suswa High Voltage Power Line, I want to state that Samburu and Marsabit are the source of that wind energy. Part of that line is in my constituency. Even though I do not have facts, I am shocked to learn about the budget-cut for Loiyangalani-Suswa Power Line. Despite the fact that this line traverses 200 km across Samburu County, we do not benefit from that wind power. In Samburu North, we only have one generator in Baragoi. The rest of the constituency is in darkness. Even though we were compensated, this line occupies most of our land. The House and the Departmental Committee on Energy should help us address this issue. When the President launched that line, he directed that it be extended from the source, Sarima to South Horr. Nothing has happened since then. We must address these pertinent issues affecting people who should be the beneficiaries of this energy.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): I can see a Member who is aggressively trying to catch my attention. Hon. Zuleikha, I will give you two minutes. We will then close with the Motion by Hon. Mwathi. What is the number of your seat?

**Hon. (Ms.) Zuleikha Hassan** (Kwale CWR, ODM): 133.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Proceed.

**Hon. (Ms.) Zuleikha Hassan** (Kwale CWR, ODM): Asante sana, Mheshimiwa Naibu Spika wa Muda kwa kunipa nafasi kuchangia Hoja hii. Naunga mkono Ripoti ya Kamati ya Bajeti na Makadirio. Licha ya changamoto zilizotajwa na Wabunge wenzangu, nafurahi sana kwa sababu wafanyakazi katika sekta ya afya nchini wamepewa fedha za kununua vifaa vya kujikinga kutokana na maradhi ya Korona. Vile vile, wameongezewa marupurupu kuwasaidia kupigana na changamoto za kibinafsi zinazowakumba kwa sababu ya kupigana na ugonjwa huu wa Korona.

Nimejua zaidi na nimeleta Hoja tofauti Bungeni kuhusiana na masuala ya afya na Wakenya wa kawaida wanavyoteseka kwa kuwa sekta hii ya afya haiendeshwi vizuri katika kaunti tofauti. Nasikitika kusema kuwa, hivi majuzi, kakangu ambaye ni daktari katika hospitali Kuu ya Pwani alishikwa na ugonjwa wa Korona. Aliugua na nashukuru alipona na hakuhitaji kupelekwa katika chumba cha wagonjwa mahututi. Hivi sasa, anasubiri kupimwa tena kuhakikisha kuwa hana ugonjwa huo. Ni muhimu kuangalia masuala ya wafanyakazi wa afya nchini kwa sababu wanaumia pamoja na familia zao kwa kutuhudumia sisi Wakenya wengine na kuhakikisha kuwa maradhi haya hayasambai kote nchini. Nimefurahishwa na Rais kutoa mgao huo.

Ningependa kuisisitiza Kamati ya Afya hapa Bungeni na kule Seneti kuhakikisha kuwa hizi fedha zinafika kule zilikolengwa na ziziharibiwe vile zimekuwa zikiharibiwa.

Kama muda utaniruhusu, nataka kumuunga mkono dadangu, Mhe. Gladwell kutoka Baringo, alivyosema kuwa mara nyingi Serikalini tunazungumzia shilingi bilioni moja kama pesa kidogo sana. Nafahamu kuwa Mheshimiwa Ichung'wah alijaribu kumrekebisha.

Nataka kukubaliana na Mhe. Gladwell kuwa kwa Mkenya wa kawaida, kwa shilingi bilioni moja, akitoa shilingi elfu moja kila siku, atatumia hiyo pesa kwa miaka 2,739. Kwa hivyo, ni pesa nyingi. Naomba tujizatiti kama Bunge kuhakikisha kuwa hizi fedha zinafika kule zinakostahili.

Ahsante.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order Members! We cannot ignore the Motion moved by Hon. Mwathi to call upon the Mover to reply.

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

Mover, Hon. Lessonet.

**Hon. Moses Lessonet** (Eldama Ravine, JP): Thank you, Hon. Temporary Deputy Speaker for this opportunity. I want to thank the Members for their good contributions, and especially for sticking to the point on the Supplementary Budget Estimates III. They did not digress. It is exciting that a Report that was tabled this afternoon has been read by Members. I have taken note of issues that we did not capture during the Report writing because we did not get time to listen to committees' chairpersons. I have heard the Chair of the Departmental Committee on Energy who has talked of the Kshs1.1 billion, which has been spent through Article 223. Also, I heard Hon. Junet lobbying the House to approve all the payments that have been made under Article 223, so that as we start the new financial year next week, we will have closed the books of the FY 2019/2020 properly. To that extent, the Committee that I now preside will look at the submissions made in this House by Hon. Gikaria and the extra information we have received from the Departmental Committee on Defence and Foreign Relations on Kshs9 billion, which has equally been paid using Article 223. More importantly is the Kshs2.37 billion that has been paid to the Social Housing Programme around Mukuru Slums. Hon. Temporary Deputy Speaker, you and Members must have read in our Report that, that amount is basically for "Kazi Mtaani", that is going on in that area. When we shall be moving the Appropriations Bill on Tuesday, next week,

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we will amend this Report. I call upon the Members who are here this evening to come and support those amendments, so that we can close the financial year. This year is special. It is the year of the COVID-19 pandemic, and many changes in this House and at the National Treasury. I hope, going forward, in the FY 2020/2021, we will make sure that there is no Supplementary Budget Estimates III.

With those remarks, I beg to reply. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order Members! Is that the Member for Kieni? No! Dagoretti? The Member for Kieni is fine.

*(Question put and agreed to)*

I will call upon the Leader of the Majority Party to pronounce himself on Order Nos. 9, 10 and 11.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, as I pronounce myself on these Orders, I want to thank the House for the excitement that has been shown on this Supplementary Estimates. We had anticipated that perhaps we would finish with it within an hour and then move on to other business. But looking at the time, we are almost getting to 9.00 O'clock and I am aware that sugar levels may be going down. So, I would want to ask that we step down Order Nos.9, 10 and 11 and consider them on Tuesday morning, so that Members can have an opportunity to replenish their energies and also to unite with their families before the curfew.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Accordingly, Order Nos. 9, 10 and 11 stepped down until when they next appear on the Order Paper.

APPROVAL OF THE MEDIATED VERSION OF THE  
COUNTY GOVERNMENTS (AMENDMENT) BILL

THAT, this House adopts the Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bill No. 11 of 2017) laid on the Table of the House on Wednesday, April 22, 2020, and pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, approves the Mediated Version of the County Governments (Amendment) Bill (Senate Bill No. 11 of 2017).

APPROVAL OF THE MEDIATED VERSION OF THE  
COUNTY GOVERNMENTS (AMENDMENT) NO.2 BILL

THAT, this House adopts the Report of the Mediation Committee on the County Governments (Amendment) (No.2) Bill (Senate Bill No. 7 of 2017), laid on the Table of the House on Wednesday, April 22, 2020, and pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, approves the Mediated Version of the County Governments (Amendment) (No.2) Bill (Senate Bill No. 7 of 2017).

*(Motions deferred)*

**BILL**

*Second Reading*

THE REFUGEES BILL

*(Bill deferred)*

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 8.42 p.m., this House stands adjourned until Tuesday, 30<sup>th</sup> June 2020 at 10.00 a.m.

The House rose at 8.42 p.m.