

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 1st July 2015

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon.
(Dr.) Laboso) in the Chair]*

PRAYERS

PETITION

Hon. Nassir: Hon. Deputy Speaker, I have with me a public petition by the parents of students of Bura Girls High School regarding alleged mistreatment of students by the school management.

I, the undersigned, on behalf of the parents of the students of Bura Girls High School, draw the attention of the House to the following:-

THAT, on Sunday, 21st June 2015 an unfortunate incident happened to 36 students in Bura Girls High School in Mwatate Constituency.

THAT, the Principal of the school contravened a critical provision of Article 32(1) of the Constitution, which provides for freedom of worship.

THAT, 33 students, alongside three other non-catholic students, hid in a store within the school compound to avoid attending the Sunday Mass since they did not profess to the Catholic faith.

THAT, the Principal summoned all students and suspended them for two weeks for failing to respect school authority.

THAT, the Principal suspended the students at 5.00 p.m. and did not take into consideration the risk involved, noting that most of the students reside outside Taita Taveta County where the school is located.

THAT, despite the fact that school rules and regulations state that all students have freedom of worship, the principal directed that all students should attend Sunday Mass regardless of whether they are Catholics or not.

(Hon. Aluoch and other hon. Members stood up in their places)

Hon. Deputy Speaker: Order, Hon. Olago! Hon. Members, please, note the Standing Order on standing between the Speaker and the person on the Floor. Those of you who want to sit somewhere do not obstruct the Speaker.

Proceed, Hon. Nassir.

Hon. Nassir: Hon. Deputy Speaker, the prayer of the petitioners continues as follows:

THAT, the Muslim students are neither given adequate time to break their daylong fast nor perform their obligated prayers as they are required to go back to class for evening preps together with their non-Muslim counterparts despite the fact that their time to break their fast and pray is at 6.30 p.m.

THAT, efforts to resolve this matter with the school management has been futile; and,

THAT, the matter presented in this petition is not pending before any tribunal or court of law.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Education, Research and Technology:-

- (i) recommends immediate lifting of the suspension of the 36 students and ensures that the suspended students are not victimized;
- (ii) ensures that the petitioners' plight is addressed; and,
- (iii) makes any other order or direction that it deems fit in the circumstances of the case.

Your Petitioners will ever pray.

(Loud consultations)

Hon. Deputy Speaker: Order! Order, hon. Members! The consultations are too loud. We are not even hearing what the petitioners are praying. Members, can you lower the level of consultations?

The petition stands committed to the Committee on Education, Research and Technology, but I will allow a few comments from hon. Members, starting with the Leader of the Majority Party.

Hon. A.B. Duale: Thank you, Hon. Deputy Speaker. It is very sad that today a petition of this nature should be brought to Parliament. With all due respect to my colleague, the hon. Member had no choice but to bring the petition.

Kenya is a country that is proud of its religious diversity, which is enshrined in our Constitution. Even within Christianity, we have different denominations. We have our Seventh Day Adventists (SDA) brothers, who pray on Saturdays; there are Muslims, who have a special prayer session on Fridays, and the other main Christian denominations, who pray on Sundays. I did Christian Religious Education (CRE) during my school days. Of course I passed. That is why I went to university and I am eventually here. I went to a school where 99 per cent of the students were Christians.

There are Christian students who go to schools where 99 per cent of the students belong to other denominations. Examples are Sheikh Khalifa, Wamy and many other Muslim schools, but still the non-Muslim students worship in the manner prescribed by their religions. This is a matter which has been administratively handled by the Ministry of Education, Science and Technology.

We already have war with the *Al Shabaab* insurgents, who want to divide our country along religious lines. We would not want civil servants to divide teachers or school principals to deny our children their basic religious rights as enshrined in the Constitution, irrespective of whether a school is run by an Islamic, SDA, Catholic or Presbyterian organisation or any other religious organisation.

We send our children to school because we want them to learn the curriculum as approved by the Ministry of Education, Science and Technology, through the Kenya Institute of Education (KIE). I am sure this is a small matter, but it shows religious intolerance by a few individuals. Kenya has come of age. We are one of the few countries in the world where the principle of freedom of worship is enshrined in the Constitution.

As we ventilate on the issues raised in this petition, I would like the Chairperson and the Vice-Chairperson of the Committee on Education, Research and Technology to speak on this matter, if they are here, and write to the Ministry. This matter should not be a national crisis.

We are in the holy month of Ramadhan. Kenya has better things to do than tell 37 young Muslim girls not to practise their faith but instead go to church. Some of us have a lot of respect for the Christian community. What we are saying is that the Committee on Education, Research and Technology should handle this matter. I am sure that the particular school principal will look at the Constitution and come to her senses. We want to build a country where people of all faiths co-exist and ensure that there is religious tolerance.

Hon. Deputy Speaker: Hon. Members, we do not want to say too much on the petition. As you know, we operate within timelines.

Let us hear Hon. Wamalwa.

Hon. Wakhungu: Thank you, Hon. Deputy Speaker. I would like to say something about this petition.

Indeed, Article 32 of the Constitution is clear when it comes to the issue of freedom of worship. However, as a Catholic, I know that there are Catholic schools which subscribe to the Catholic doctrine. It affects you even when it comes to eating – there are specific kinds of meals for specific days. Therefore, my humble request is that, as the petitioner presents his prayer to this House, there is need for him to attach the letter of suspension in order for us to establish if the students were actually suspended for the reasons advanced in the petition. This is because I have talked to the area Member of Parliament and I am informed that the suspensions had nothing to do with the issue of worship, and it was an issue of indiscipline. We do not want to bring matters of religion to this House. We would like this matter handled objectively, without the issue of religion coming in.

That is my humble request, Hon. Deputy Speaker.

Hon. Deputy Speaker: Order, hon. Members! There is a petition before us. Hon. Mbadi, what is so pressing?

Hon. Ng'ongo: On a point of order, Hon. Deputy Speaker. I just wanted to say that there is no need---

Hon. Deputy Speaker: Order! Order Hon. Nassir! You were given your chance to present the petition. Allow other hon. Members to comment on it.

Hon. Ng'ongo: Hon. Deputy Speaker, I just wanted to say that Hon. Wamalwa is out of order. There is no need to attach the suspension letter. This matter is being committed to the Committee on Education, Research and Technology, which will investigate it. I agree with the petitioners that religious tolerance needs to be inculcated in this county. We need to entrench it. We profess different faiths. Even the Christians who are here have differences in terms of what they believe in. I personally do not believe in praying on Sunday. I pray on Saturday. In fact, when I see you going to pray on Sunday, it does not look to me like you are going to pray, but that is my faith. There are others who believe in praying on Sunday. Others, like Muslims, pray

on Friday. If Bura Girls High School is, indeed, a public school, irrespective of whether the sponsor is the Catholic Church, it remains a public school. If it is a private school, that is totally different. So, there is need for religious tolerance in this country.

By the way, the Committee should not look at this isolated case. There have been previous such cases that need to be looked into. Maybe, a policy needs to be developed for all public schools regarding how they should relate with the sponsors, because there is a problem. Some sponsors do not want principals who profess to other faiths to head schools they sponsor, even if such principals are the best. They chase them away saying: "This is our school; you cannot come here."

Something needs to be done.

Hon. Deputy Speaker: Hon. Members, can we allow this petition to be committed to the Committee on Education, Research and Technology? Let us allow them to prosecute the matter and look at all view points. We will get a report from the Committee. You will then have sufficient time to debate it.

An hon. Member: Let us hear the area Member of Parliament!

Hon. Deputy Speaker: Very well, Member for Mwatate. You have the last chance on this matter.

Hon. Members, you are all repeating yourselves. There is nothing new you are saying right now. The petition has just been committed to the relevant Departmental Committee. We are not getting anymore. Can I allow the Member for Mwatate, to make a comment because this occurred in his constituency?

Hon. Mwandime: Thank you, Hon. Deputy Speaker, for giving me this opportunity. Bura Girls High School is in my constituency. The custom and tradition of the school has been that all students, regardless of their religions, learn together; and they have been doing well. Segregating students on the basis of their faiths is a dangerous direction to go. We all know what this country is going through currently. Segregating students into different religions is not something that can be allowed in this country. Likewise, other schools which separate students on the basis of religions should be stopped henceforth.

Hon. Deputy Speaker: Member for Mwatate, allow Hon. Jakoyo Midiwo to raise a point of order.

Hon. Mwandime was not on a point of order; he was contributing.

Hon. Midiwo: On a point of order, hon. Deputy Speaker. I urge you to be patient with us and commit this thing to the relevant Committee as has been requested by the Member who brought the petition. The issue here is not a small matter, in that currently, the issue of religious hate---

An hon. Member: What is your point of order?

Hon. Midiwo: Are you the Speaker also? I wanted, on a point of order, to encourage the committee concerned--- Hon. Serut you know----

Hon. Deputy Speaker: Hon. Jakoyo, you are on a point of order. What is out of order?

Hon. Midiwo: What is out of order, and should be in order, is that this Departmental Committee on Education, Research and Technology needs to be advised that as they look into this sensitive case, they help this House in unravelling the role of the church and religion in our schools. Under the current Constitution, you and I know that it does not allow the so-called

school sponsors. As a House, we must deal with this issue of religion and school. It is our role as an institution.

Hon. Speaker: Your point has been made, Hon. Jakoyo. The hon. Member for Mwatate was on the Floor.

Hon. Mwadime: Let me clarify. With regard to this case, given the way the students have written their petition, this is actually discrimination. In religion, discrimination is not good. I am talking about Bura Girls Secondary School. Discrimination is not good in this country. The Departmental Committee on Education, Research and Technology should look at this issue in detail and find out exactly what happened. In Mwatate Constituency, I have both Muslims and Christians and they have been learning together for a long time. Therefore, starting such an issue at this moment is not allowed at all.

Thank you.

Hon. Deputy Speaker: Hon. Members, you have sufficiently contributed to this. Hon. Justice Kemei, do you want to contribute on this?

Hon. Kemei: Thank you, Hon. Deputy Speaker. I will be very brief.

At this time, we are affected in this country by religious fundamentalism. The institution that is most affected is the Ministry of Education, Science and Technology. We should not, therefore, condone this practice. We should ask everybody in this country to promote interfaith co-operation.

Thank you.

Hon. Deputy Speaker: Hon. Vice-Chairperson of the Departmental Committee on Education, Research and Technology.

Hon. Melly: Thank you, Hon. Deputy Speaker. First of all, I want to promise this House that we shall investigate this issue, and discuss it in detail. We shall look at not only the issue of Bura Girls Secondary School, but all aspects and forms of discrimination that are in schools.

(Applause)

I would want to request Members to give us time. We shall bring a comprehensive report to this House and ensure that even the sponsors like the SDA--- All forms of discrimination in schools shall be looked into. Our Departmental Committee on Education, Research and Technology is committed to ensure that we have tolerance in all our schools. We will ensure that principals and administrators of schools ensure that all students are given equal opportunities.

Thank you.

Hon. Deputy Speaker: Thank you. Hon. Members; we can put that matter to rest.
Next Order!

PAPERS LAID

Hon. A.B. Duale: Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House today, Wednesday 1st July 2015:-

The Constituencies Development Fund Board Report on Project Approvals and Disbursements Status for the month of May, 2015 including restrictions on Constituency Accounts.

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Hon. Deputy Speaker, this is a very important Report. So, Members should get a copy because it talks about disbursement and restrictions.

The Report of the Auditor-General on the Financial Statements of Kenya School of Government for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Kenyatta National Hospital for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund (Matungulu Constituency) for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Constituencies Development Fund (Mwala Constituency) for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Constituencies Development Fund (Kangundo Constituency) for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Constituencies Development Fund (Yata Constituency) for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

Thank you.

Hon. Deputy Speaker: The Chairman of the Departmental Committee on Administration and National Security.

Hon. Abongotum: First of all, Hon. Deputy Speaker, I have a very serious point of order in connection with the Auditor-General's Report on CDF from all the constituencies. Recently, there were two versions that were published on CDF allocations. One was by *The Standard* Newspaper, which was erroneous and the other one was in the Table Office. If you go to the Table Office, the amounts of money that are shown in the Report by the Committee are different from what *The Standard* Newspaper printed. I can give you my example.

Hon. Deputy Speaker: Hon. Kamama, are we going by what is in the Press or what has just been tabled in the House this morning?

Hon. Abongotum: I had a point of order. That is very serious because it borders on corruption. If *The Standard* Newspaper is publishing that Tiaty Consituency is getting Kshs140 million, yet the correct figure is Kshs133 million, what will my people say on the ground?

Hon. Deputy Speaker: Let us go by what has been tabled before us this afternoon. Hon. Kamama the reason I called your name was that you tell us whether you have two reports: A visit to Washington DC and a report on Nyakach/Oyugis. I was expecting you to table those reports.

Hon. Abongotum: Just for information, before I read this, *The Standard* Newspaper must give the correct figures, otherwise Members of Parliament are going to be blamed for no apparent reason, because of the shortfalls. I want that done because it is going to be viewed as corruption before the money is even spent.

Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House today, Wednesday 1st July 2015:-

The Report of the Departmental Committee on Administration and National Security on its Study Visit to Washington DC from 19th to 26th October 2014.

The Report of the Departmental Committee on Administration and National Security on a Fact Finding Mission Visit to Nyakach, Oyugis, Rongo and Sigowet/Sigoin sub-counties over insecurity in those specific areas.

Hon. Deputy Speaker: Next Order.

NOTICES OF MOTIONS

REMOVAL OF CABINET SECRETARY FOR EDUCATION

Hon. Deputy Speaker: Hon. Geoffrey Odanga.

Hon. Odanga: Thank you, Hon. Deputy Speaker. I beg to give notice of the following Special Motion:-

THAT, aware of the fact that Prof. Jacob Kaimenyi, the Cabinet Secretary for Education, Science and Technology, has been holding his office since 2013; further aware that he appears to have committed gross violation of the Public Officer Ethics Act 2003 under Section 8, in performance of his duties; deeply concerned that he has allowed many education institutions to operate without boards of management contrary to Section 6 of the Education Act 2007, has discriminated against children with special needs by failing to disburse requisite funding to registered institutions on time contrary to Section 12 of the Children Act 2012 and Article 54(b) of the Constitution, has treated the National Assembly Departmental Committee on Education, Research and Technology with contempt by failing to honour meetings and summonses, failing to send apologies in time and failing to implement resolutions agreed upon in defiance of Article 125(1) of the Constitution and Section 23(a) of the National Assembly Powers and Privileges Act, has refused to guarantee due diligence in the laptops programme for Class One pupils and failed to adhere to procurement regulations contrary to Section 27 of the Public Procurement and Disposal Act 2013; cognisant of the fact that the Cabinet Secretary has failed to promote education contrary to Section 3 of the Education Act 2007 as shown by among other shortcomings his failure to spearhead implementation of Hon. Kilemi Mwiria-led Task Force on Secondary School fees, coupled with blatant high-handedness and arrogance shown by his refusal to consult stakeholders on key issues, including examination ranking and other matters, and has failed to sufficiently promote education contrary to Articles 43(f), 53(b), 54(b), 55(a) and 55(b) of the Constitution, which is the core mandate of his Ministry, this House resolves that pursuant to Article 152 (6) of the Constitution, the President dismisses Prof. Jacob Kaimenyi from the position of the Cabinet Secretary for Education, Science and Technology for gross misconduct and gross violation of the Constitution and other laws of the land.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Okay. Hon. Sunjeev.

ESTABLISHMENT OF FIRE DISASTER MANAGEMENT CENTRES

Hon. (Ms.) Sunjeev: Hon. Deputy Speaker. I beg to give notice of the following Motion:-

THAT, aware that fire outbreak is currently a major challenge facing slums in the country leading to regrettable loss of lives and property; further

aware that 60 per cent of the country's population lives in informal settlements that are overcrowded and connected to hazardous electricity lines, making them predominantly vulnerable to fire outbreaks; concerned that insufficient access roads to slums has often hampered disaster response from aid agencies, signifying a major gap in urban crisis preparedness in the country; cognisant of the need to control loss of lives through fire outbreaks, this House urges the Government to establish Fire Disaster Management Centres in all slums countrywide.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Rose Nyamunga.

ESTABLISHMENT OF FISHERIES TRAINING
INSTITUTIONS/FISH PROCESSING PLANTS

Hon. (Ms.) Nyamunga: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, aware that Kenya's high seas and inland fresh water bodies are a key resource for diversification of the country's economy through fishing; noting that most fishermen and women use traditional methods of fish harvesting, preservation and processing; conscious that there are few training institutions that offer studies in fisheries, oceanography and maritime technology in Kenya; further noting that huge losses are incurred due to lack of proper post-harvest management and inadequate fish processing plants in the country; concerned that this lacuna has contributed to relegation of the otherwise lucrative fishing industry to the *Jua Kali* sector; deeply worried that lack of training and inadequate fish processing facilities have resulted in meagre earnings for many Kenyans, including women who depend on fishing, this House urges the Government to establish both inland and coastal training institutions and processing plants with a view to building capacity for fishing communities to maximise their returns from the lucrative fishing sector.

Thank you.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, the consultations are too loud. We cannot hear the Member.

Next Order.

Hon. Members, before we move to Order No. 8 just note that we will now be using the Supplementary Order Paper. I want to recognise the presence of a few guests in the Public Gallery. We have Lukenya Girls High School from Mavoko Constituency, Machakos County. We also have Ndiini Primary School from Ruiru Constituency, Kiambu County and PTR Primary School from Lari Constituency, Kiambu County. You are all welcome.

Next Order.

BILLS

First Reading

THE KENYA ROADS BILL

(Order for the First Reading read - Read the First Time and ordered to be referred to the relevant Departmental Committee)

Second Reading

THE PRIVATE SECURITY REGULATION BILL

(Hon. A. B. Duale on 30.6.2015)

(Resumption of Debate interrupted on 30.6.2015)

Hon. Deputy Speaker: Order, Members! This Bill had been debated and we were left with putting the Question only. Since I see that we are properly constituted, I will put the Question.

(Question put and agreed to)

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

MOTION

ADOPTION OF REPORT ON APPOINTMENT
OF MRS. RWAMBA GITAU AS SRC SECRETARY

Hon. Deputy Speaker: Chairman of the Departmental Committee on Finance, Planning and Trade.

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

THAT this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the vetting of nominee for appointment to the position of the Secretary to the Salaries and Remuneration Commission (SRC), laid on the Table of the House on Wednesday 1st July 2015 (Morning) and, pursuant to Section 16(1) of the Salaries and Remuneration Act, 2011, approves the appointment of Mrs. Anne Rwamba Gitau as the Secretary to the Salaries and Remuneration College.

Having done that, on behalf of the Departmental Committee on Finance, Planning and Trade and pursuant to provisions of Standing Order No.199(6), it is my pleasure, privilege and honour to present to this House the Report of the Committee on the approval of the appointment of Mrs. Anne Rwamba Gitau, as the Commission Secretary for the Salaries and Remuneration Commission (SRC), pursuant to Section 16(1) of the Salaries and Remuneration Commission Act, 2011.

The Departmental Committee on Finance, Planning and Trade, as any other Departmental Committee, is comprised of 29 Members. It is mandated to, *inter alia*, vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except for appointments under Standing Order No.204, which are under the Committee on Appointments.

My Committee exercises oversight over four Ministries, namely the Treasury, Industrialisation, Tourism and Planning and four independent commissions, namely the SRC, the Controller of Budget, the Transition Authority and the Commission on Revenue Allocation.

On Wednesday, 17th June, 2015, you informed the House that you had received a letter from the Chairperson of the SRC conveying the decision of the Commission on the nomination of Mrs. Anne Rwamba Gitau for appointment as the Commission Secretary. You reminded the House that the Commission is obligated by Article 250(12)(a) of the Constitution and Section 16(1) of the Salaries and Remuneration Commission Act to competitively recruit and appoint its Commission Secretary with prior approval of the National Assembly. You further referred the name of the nominee together with her curriculum vitae to my Committee.

We held two approval hearings. The Clerk of the National Assembly had informed the public to submit any information they may have had on the candidate as required by law. When vetting, we needed to check whether the recruitment process was competitive, fair and transparent, among other things. To that extent, I wish to state as follows:

(1) On 13th November, 2014, the Commission hired the services of a consultant by the name Tetra Link Taylor and Associates East Africa to help in the recruitment of a Commission Secretary.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, can you please, lower your consultations? There are too many Members standing along the corridors.

Hon. Langat: Hon. Deputy Speaker, on 12th and 13th November 2014, the Commission advertised for the position of Commission Secretary in two local dailies, namely *The Standard Newspaper* and the *Daily Nation*. The advertisement was also placed on the Commission's website.

On 27th, the Commission forwarded all the applications to the consultant for processing. They had a total of 130 applicants and 70 valid applicants were long-listed, leaving 50 applicants who did not meet the minimum requirements. About 20 candidates were shortlisted for the first level interviews, which were conducted between 16th and 20th January 2015. The top 10 applicants from the first level interview were selected for a second level interview, which was conducted between 31st January and 2nd February, 2015.

I am being harassed by my sitting neighbour, Hon. Amina Abdalla, here, but let me continue.

Eight names of the interviewees who had scored more than 70 per cent in the second interview were forwarded to the Commission for consideration for appointment as Commission Secretary. Upon receipt of the eight names from the consultant, the Commission subjected them to further interviews between 9th and 10th March 2015. From the interviews, Mrs. Anne Gitau, Dr. Julius Itunga and Mr. Gamaliel Alukwe topped and, therefore, were picked for due diligence and vetting by the relevant Government agencies before the final decision was made.

The Commission met on 28th May 2015 and nominated Mrs. Anne Rwamba Gitau for appointment as Commission Secretary; she has also been acting in the position for more than one year. Having topped in the interview and aptly steered the secretariat in an acting capacity over the past one year, the Commission further observed that a new person would go through a learning process, which may slow down the momentum in the ongoing projects.

On 8th June 2015, the Chairperson to the Commission forwarded the name of the nominee to the National Assembly for approval. In view of the foregoing, the Committee was convinced that due process had been followed in the recruitment and nomination of Mrs. Anne Rwamba Gitau for appointment as the SRC Secretary.

On 18th June, the Clerk of the National Assembly wrote to the nominee informing her of the nomination by the SRC and requested her to appear for vetting by the Committee on Finance, Planning and Trade on Tuesday 30th June 2015, which we did. The Clerk further requested the nominee to seek and avail clearance certificates from the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), the Criminal Investigation Department (CID) and any of the credit reference bureaus to the Committee by Friday, 26th June, 2015 as required by the law. On Friday 19th June, 2015, the Clerk of the National Assembly placed an advertisement in the print media, namely *The Standard* and the *Daily Nation* inviting the public to submit memoranda by way of written statements on oath on the suitability or otherwise of the nominee in conformity with Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011. The submissions were received by Friday 26th June 2015.

Pursuant to the provisions of Article 118 of the Constitution, Section 6 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order No.45(3), the general public was also notified in the print media by the Clerk of the National Assembly on 19th June, 2015 of the intention of the Departmental Committee on Finance, Planning and Trade to conduct the vetting and approval hearing of the nominee on Tuesday 30th June, 2015.

My Committee met with the nominee on 30th June 2015 and conducted the approval hearing. During the vetting process, the Committee was guided by the Constitution, the Public Appointments (Parliamentary Approval) Act, the Salaries and Remuneration Act, 2011, the Standing Orders and other relevant statutes. Specifically, the nominee was examined on the criteria set out in the Public Appointments (Parliamentary Approval) Act, No.33 of 2011. Among other things, we looked at academic qualifications, employment record, professional affiliation, potential conflict of interest and knowledge of the relevant subject.

I just wish to report to you the Committees observations. The Committee, having considered the CV and heard oral submissions during the vetting exercise, made the following observations about the nominee:-

- (1) She is a Kenyan citizen born on 30th January 1970 in Embu County.
- (2) She has a Masters Degree in Business Administration from the University of Nairobi, which she obtained in 2002.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, there are many Members standing along the corridors; Hon. Kang'ata and even our Deputy Majority Leader. Hon. Members, please,

familiarise yourself with Standing Order No.103 and No.104. We are having too many people flouting our Standing Orders.

Hon. Langat: Thank you, Hon. Deputy Speaker.

She has a Masters Degree in Business Administration from the University of Nairobi, which she obtained in 2002. She has a Bachelor of Education Degree from Egerton University, which she obtained in 1994 and she is currently doing a PhD from Cebu Doctors University in Philippines. She has a wealth of experience in human resource management, having worked in the same department for almost two decades. She is the Acting Salaries and Remuneration Commission (SRC) Secretary, a position she has held since March 2014. She has been acting in that position for more than one year and is substantively the Deputy Commission Secretary at SRC as of today, but she has been acting as the Commission Secretary since March 2014.

Prior to this, she was a Human Resource (HR) and Administration Manager at the Higher Education Loans Board (HELB) for five years and worked in the same capacity for two-and-a-half years at the Industrial Development Bank (IDB). She has also worked as a Human Resource Consultant for Hawkins and Associates, a HR firm, the Standard Chartered Bank as well as being a teacher with the Teachers Service Commission (TSC) briefly when she started her employment in 1994 or thereabout.

On experience and qualifications, the Committee noted that the nominee exhibited impressive knowledge of topical issues touching on human resource management, and has the requisite abilities, qualifications and experience to serve as the Commission Secretary to the SRC. That is according to the SRC Act, which requires someone with experience in finance or human resource issues because they will be dealing with issues of rewarding State officers and other public servants.

Having conducted approval hearings for the nominee pursuant to Article 118 of the Constitution, the SRC Act, the Public Appointments (Parliamentary Approval) Act, the Standing Orders and other relevant statutes, the Committee recommends that pursuant to Section 16 (1) of the SRC Act, 2011, the National Assembly approves the nomination of Mrs. Anne Rwamba Gitau for appointment by the SRC as the Secretary to the SRC.

My Committee is thankful to the offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during our sittings. I wish to express my appreciation to the Hon. Members of my Committee who sacrificed their time to participate in the activities of the Committee and the preparation of this Report.

Having said that, I would like to add that the SRC has been established to set the salaries of State officers and regularly review those salaries. We noted that this is a Commission which outsources its entire mandate. They just remain in the office to co-ordinate. If you look at their budget, 70 per cent of the funds are paid to consultants. That is why we put the nominee to task to tell us whether this country can do without this Commission. You cannot outsource 80 per cent of your mandate and continue existing as a Commission. They are spending almost Kshs1 billion on an exercise called job evaluation. All the same, it is a constitutional commission and it has the right to exist.

The nominee is qualified. She has the required experience and has been acting in that position for close to one-and-a-half years. I wish that the House does approve this Report, so that she substantively takes over that position and helps the Commission to move forward and, possibly, help it not to continue outsourcing its mandate but execute its mandate internally.

With those few remarks, let us support the nominee. I want to ask my colleague and fellow Member, Hon. Mary Emaase, to second this Motion.

Hon. (Ms.) Otucho: Thank you, Hon. Deputy Speaker. I rise to second our Chairman.

I want to confirm that our Committee thoroughly vetted Madam Anne and she proved herself to be competent. We looked at all aspects as already enumerated by the Chairman and she was able to appropriately answer most of the questions that we asked her.

On the issue of qualification, it is needless to repeat that the candidate qualifies. She is currently a PhD student and has a Masters Degree. She met all the requirements.

Secondly, on the issue of experience, we learnt that Anne has a wealth of experience having worked in several organisations. Prior to coming to SRC, she worked at HELB and she is well versed with the issues and mandate of SRC.

However, we need to challenge the candidate. Once she takes that position, there will be a lot of work that will need to be done at SRC. She should be able to use her experience to fast-track the process to ensure that the evaluation exercise is concluded. With the kind of budget we have given them, which is Kshs0.5 billion, they should be able to outsource, get the right skills that they require to enrich the process so that the exercise of rationalisation of salaries can be concluded, and we do not have workers strikes in every department demanding salary increments. We want the SRC to match jobs to their worth, determine salaries, rationalise the whole process and bring this exercise to conclusion.

This lady also exhibited a very strong personality, which is very good for a leader in this kind of position. She proved beyond reasonable doubt that she is competent and qualified for this position.

I support. I want to appeal to all my colleagues and Members of this House to support the appointment of Anne because she qualifies for this job.

Hon. Deputy Speaker: I believe you should be seconding.

Hon. (Ms.) Otucho: I second.

Hon. Deputy Speaker: Hon. Sakaja.

Hon. Members: Freeze!

(Question proposed)

Hon. Members: Put the Question.

Hon. Deputy Speaker: Hon. Cyprian Iringo.

Hon. Kubai Iringo: Thank you, Hon. Deputy Speaker for giving me this opportunity. I stand to support the nomination of this Kenyan for the position of the Chief Executive Officer (CEO) of the SRC.

Going through the profile of this lady, it is evident that she has been competently sitting on this desk for the last 16 months and, therefore, has experience given that she has already worked there for one year and four months. Even her experience in HELB--- We know how it operates and all its problems as far as cash is concerned. I believe this lady, with her education and experience, is going to do this job well.

She should sit down with Commission members and look into ways of bringing down the country's wage bill without necessarily reducing people's salaries or sacking people. They can look at other dimensions, so that we can cope with the growing unemployment while at the same

time checking on the escalating wage bill. She exhibited competence during the interview, and I strongly commended her.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Chris Wamalwa!

Hon. Wakhungu: Thank you, Hon. Deputy Speaker. I rise to support the nomination of Mrs. Anne Rwamba Gitau.

I personally know Anne Gitau. She is a team player. I have worked with her in different professional fields, especially in consultancy. I knew her when she was working for the Industrial Development Bank (IDB). She later on moved to the Higher Education Loans Board (HELB) and currently, she is at the Salaries and Remuneration Commission (SRC).

In terms of work experience, this nominee qualifies. She is an expert in Human Resources (HR) Management. She is conversant with modern management styles when it comes to the HR function. In terms of work experience, she has worked in that particular field.

Hon. Deputy Speaker, I confirm that she has the kind of transformational leadership that some of the State corporations require. The nominee has acted for almost one-and-a-half years. In terms of learning the curves, she has understood the mandate and challenges of the SRC, as opposed to getting someone new, who will have to learn the institution's policies, organizational structure and the core values. Therefore, Mrs. Anne Gitau is way ahead of the pack.

I request my colleagues in this House that we approve Mrs. Anne Gitau's nomination, so that she can do the work because she has all the expertise that is required. She is very respectful. I have no doubt that she will take the SRC to a higher level of performance. As we know, SRC is supposed to harmonise the salaries of public servants. The methodology used for such an exercise worldwide is job evaluation. As it has been said, there is no way the SRC alone can do job evaluation in the entire public service. That is why they have to outsource.

It is important that as they outsource, they have a person who understands the particular work in their midst. If you bring on board someone who does not understand HR issues, the SRC will continue having challenges. Most of the work of the SRC is based on the HR functions: managing workforces and issues of remuneration. The Commission also has to deal with matters of salaries, which is a financial function. Madam Anne has studied financial management and, therefore, she knows what to do. She understands matters of leadership, HR management, financial management and operations management.

Hon. Deputy Speaker, I request hon. Members to support the nomination of this lady to enable the SRC to add value for Kenyans. As we all know, salaries in the public sector are somehow high, and they must justify why those salaries should remain as they are. We have a lot of strikes in the country because salaries in the public sector have not been harmonized. Once she joins the Commission, we will work closely with them. We have seen the recent court ruling on the case of the Teachers Service Commission (TSC) versus the Kenya National Union of Teachers (KNUT). We need to work closely with the teachers with a view to advising them on matters of HR management, salaries, remuneration and, hopefully, strikes will become things of the past.

The Parliamentary Service Commission (PSC) is responsible for the welfare of Members of Parliament. According to the court ruling that we saw, the SRC is only supposed to advise the PSC. The PSC is the one to take charge. I hope that they are going to work closely with other key stakeholders for the purposes of value addition.

With those remarks, I support.

Hon. Deputy Speaker: Hon. Kangongo, were you requesting for a chance to contribute?

Hon. Bowen: Yes, Hon. Deputy Speaker.

Hon. Deputy Speaker: Please, proceed.

Hon. Bowen: Hon. Deputy Speaker, I stand to support the nomination of Mrs. Anne Gitau for appointment as the Secretary to the SRC.

Since she has been acting as the Commission's Secretary for a while, she has the requisite experience. She understands the organizational structure of the Commission. The SRC is a constitutional body, created under Article 230 of the Constitution. The Commission's functions include setting and regularly reviewing salaries and remuneration for all State officers; it is not just to set salaries and cast them in stone.

During the three years it has been in existence, the Commission has achieved very little. There are serious discrepancies in the salaries and remuneration that civil servants earn as compared to the salaries earned by public officers in other institutions, including parastatals. To illustrate what I mean, I will give a very good example of three people who graduated at the same time from the same university in the same faculty. One of them was employed by the Kenya Revenue Authority (KRA), another one was employed by the City Council, while the other one was employed by a Government Ministry. There are very huge discrepancies in the remuneration of the three individuals. Therefore, the SRC should come up with a standard procedure of evaluating all the public officers with a view to harmonising their salaries and remuneration. They should do job analysis and come up with standardized job groups, so that officers with the same qualifications, skills and expertise can be put in the same job group and be remunerated equally.

Hon. Deputy Speaker, I was previously in the Justice and Legal Affairs Committee. I am now in the Public Accounts Committee (PAC). We used to allocate money to the Attorney-General's (AG) Office and other Government legal departments. We gave them money every year to recruit legal officers because those who were there had moved to other Government departments after a few years because the salaries at the departments they moved to were good compared to those paid by the Ministries. We want to stop this anomaly and ensure that legal officers working at the PSC, the AG's Office and the Office of the Director of Public Prosecutions are remunerated equally. In the three years that the SRC has been in existence, we have not seen any report or draft report from them. As we approve the nomination of the Commission's Secretary, we would want to see things moving in the SRC.

Hon. Deputy Speaker, regarding the issue of public service ballooning wage bill, the SRC needs to go to the counties and rein in the governors who recruit new staff on a daily basis. Prior to the birth of the county governments, there were Government officers who were working with the former local authorities.

In counties, governors are recruiting every day and you know before we had Government officers who were already working in the former municipal councils. On the ground you find that there is a surveyor from the national Government, who was seconded but you can still see county governments advertising for those positions. For this reason, you will see a lot of duplication of work.

So, Hon. Deputy Speaker, we want them to move with speed and provide a guideline for employment at the counties; you will find that different counties remunerate their employees

differently. You will find that a clerical officer at the County of Nairobi earns a different salary from one in Siaya County or Elgeyo Marakwet. We want the Salaries and Remuneration Commission (SRC) to come up with proper guidelines and standardised procedures, so that a clerk in Kwale County has the same salary as one in Turkana and in any other part of the country.

Hon. Deputy Speaker, with those many remarks I support the Committee's Report. As I said, we want to see the SRC working.

Thank you.

Hon. Deputy Speaker: Hon. Zuleikha.

(Hon. (Ms.) Juma spoke off the record)

What is happening? Give her the microphone.

Hon. (Ms.) Juma: Thank you for this opportunity, Hon. Deputy Speaker. Before I contribute, I wanted to request that in future, if there is a topic regarding women, give us a chance to talk because back home, most women may think we are here and are not working or representing them.

On this issue, I would like to say that I support.

Hon. Deputy Speaker: What was that about, Hon. Zuleikha?

Hon. (Ms.) Juma: Hon. Deputy Speaker, it was just about the petition. I had requested to speak on the petition, especially being a Muslim woman, and those who were affected were Muslim girls. We relate and I would have wanted to contribute.

Hon. Deputy Speaker: You should feel sufficiently represented by what Members have already said.

Hon. (Ms.) Juma: I do.

Hon. Deputy Speaker: The petition will come and you may get an opportunity to speak then. This was just the presentation of the petition.

Hon. (Ms.) Juma: Thank you, Hon. Deputy Speaker. I am just more concerned about what women on the ground will think if tonight they do not see us in news talking about this issue.

On this Motion, I just want to say that I approve and agree that Mrs. Anne Rwamba Gitau should be appointed as a SRC. I always respect people who are well educated and qualified. So, I am in agreement with this Motion.

Hon. Deputy Speaker: Hon. Members, is there a Member who is not approving the nomination of Mrs. Anne Rwamba Gitau? We just want to hear one or two Members if there is any. On my list is Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Deputy Speaker. I am supporting. As a woman, I always support women. I want to indicate the reasons I support this woman. One, she is fairly young. Two, she is a woman. Three, she is educated. Four, she is fulfilling one of the two conditions in the Constitution which is gender and the issue of age.

If I consider that in relation to the other areas, which are regional and ethnic balance I will excuse the women because we are marginalised all the time, even if we do not satisfy other requirements. However, I want to encourage, especially the CIOC, that in future we should have a list of constitutional commissions with an indication of whether they are meeting the

constitutional requirement on the whole, not a single one; they should meet the constitutional requirement of gender balance, age or generational equity, disability and regional balance. On this one, I very strongly support.

One of the issues that Members are not highlighting is that she is even already enrolled for her PhD. It is difficult for women to reach that level. I recognise that you, Hon. Deputy Speaker, is one of the few women who have reached that level and, I am soon catching up with you.

I support.

Hon. Kaluma: Thank you, Mr. Speaker.

Hon. Members: It is Madam Speaker.

Hon. Kaluma: It is Madam Speaker, I stand corrected by my colleagues. How I apologise to the Chair. I did not do it intentionally; it was inadvertent.

Hon. Deputy Speaker, under the watch of this particular nominee, the salary of various persons serving in our State Offices have never been harmonised. We may take it for granted but it is a very serious issue. If you go to the profession I belong to, lawyers serving the nation in the Office of the Attorney-General (AG), those serving as magistrates, those lawyers serving in the Office of the Director of Public Prosecutions (DPP) and those lawyers serving in the various State corporations as legal officers are all earning different pay. This is happening when she is the Acting Chief Executive Officer (CEO) of the institution. We may take it as a small thing but the consequence of that is that particular Government institutions have become just but recruitment zones for others. The situation we have in the DPP's Office, and as we have it in the AG's Office, is something crying for a more competent person than the one we have before us. We have a situation where people go to the Office of the AG, they get training and then they seek to be magistrates. All this has been happening under the watch of this great lady we are now told is very competent.

On the issue of teachers of this country, when we were debating the issue of teachers here the other day, I remember all of us were unanimous that there is none of us here who never passed through the hands of a teacher. Teachers of this country have had to settle the matter of their remuneration in a court of law after a whole two years. What competence are we talking about if the core mandate of the SRC, at which this good lady was the acting CEO, should be dealing with that?

We train doctors each year and there are so many of them. We train so many, our universities are full of doctors being trained but our hospitals, up to the dispensary level in the village, have no doctors to serve us. Why? It is because you suffer the pain of training to be a doctor for seven years or so before internship and training. Do you know what doctors earn when they are employed? Below Kshs100,000. That is happening after the SRC has been there since we passed the Constitution with this great lady as the acting CEO.

What are we talking about? The incompetence of this lady, and the SRC as a whole, for the period she has been there has seen to it that our people cannot be treated well. Our children cannot be educated. There is a major issue---

Hon. Deputy Speaker: Hon. Member, the Chairman of the Departmental Committee on Finance, Planning and Trade is on a point of order.

Hon. Langat: Hon. Deputy Speaker, although he is entitled to his opinion, I think it is unfair to lay blame on somebody who has been acting for problems which have been existing in this country for the last 50 years.

(Loud consultations)

We are only trying to correct the past mistakes now. It is wrong for Hon. Kaluma to really lay blame on one individual who has been acting, a junior officer.

An hon. Member: But the matter is being interrogated.

Hon. Kaluma: Hon. Deputy Speaker, I take it that that was a point of argument.

What we are saying is that this lady has been in this institution at a senior position of influence within the SRC and things are happening there that, even if we were to approve her by majority as it will happen and may happen, she must look at them when she settles, if she will settle.

Something which we are taking for granted as Members of Parliament has happened. Do you know that under the watch of this great lady the salary earned by commissioners at SRC moved from Kshs380,000 to Kshs970,000? If you remember when we dealt with this SRC it was also under the watch of this lady that a decision was made that commissioners' sitting allowance be Kshs40,000 per meeting. In fact, the chairpersons of the commissions earn Kshs50,000.

What am I talking about? Under the watch of this lady, although in an acting capacity - let us not say that in that acting capacity her functions were lesser - the commissions in this country tripled their allowances and earnings simply because they are commissioners and---

Hon. Gikaria: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Gikaria, he is on a point of order.

Hon. Kaluma: What is happening?

Hon. Deputy Speaker: What is not in order?

Hon. Gikaria: On a point of order, hon. Deputy Speaker. Is Hon. Kaluma in order to mislead this House that this lady is the one who participated in increasing the commissioners' allowances, yet the Commission is made up of 14 commissioners? She cannot be doing these things on her own. Whether she is acting or not, this is a decision of commissioners and not an individual person.

Hon. Deputy Speaker: That is a point of argument, Hon. Gikaria.

Hon. Kaluma: Hon. Deputy Speaker, the point I am drawing the attention of the House and, indeed, the nation to is that because of decisions of the Salaries and Remuneration Commission (SRC), the salaries of bodies, including important offices like those of Members of Parliament, were reduced while those of commissioners were increased. Let us be honest. Before, Members of Parliament were earning over Kshs1 million each. The salary of a Member of Parliament was reduced to Kshs520,000. When that was happening, the salaries of commissioners moved from Kshs380,000 to Kshs970,000. In fact, the salaries of some of them, like Mr. Charles Nyachae, are over Kshs1 million. That confirms not only incompetence on the part of the Commission, but because we are dealing with this lady, who was the acting Chief Executive Officer (CEO), her incompetence to deal with the issue of harmonisation of salaries is the core mandate of the Commission. We may take it for granted, but it is a very serious issue.

In fact, under the watch of this lady, the Commission does not even know the ranking of State officers in this country. We may fear whatever is being said outside there, but how has it happened that under this Commission, Members of Parliament, who are the people exercising the sovereign will of the great people of Kenya, are earning less than the State officers they employ through approvals and it is just normal for these commissions? What are you telling the nation when you approve this lady saying she is competent, yet these are very clear cases of incompetence? I oppose the appointment not only of this lady--- How I wish those 14 or so commissioners also found their way here, so that we sort them out once and for all.

I know the ranking from the President to Deputy President to Members of Parliament coming down. In fact, as Members of Parliament we are below only the Speakers of the two Houses in terms of ranking in the State. However, did you even know that the police officers on the street earn more than you, yet you approve their appointments? Now you are here saying this lady is competent. What is she competent in?

(Applause)

Time has come if we get an opportunity like this one, we need to send some of these people home permanently and ask for more to come.

I beg to oppose.

(Applause)

Hon. Deputy Speaker: We have heard the various views, Hon. Members. Hon. Cecily Mbarire, are you on a point of order?

Hon. (Ms.) Mbarire: Hon. Deputy Speaker, I wanted to contribute; I am sorry.

Hon. Deputy Speaker: Okay.

Hon. (Ms.) Mbarire: Hon. Deputy Speaker, I rise to support this Motion. What we are looking at here is one's capacity to play the role that we want her to play as the Secretary to and CEO of the SRC. I am not just supporting her because she comes from my county, I am supporting her because she merits the position.

Hon. Mwadeghu: Which county?

Hon. (Ms.) Mbarire: Embu County.

She merits this position. Here is a lady who has a Master of Business Administration (MBA) Degree. If you look at her history, she has managed to hold offices almost similar to the one she wants to go to. As you can see from the Committee's Report, she went before the Committee of 29 members and proved herself as worth holding this office.

(Loud consultations)

Hon. Deputy Speaker: Order, Members!

Hon. (Ms.) Mbarire: I would like to urge Members to---

(Hon. Kipyegon stood in the gangway)

Hon. Deputy Speaker: Hon. Ngeno, can you find a place to sit? Please, Members, familiarise yourselves with how you should conduct yourselves in this House. There is enough space in this House for you to sit and consult quietly, rather than disrupt what is happening in the House.

(Hon. Lessonet stood in the gangway)

The Chairman of the Committee on Constituencies Development Fund (CDF), find somewhere to sit.

Hon. (Ms.) Mbarire: Thank you, Hon. Deputy Speaker. I would like to urge the hon. Members, please, do not fall for the argument Hon. Kaluma has brought. I do not think Mrs. Anne Rwamba had the capacity to make decisions alone on behalf of that Commission. It will be unfair to say that she could sit alone and make a decision. The decision was made by all the commissioners. Kenyans were demanding that salaries be reduced because the wage bill was heavy and they did what they had to do.

Let us judge her on merit and academic credentials. She went to one of the best universities for her first degree, which is the same university I went to; it is called Egerton University.

(Laughter)

Therefore, she can make it. Egerton University has produced some of the best brains in this country.

(Loud consultations)

Hon. Deputy Speaker: Order, Members!

Hon. (Ms.) Mbarire: On a very serious note, Egerton University produces some of the best brains in this country. We have Hon. Amina Abdalla, Hon. Asman Kamama and yours truly, Hon. Mbarire, from Egerton University. The list is endless. So, be sure you have the best brain for that position.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Hon. Mbarire is entitled to her views and opinion.

Hon. (Ms.) Mbarire: Exactly, Hon. Deputy Speaker. Thank you very much for protecting me from Hon. Kaluma. Mrs. Anne Rwamba can do very well.

There is a point of information from Hon. Mutava and I am more than willing to be informed by him.

Hon. Deputy Speaker: Okay. Hon. Mutava.

Hon. Musyimi: On a point of information, hon. Deputy Speaker. As a point of information, I just wanted to request Hon. Cecily not to be too hard on Hon. Kaluma. He did not have lunch.

(Laughter)

Hon. (Ms.) Mbarire: Thank you. I have understood him. I am well informed and I now leave Hon. Kaluma alone.

I urge Members of this House, please, support this great lady who has done very well and will continue to do very well for this country. I urge that we all look at her as a woman who merits sitting in this office and performing well.

With those many remarks, I strongly support.

Hon. Deputy Speaker: Hon. James Ekomwa, the Member for Turkana South.

Hon. Ekomwa: Thank you, Hon. Deputy Speaker. I stand to support this Motion. I remember two weeks ago this House approved the dismissal of a nominee. I support this Motion to affirm to Kenyans that this House is very fair. When it is time to approve the right person they will approve.

I have approved this lady.

(Laughter)

I have approved her because I am a member of this House. Women have been marginalised for over 50 years. They have been wasting their time in the kitchen. This is the time we need to give them an opportunity for them to enjoy their rights.

(Loud consultations)

We were all created in the image of God and we all bear the superscription of God. It is better to prove to the world that women are also competent when given opportunity. If you read the Bible well, you will realise that all the good virtues were given to women.

Hon. Deputy Speaker, even when it comes to hospitality, you will find that women are very humble, they can listen and can understand a problem compared to men.

(Loud consultations)

An hon. Member: What about Monica?

Hon. Ekomwa: Hon. Deputy Speaker, I seek for protection from men. Even if you get women who are very tough like the one we--- It is like they did not take their time to stay with their parents well.

I want to confirm to this House that the mistakes this lady made when she was acting was because she was not given an opportunity. Now, she has experience and she has understood that Members of Parliament cannot entertain anything that is not right. This is the time to prove them because it does not matter because if she misuses the opportunity the way Ms. Juma did, she knows very well that her fate will still lie with this House. Petitions are there. We are the people to bring Petitions and we are the people to dismiss them so we cannot dismiss her when we have not given her an opportunity. So, it is fair for us to give her this opportunity.

Even as we give her this opportunity, we want women wherever they are to know that when they are given an opportunity serve in an office, they must respect this House and continue respecting men because it is biblical. Even when they come, they must know that it is biblical that they need to be submissive. It is not us who wrote that. That is written in the scriptures. So, I rise to support this Motion.

(Laughter)

Hon. Deputy Speaker: Where is the Minority Whip?

Hon. Mwadeghu: Mhe. Naibu Spika ninakushukuru kwa kunipatia nafasi hii. Nikianza, ningependa kumwambia Mhe. Cecil Mbarire ajue tofauti kati ya chuo kikuu na *college*. Ninamwomba ajue jambo hili. Yangu ni kumwambia tu kuwa watu ambao walienda *college* hawakuenda chuo kikuu. Kwa hivyo Mhe. Mbarire---

(Hon. (Ms.) Mbarire consulted loudly)

Hon. Deputy Speaker: Order! Hon. Cecil, I also share the same sentiments with you because I taught in that university for over 20 years. Therefore, Hon. Thomas Mwadeghu, you are also offending the Chair in your comments.

(Laughter)

Hon. Mwadeghu: Mhe. Naibu Spika, si nia yangu kutusi ama kushusha hadhi ya kiti cha Naibu Spika lakini ninaomba kama wewe pia ulienda huko ukubali maoni yangu kuwa sikubaliani na Mhe. Mbarire kuwa kilikuwa chuo kikuu. Wakati huo kilikua *college*. Kwa hivyo, wote walioenda huko wakati huo walienda *college*.

Mhe. Naibu Spika ninaomba nitoe mwongozo wangu. Wewe hokusoma huko lakini ulikuwa unafundisha. Hivi sasa tunakubali huyu mama, Anne Gitau apatiwe kazi hii. Ninaomba tuulizane maswala kadha wa kadha. Ningependa tuangalie Katiba inasema nini. Katiba inaongea kuhusu usawa wa nchi. Kwa nini kila wakati majina yakiletwa hapa yanaletwa ya maeneo mawili tu? Majina yanatoka Bonde la Ufa ama eneo la Kati. Nikisema hivi si eti ninamchukia mtu. Mimi simchukii mtu.

Bi. Gitau amehitimu na ana kila kitu lakini ningependa kusema kwamba wako Wakenya wengine. Mimi sina shida na huyu shangazi. Ninamheshimu, amehitimu, ana sifa, ana elimu na ameenda *college*, Egerton. Kwa hivyo, sikatai lakini kama tunataka usawa katika nchi hii, lazima tujue kwamba majina mengine yako pia.

Wataita, Waluhya, Wakamba, Wasomali, Wadorobo na Waogiek wako. Hawa watu wameachwa wapi? Kila wakati majina yanayoletwa hapa ni ya makabila mawili. Kwa nini? Hata Mwenyekiti wa Tume hii anatoka Bonde la Ufa.

Mimi sitamuunga mkono leo, kesho au kesho kutwa, na si kwa sababu hahitimu. Ningependa kusema hivi---

Hon. (Ms.) Abdalla: On a point of order, Hon. Deputy Speaker. I have two points of order for Hon. Mwadeghu. First, he has misled the House by saying that this candidate is from Central Kenya. This candidate is actually from Embu which is in eastern Kenya.

(Loud consultations)

Relax. She is an Embu. She is marginalised by the people from Central as the Taita have been marginalised by the Taveta.

(Laughter)

Secondly, there is the assumption that because you are in the first university, you remain the best. You know we left our nursery school teachers in nursery school and some of us have PhDs. So, this assumption that the University of Nairobi is the best has been overtaken by events.

(Loud consultation)

Hon. Deputy Speaker: Hon. Members, we should not go down that line. Please conclude Hon. Mwangi.

Hon. Mwangi: Mhe. Naibu Spika, ninakubali kuwa huyu shangazi anatoka Embu. Lakini tukubaliane kwamba Embu iko katika Mkoa wa Kati.

(Loud consultations)

Ngoja nimalize. Watu wa Embu, Mkoa wa Kati na hata Mkoa wa Mashariki ni sawa na hawana tofauti. Wakati wa kura wanasema wako pamoja lakini ikiwa ni kugawanya vitu inakuwa wako tofauti. Ninatumai wakati umefika tuambiane ukweli na ukweli usemwe.

Ningependa kusema kwamba ninaiheshimu na nitaendelea kuiheshimu Tume ya Mishahara na Marupurupu. Ningependa kutamatishia hapo.

Mhe. Naibu Spika, siungi mkono uteuzi wa mama huyu.

Hon. Deputy Speaker: Order! Hon. Gikaria, what is your point of order?

Hon. Gikaria: Hon. Deputy Speaker, I know, I have heard about Madam Anne and everybody is supporting. There is nothing new that is coming other than what we have heard. Can I request that the Mover be now called upon to reply?

Hon. Members: Yes!

Hon. Deputy Speaker: Hon. Members, let us put it to vote.

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

Hon. Deputy Speaker: Hon. Members, we call on the Mover to reply.

Hon. Langat: Hon. Deputy Speaker, I want to thank the Hon. Members who have contributed to this Motion. The only issue which has come out other than which is a university or which is a college, is the issue of regional balance. I wish to say that the issue of regional balance on commissions is very difficult to determine especially when you are dealing with one nominee per commission. Each commission is independent. They recruit their own people independently

and bring the list to this House. So, it will be very unfair to target one individual on the basis of where she or he comes from. The lady is qualified. I want to encourage my senior in the profession, Hon. Mwadeghu, a senior Auditor in this country to support this Motion. I do not associate the words which came from his mouth today with him. Maybe he did not have lunch like his neighbour.

However, having said that, I want to encourage Hon. Kaluma and Hon. Mwadeghu to support the approval of this nominee for that position so that she can take over substantially.

I support.

(Question put and agreed to)

BILL

Second Reading

THE COUNTY ALLOCATION OF REVENUE BILL

Hon. Musyimi: Hon. Deputy Speaker, I beg to move that the County Allocation of Revenue Bill, Senate Bill No.5 of 2015 be now read a Second Time.

The Message to the National Assembly on the County Allocation of Revenue Bill was received on 25th June, 2015 and subsequently committed to the Budget and Appropriations Committee for considerations.

In this regard, my Committee held one sitting yesterday. After lengthy discussions and advice from the Commission on Revenue Allocation and the Controller of Budget, from which we benefited a lot, we wish to table this Report. The principal object of the Bill, as we all know, is to make provision for the allocation of revenue raised by the national Government among the 47 county governments for the 2015/2016 Financial Year.

Hon. Deputy Speaker, the Bill provides for equitable allocation of revenue raised by the national Government among the county governments for the 2015/2016 Financial Year on the basis determined in accordance with the resolution in force under Section 217 of the Constitution for the 2015/2016 Financial Year.

The Schedules to the Bill propose to allocate total revenue of Kshs287 billion and represents 33 per cent of the 2012/2013 Financial Year, the most recently audited revenues as approved by Parliament. The Bill proposes to allocate revenues as follows:-

(i) Kshs260 billion of sharable revenue or 33 per cent of the most recently audited revenues.

(ii) Kshs10.671 billion of conditional allocation. This has been allocated to county governments from loans and grants received from development partners.

The amount of Kshs10.671 billion to supplement financing of county health facilities includes a loan of Kshs508 million from the World Bank; a grant of Kshs844.71 million and other conditional loans and grants amounting to Kshs9.32 billion. We have Kshs16.598 billion, a total conditional allocation to counties from the share of national Government revenue. These amounts are made up of Kshs3.6 billion to Level 5 hospitals, Kshs4.298 billion as allocation towards free maternal healthcare, Kshs0.9 billion as compensation for gone-user fees at county

level, Kshs4.5 billion for leasing of medical equipment and Ksh3.3 billion as allocation from the Road Maintenance Levy Fund.

Before I make some observations, allow me to thank your Office and that of the Clerk for supporting us in our work as we sought to execute our mandate. I also thank the Members of my Committee for all the time that they have put in, especially over the last four months once the Budget season kicked in around January and I am glad it is now coming to an end.

I also thank the Parliamentary Budget Office and the National Treasury for the very strong partnership that we have enjoyed this year and in particular, as we discussed this matter of the County Allocation on Revenue Bill.

Allow me to make five observations, two of them of general nature. As you are aware, we have made our point with regard to the timelines that are very limited to prosecute the Budget. We have argued that the PFM Act of 2012 needs to be amended. It needs to be reviewed so that we can have enough time to process, think through and negotiate the many difficult decisions that we have to make with respect to the Budget.

Allow me, in general terms, to just observe that the allocation of resources to county governments has come under fairly strong discussion more recently because the formula that we are using relies very heavily on faulty population data. As Members will know, 49 per cent of the money that is given to the counties is based on revenue sharing based on population in each county. Some of us certainly would like to see that percentage go up to about 60 per cent. If that happens, then we might see more fairness in the way the resources to counties are distributed. For example, Nairobi has about 3.3 million people and it gets about Kshs13 billion. Turkana, for example, has about 855,000 people and it gets about Kshs10 billion or thereabout. The disparities, whatever formula you use, are quite obvious. One would like to see the CRA and the Senate review this matter.

With respect to counties that have been marginalised, we have the Equalization Fund that we now want to see operationalised. So, there will be a way of dealing with historical marginalisation in these particular counties through that Fund.

So, it is important to review the formula that we are using to allocate funds to counties especially the component on revenue sharing based on population. That percentage needs to go up from 49 per cent to something that is more reasonable so that there can be fairness and equity.

I have two other comments as I close. First of all, Hon. Members may have noticed that the Senate increased the expenditure ceilings to 34 county assemblies only. These 34 county assemblies got a total of Kshs2.5 billion. There was no rationale why only 34 county assemblies were chosen. When we asked, we were told that they were the ones that applied and that the other 13 did not apply. When you are talking about Kshs2.5 billion, applying or not applying does not seem to be a good enough reason to give or not to give money. We were not persuaded that the rationale or the criteria was solid enough given the kind of money that was being set aside.

In other words, we would have wished to see explanatory memorandum. We questioned Mr. Micah Cheserem, the Chairperson of the Commission on Revenue Allocation and the Controller of Budget on these matters. It would appear that they too were not a little concerned about the way this money had been allocated. As we all know, plenary powers, at the end of the day, reside in the Senate.

Whereas we respect the decision of the Senate, because this is their decision, we still find it very difficult to understand how you can allocate Kshs2.5 billion to only 34 counties based on the reason that the others did not apply. What is more worrying is that if you go to the details of the kind of money that was set aside for some of these counties, you will find that Turkana County got 68 per cent more than it had the previous year; Vihiga County got 42 per cent more than it had the previous year; Meru County got 22 per cent of what it had the previous year.

With regard to Vihiga County, we did some basic calculation and we have information that Vihiga County has 25 wards. The increment that was made by the Senate means that each ward will get an extra Kshs7.8 million over and above the increment that they are already getting this year. If you look at these numbers, again, you will find that the figure that will go to the county assemblies has gone up.

In the 2014/2015 Financial Year, the county assemblies were given Kshs16.87 billion but in the 2015/2016 Budget, we are giving the county assemblies Kshs27 billion. That is an increment of over Kshs10 billion. One wonders, if the Budget has already taken care of the increase of money to county assemblies, why should we increase the allocation. Never mind all the questions that have been asked how this money is being spent. Sometimes we are also accused of the same sins and so, I shall not venture there. If the figure has gone up from Kshs16 billion to Kshs27 billion and we want to add another Kshs2.5 billion, it defeats logic. It would really have helped if we had more information, better rationalisation and a more solid criterion from the Senate.

In the interest of fees, and I can tell you we considered rejecting this particular Bill yesterday, but we thought that we have been accused of supremacy wars and sometimes I think the media likes to see us fighting. It makes very good fodder for selling newspapers and gives excuse for people to call us one or two names. So, we chose not to bring a negative verdict with respect to this Bill.

However, we are concerned and we really hope that as time goes by and as we find better working relationships with the Senate, that better reasons can be given why that kind of money can go to county assemblies without any rationalisation whatsoever. It is sad when you think that we sat here and added to the county government an extra Kshs3.3 billion out of which Kshs2.5 has now gone to county assemblies over and above everything else that they have received. We hope that we will not set a poor precedence and we will not get into the culture of just consuming. We hope that in future, there will be better information as recommendations are made with respect to the money that goes to county assemblies and county governments.

May I also say that when you take away Kshs2.5 billion and give it to county assemblies, you are actually taking it away from the Development Vote. That is what it means. This is not fun. This in a sense is sad because it will mean less money to hospitals, polytechnics, agriculture and all the wonderful things that the county governments are supposed to do.

With those few remarks and my comments notwithstanding, allow me to just say that following the consideration of the Message to the Senate, my Committee recommends that this House adopts the County Allocation of Revenue Bill, Senate Bill No.5 of 2015. It is now my request that Hon. John Mbadi, the Member of Parliament for the great people of Suba and the Chairman of the ODM kindly second the Motion.

Hon. Ng'ongo: Thank you, Hon. Deputy Speaker. I want to thank the Chair of the Budget and Appropriations Committee for the generous titles that he has mentioned. Not that they are not real, but he has reminded the country that I hold those titles.

I want to second this Motion to approve the County Allocation of Revenue Bill, 2015. First, Article 96 of the Constitution gives the Senate the mandate and power on horizontal sharing of national revenue that is allocated to counties. This is perfectly the work of the Senate. I want to add that the spirit of the Constitution and the Public Finance Management Act is that this Bill needs to be disposed of. It should be passed by latest 30th April, every year.

I want to urge and ask the Senate, the National Assembly and other relevant organs to get closely involved and engaged in the Budget-making process from its inception when the Budget Policy Statement is being negotiated so that we do not spend so much time on The Division of Revenue Bill, which is introduced at the same time with the County Allocation of Revenue Bill. This is on the assumption that the figures are already agreed on. The County Allocation of Revenue Bill takes time to approve because of the delay in approving The Division of Revenue Bill.

Having said that, this is a straightforward Bill because we have already agreed on the figures through The Division of Revenue Bill. We have agreed on the figures that should go to the counties. We know that Kshs259.77 billion is the sharable national revenue that is allocated to the counties. This Bill also shares out the Kshs10.67 billion; money coming from the development partners in form of conditional grants. It is also sharing the Kshs16.598 billion that is coming from the Government national revenue in form of conditional grant. Basically, this Bill proposes to share the Kshs287 billion to the 47 counties. This is based on a formula that is already predetermined, was approved by Parliament and can only be reviewed by the Senate.

There have been concerns. I remember when we passed the current formula for sharing revenue in the last Parliament and by then there was no Senate, Hon. Sambu was really unhappy about this formula and for good reasons. If you look at the population of Bungoma, Kakamega, Meru, Kiambu and many other counties and compare it with the population of the counties which get the lion's share of the revenue that is allocated to the counties, you will see a systematic discrimination and marginalisation of populous counties. Something needs to be done. As we give capacity and help those counties that have been marginalised and those which are poor, we should also remember that very soon, we will marginalise those populous counties. By the way, taxes are paid by people. It is human beings who pay taxes. If you pay taxes and you are marginalised, I do not think that is equity.

My Chair has spoken to certain issues that we identified in this Bill. More particularly and which I want to emphasize is the issue with regard to ceilings to the counties. In the 2014/2015 County Allocation of Revenue Bill, the Senate requested us to amend the Public Finance Management Act to allow it to be setting the ceilings for county assemblies. The reasoning then, and which we agreed to, was that county assemblies were misusing their powers and setting unrealistic amounts for county assemblies, thereby leaving little money for development.

Today, what the Senate has proposed contradicts their initial thought. I say this because you cannot justify a budget increase from Kshs17 billion to Kshs27 billion in one financial year. That is an increment of about 60 per cent. At this rate, we will end up using the resources that are meant to develop counties in supporting the remuneration and perks of Members of County

Assemblies (MCAs). If you calculate, you will realise that every month it costs this country Kshs1.2 million on average to sustain one MCA. I do not think this country can afford such kind of expenditure. We need to start asking ourselves seriously about the number of MCAs we have in this country. It is high time we reduced the number of MCAs. That is something that needs to be considered seriously. That should not give excuse to those who want to marginalise women who have been marginalised over the years. We can still get gender parity with a reduced number of MCAs.

Something which also came out clearly, which the Committee Chair has talked about, is with regard to how these ceilings were arrived at. I would like to say that 34 counties complained about the allocations. They were given more money because they complained. Now, the question is: Will the other 13 counties which did not write letters to the Senate also be considered for additional allocation? Where will that money come from? The other question is: Why do you give a county like Turkana which has been marginalised over the years? The Commission on Revenue Allocation (CRA), through a scientific method of determining how much should go to the county assemblies, had recommended a figure of about Kshs580 million. All over a sudden, the Senate recommends additional Kshs390 million, increasing that budget by over 60 per cent. This money will go to the County Assembly of Turkana to be spent purely on Recurrent Expenditure and yet this is a county that we are allocating more money to develop and catch up with other counties which have over the years been favoured in terms of development as opposed to Turkana. I know we have had a lot of issues with the Senate. We need to speak to our Senators. When it comes to the budget process, they really need to remove politics. I want to imagine that there was a basis for these increments. We were not given the basis but I want to imagine that it was there.

The CRA was very clear and candid that they do not support these increments. The Controller of Budget (CoB) was also very clear that she was not supporting this increment. So, my plea to the Senate is that let us engage for the benefit of this country. To me, that is very important.

I conclude my contribution by urging the national Government, especially the National Treasury that the issue of the Equalisation Fund is long overdue. The reason why we set up this Fund was to help those counties that have lagged behind in terms of development to catch up. The rules and regulations need to be fast tracked so that we dispose of this matter and have the money that we have been allocating to the marginalised counties go to those specific counties and develop those counties. They need water, electricity and roads. They need to catch up with other counties which over the years have been favoured in terms of development.

With those many remarks, I second.

(Question proposed)

Hon. Deputy Speaker: Hon. Samuel Gichigi.

Hon. Gichigi: Thank you, Hon. Deputy Speaker. I also rise to support this Bill. It is very sad that we are going to support this Bill merely for purposes of passing it. The things that the Senate has done to the Division of Revenue Bill and, now, The County Allocation of Revenue Bill are actually disturbing.

First of all, let us agree that the money we are discussing here has come from the national Government as revenue collection. There is not a single shilling from what has been collected by the county governments. The Senate does not seem to be keen at all on where money comes from. Just a few weeks ago when we were handling the Division of Revenue Bill, they increased the money. When they were asked where the money was going to come from, they appeared not to care. Again, they have removed money from the Development Vote of the counties and when the governors are asked which Development Vote that money is going to come from, they do not seem to care.

It is high time that the Parliamentary Service Commission (PSC) took the Senators for some training on financial management. This is because clearly we have a big problem. The CRA, CoB and the Council of Governors (CoG) were opposed to this addition that the Senate has made. The Senate, merely to be seen to be doing something, decided to increase this based on nothing. They are giving them money merely because they have requested.

Sometimes I feel bad about this Constitution. I wish the laws were very clear and we did not share any roles with the Senate so that they can do their own thing without involving us. This Bill, which we are just about to pass because of time constraints, is bad. It is going to set a bad precedent. It is not good for the country and the counties yet we are forced by circumstances to pass it because of the time limitations and the other bits that we have no issues with. Before he signs this Bill, I ask His Excellency the President to make reservations on the additional funds by the Senate because they do not make sense. Let him speak to the CRA, the CoB, the CoG, the National Assembly and the National Treasury. The Senate is going to be isolated.

The other issue that I would like to mention is on absorption. It is very painful when I see my county and other counties get money from the National Treasury and yet the rate of absorption is quite low. When we talk about developing this country at a growth rate of say 5 per cent, it is based on proper and timely usage of finances. For example, if you are going to earn Kshs100,000 from a building which you are constructing for rentals, then you do not use the money to build that house, at the end of the year you will not have received that income. If both the national and county governments do not use the budget they are given timely especially for development, the predictions of economic growth in the country will remain just pipe dreams. It is not going to happen. We will keep on rolling over proposed projects to the next years. I ask counties to improve on absorption.

The other thing is prioritization. Let us make sure that what we have as the national vision, the Vision 2030, the national Government and the county government officials should sit together and rationalize so that they harmonize what is happening at the county and what is happening at the national level. It is very bad that the county government is taking a different route while the national Government is taking another. We are not sitting down to develop this country. Each level of government is doing its own thing. There is a lot that needs to be done between the two levels of governments.

Hon. Deputy Speaker, painfully, because of our timelines and the other provisions that we must pass, I support.

Hon. Oyugi: Thank you, Hon. Deputy Speaker. Like my colleagues who have spoken before me, and since it is a Procedural Bill that we have to pass for purposes of having money in the counties, I support this Bill.

Hon. Deputy Speaker: Hon. Neto, just give me a minute to recognize in the Public Gallery the presence of Ogande Mixed Secondary School, Homa Bay Constituency, Homa Bay County. You are welcome.

Hon. Oyugi: Thank you, Hon. Deputy Speaker. Ogande Mixed Secondary School, you are very welcome. That is my home county. I am really privileged and honored that they are here. I am sure Hon. Peter Kaluma is very excited that his villagers are here. That is actually from his rural home. He must be very impressed. I will speak on his behalf.

Hon. Deputy Speaker, colleagues who have contributed before me have said that the County Allocation of Revenue Bill ought to come slightly earlier than it has come right now. It is supposed to help us canvas all these small issues in terms of allocation of monies to the various counties in a manner that is proper; in a manner that will not show the Senate and the National Assembly in some sort of engaging in antagonism.

Moving forward, we need to fast track the Budget making-process in such a manner that the County Allocation of Revenue Bill is discussed in good time, perhaps in the month of April.

The second thing I would like to disagree with Hon. Gichigi and I am hoping that he is listening is, is to the extent that he wants the President to veto reservations in The County Allocation of Revenue Bill. The Presidential veto on Bills is a special veto. It cannot be used constantly. It is supposed to be used under exceptional circumstances that the National Assembly and the Senate ought not to be in conformity. Having agreed that there are several things that are wrong with this Bill, for purposes of moving forward, as a country, and for purposes of attaining harmony, let us just proceed with it. If we get the timings right, then I think it would be possible to harmonize the various problems in this Bill with the other Bills that give money to counties.

Thirdly, Hon. John Mbadi, my very good friend and Chairman, spoke to the fact that there is need to reduce the number of MCAs. Whereas that looks fine, I think what we need to do to the county assemblies in the various wards, is to fix the number of wards in the Constitution so that we are able to predict how many wards we have in the country, plan for them and the allocation of monies is predictable as opposed to reducing the number of MCAs.

I like the fact that this Bill allocates money to my county of Homa Bay. I am hoping that my governor, His Excellency Awiti, does a good job with the money that the county will be given. Constantly, we have had issues with various governors in terms of how---

Hon. S.S. Ahmed: On a point of order, Hon. Deputy Speaker. I only know of two "His Excellencies": One is the President of the country and the other one is the Deputy President. Can my dear brother tell me which other "His Excellency" we have in the country? There is an Act on this matter. We cannot call these governors excellencies. I think we need to stop doing that.

Hon. Oyugi: Thank you, Hon. Deputy Speaker. I would like to see the Governor of Homa Bay, Hon. Cyprian Awiti, putting money into good use. I am hoping that the County of Homa Bay improves in terms of development issues.

I would like to particularly look at issues of health in Homa Bay County. A lot of money has been allocated towards this end. I hope that the status of Homa Bay County District Hospital improves; that healthcare improves and workers are paid because over the past couple of days, we have had county government monies not allocated to useful functions that the various counties ought to perform.

I like the fact that there is conditional allocation of monies to various county functions. However, as much as we want to support the conditional allocation of money into county

functions, the national Government also ought to be transparent in terms of dealing with county governments. We have had a back and forth decision on the leasing of medical equipment by the national Government on behalf of county governments. A conditional grant or a conditional allocation of monies to counties presupposes the fact that the national Government already knows the reasons why the money is being given and that is why it is a conditional grant.

So, to the extent that some county governments signed the leasing of equipment agreement without knowing what they are leasing, is to give them a mandate with one hand and also take that very mandate with another hand. We ought to be transparent in how we deal with the county governments. So, whereas some mandates are purely theirs, conditional allocation ought to be one that gives them a chance and room to make decisions because we have already made the money conditional.

The second thing is that we need to proceed and agree with county governments on issues of the road sector. What ought to be county roads? What needs to be national Government roads? Currently, what we have is that everyone in the county and national Government are using the Constituencies Development Fund (CDF) doing all manner of roads. Infrastructure in the rural areas especially roads is one of the most key things in terms of rural development. So, we have money being wasted or duplicity of resources simply because we have not agreed with county governments on what constitutes county government roads and what constitutes national Government roads. I am hoping that we can resolve this first enough so that all issue that deal with county, we agree that we already have a mandate and we are going to allocate them monies so that we avoid duplication of resources.

The other thing that I would like to speak to is the fact that we need to make county assemblies strong units. I do not know what the Senate has done with the monies they have given to the county assemblies but you appreciate that there are some MCAs who are supposed to be exercising oversight. But the oversight role is encumbered by the fact that some of their salaries, remuneration and packages are being paid by the governor's office. What then happens is that we end up with a couple of MCAs whose salaries and allowances are either doctored or not paid in good time simply because they are seen as prefects of doing the good job that MCAs are supposed to be doing.

We need to make county assemblies autonomous if at all we are going to have proper oversight on the county government funds. Unless county assemblies have autonomy or are in charge of their own purse and you have speakers of the various county assemblies relying on governors for little pocket money and little allowances to run their offices, you cannot have a county government functioning in that manner.

That is the same problem that the National Assembly suffered from for several years and that is the reason why for a long time, you found Members of Parliament dependent on the Executive. The only way a county government can function well is by ensuring that county assemblies have enough money and dependent on a vote. Whatever we can do to make that possible, we must disengage county assemblies from county governments so that the executive of county governments and the county assembly are two distinct units autonomous in the manner that they work.

[(Hon. Deputy Speaker left the Chair)]

*[The Temporary Deputy Speaker
(Hon. Kajwang') took the Chair)]*

Hon. Temporary Deputy Speaker, the other thing that I would like to speak about is the need to relook at the revenue allocation formulae. It is true that the people who pay taxes in terms of population, some of them have not been able to get a lot of money. Some counties are fairly poor. They may not have been sparsely populated or they may not have been marginalized for a long time. Whereas I like speaking about marginalized communities, it is also possible to understand that development is done for almost everyone else.

It is true that we have already created the Equalization Fund. We need to think about a formula if this is the role of the Commission for Revenue Allocation. Perhaps they want to borrow the formula that we use under the CDF because you have specific amounts of money being given equally to all counties. From there you can then put in the Equalization Fund in terms of ratios of poverty.

Hon. Temporary Deputy Speaker, if at all we re-work the formula; in terms of how the revenue to the various counties is allocated, then we will be moving forward and we will not have many issues.

With those many remarks, I would like to say that I support but with the fact that we really relook at The County Allocation Revenue Bill in good time or within the budget cycle so that, at least, we are not rushing just for the sake of procedure.

I thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, many of you have spoken very eloquently on this subject. It is the last tier on what we are doing. We have discussed this in very many fora. We still have a lot of business that we want to step onto. Whereas I do not want to gag you from debating, you can see that there is also a mood to step on to other businesses. Could I only hear issues which have not been spoken to? Now, I have heard issues on accountability, formula and so on, unless you have two things which a Member has not spoken to, please, so that we can save on time. Looking at your request list, it is very hard to know how to proceed because if all of you spoke, we will be here the whole evening.

The Member for Nakuru Town East, I will exercise a lot of discretion to try to limit you. If I see you do not have something to say, I will go to the next speaker. Yes, the Member for Nakuru Town East.

Hon. Gikaria: I am here. It is very difficult to contribute going by what you have judged. True to the fact, we will just---

The Temporary Deputy Speaker (Hon. Kajwang'): Try as much as possible to say only two things.

Hon. Gikaria: What we will be doing here is just to repeat what you were saying. I totally agree with you that you can even ask him to reply and we go to other business. There is nothing much per se but---

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you very much. Yes, the Member for Kitui Central.

Hon. Mulu: Thank you, Hon. Temporary Deputy Speaker. I will just say one or two things. In this Bill, there are two things which I think are important in terms of moving forward.

One, this Bill is stating that where funds have been irregularly issued to the county governments, there would be a way of recovering that money as we move forward.

The other thing which is important is that this Bill also demands that the money given by the national Government to the counties must be accounted for every quarter. To me, that is a very important matter. The only issue of concern is that if you look at this Bill, you will realise that we are using the audited revenue for 2012/2013 Financial Year meaning that we still have 2013/2014 and 2014/2015 which really, as a House, we need to help so that in future, the counties are able to get more money. If we use 2012/2013, that is two years behind.

The last thing is on the issue of the funds. Now that county assemblies are getting more money, it is important that the Controller of Budget intensifies the monitoring of these funds. You can see that we are concerned as the Budget and Appropriations Committee that more money is given to county assemblies but if the monitoring is intensified, then Kenyans will be able to get value for money.

Another area which is totally being ignored and which is very important is the issue of locally generated revenue at the county level. That issue is not being given the attention it deserves. It is important that we give it the attention it deserves.

Thank you for giving me the chance.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you for obliging. Yes, the Member for Kipkelion East.

Hon. Limo: Thank you, Hon. Temporary Deputy Speaker. One thing which I want to put across is that I hope the Senate is watching how we are debating this Bill. There have been two issues here. Most of the people in this country do not differentiate between the Division of Revenue Bill which ideally belongs to this House and the County Allocation of Revenue Bill which belongs to Senate which we are now discussing.

This House has shown a lot of respect and a lot of maturity in discussing this Bill. It has considered the fact that there are many issues in this Bill which could bring a dispute. However, we are looking at "materiality" and we are saying soberly that we respect what the Senate has said, but with a warning that they should be looking at this deeper than what they have done. They need to do that in consultation with many other stakeholders.

There is another thing which I want to mention. If you look at this allocation, the cap on Recurrent Expenditure is 17 per cent. What we will be watching as a country now, is whether there will be compliance. We have seen that many counties rarely reach 40 per cent of Development Expenditure. That means that they use 60 per cent on Recurrent Expenditure and yet the ceiling is put at 17 per cent. So, we are saying that the Controller of Budget should be seen to be cracking the whip. They should not be approving without cracking the whip on the counties. The country is crying. It is difficult to see real development in most counties at the grassroots level but the Recurrent Expenditure is on the upsurge. Therefore, I want to urge the office of the Controller of Budget to wake up and do its job.

The other thing is on conditional allocation. A conditional allocation is a protection for service delivery. When we say conditional grants to counties, it is like the funds have been ring-fenced. There is a wrong perception by many counties, especially on medical equipment. The medical equipment is leased by the national Government using the national Government funds. But now, this money has been conditionally allocated to counties so that they pay. There is information being peddled by some of the counties that this allocation, which is approximately

Kshs95 million per county, is like a repayment of a loan. We have to be very specific that this money belongs to the national Government but given to the counties so that they pay on behalf of the people of that particular county.

Finally, we need to insist that in future we are likely to see a new a wave of marginalisation. We must stand up and review the formula.

I support. Let us support for the sake of the country. We need to move forward. We need to ensure that development is done. We need to urge the counties to ensure that they deliver on their promises to the people and also ensure that there is sanity in spending.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): The other way of looking at it is that this is a function of the Senate according to Article 96. So, you do not have the primary function of allocating it. You are just called to approve. So, you need to toe the careful step of approving instead of trying to re-do the work which properly belongs to the Senate.

In any case, therefore, we will call both sides of the House whether to approve or not. So, you should be persuading each other whether to approve or to disprove. This is the case and yet I can see most of you are on the part of approving. Shall I hear those of you who are disproving so that we save time?

An hon. Member: Me here!

The Temporary Deputy Speaker (Hon. Kajwang'): It is very difficult to walk into the Chamber and you demand to speak immediately.

Yes, the Member for Rongo.

Hon. Anyango: Thank you, Hon. Temporary Deputy Speaker. I just want to take this opportunity, in supporting this allocation, to make a simple statement. There has been an argument that in The Division of Revenue we should give a minimum of 15 per cent of the audited revenues. There are two mistakes here that continue to drag on.

First, the audited revenues are two years old. For example, this one is for the 2012/2013 Financial Year. Then we start saying that we have given the county governments 37 percent of the audited revenues. Budgeting at national level, as we had gone through it, is based on current year; current year revenue as projected by the Treasury's current year expenditures. We are denying the county governments the opportunity to apply the same budgeting system as the national Government is budgeting. This is because of a perceived audit limitation and it is a fallacy.

Currently, all we need is audited revenues. The Auditor-General can give us audited revenues within 90 days of the end of any quarter so that the very way we budget for the national Government, we can budget for the county governments. The Auditor-General should submit to the National Assembly the audited revenues not later than 90 days at the end of each quarter. We should be talking about a minimum of 15 per cent of that audited revenues not older than 90 days at the end of a quarter. When the national Government is beginning to submit the Supplementary Estimates after looking at the outstanding revenue, similarly, we should allow the county governments to do Supplementary Estimates, again, based on current audited revenues not older than 90 days. If we are increasing supplementaries because we have collected more money in a particular time, then the county governments similarly should benefit from revised revenue turn out. That is if the Kenya Revenue Authority (KRA) collects more revenues. That way we shall be talking about the current 15 per cent of audited revenues. The limitation that we have been

entertaining here is audited revenue. We are tying audited revenues with audited appropriation accounts for the ministries which cannot be ready within 90 days.

However, it is very simple to audit ordinary revenues within 60 days. You ask KRA how much revenue it has collected and whether it has reached the Exchequer Account. You confirm at the Central Bank of Kenya (CBK) and the KRA and then table to the National Assembly the audited revenues for the last quarter of the year. If we can be current by December, we shall have done nine months.

By June next year, we would have done a full three quarters of the year. We should allocate that minimum of 15 per cent so that we can stop cheating the county governments that we have given them 45 per cent of ordinary revenues which are two years old. Because we tied the auditing of revenues to the auditing of the appropriation accounts, I appeal to the Budget and Appropriations Committee that they should discuss with the National Treasury so that we separate ordinary revenue audit from appropriation account audit. We should be current every year for the county government and also for the National Assembly. That is my contribution on this.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. You need to take a look at the Public Finance Management (PFM) Act and the County Government Act. Because you have lots of experience in this matter and I can see a lot of expertise, sit down with those legislations and see to what extent you will add value to the Budget and Appropriations Committee. What you are saying needs to be tied and grounded on legislation to be able to guide those entities in the way you have debated.

Hon. Anyango: *(Inaudible)*

The Temporary Deputy Speaker (Hon. Kajwang'): I see. All right. Thank you. The Member for Likuyani, can you be short as your colleague has done? He has only pressed one point.

Hon. (Dr.) Kibunguchy: Thank you, Hon. Temporary Deputy Speaker. I will start off with Schedule 4 and I just want to understand it. I do not know whether the Chairman of the Budget and Appropriations Committee understood Schedule 4 because if you look at it, you will realise that the Recurrent Expenditures of the county assemblies vary a lot. They are not proportional to the amount that is allocated to those counties. However, the Executive Recurrent Expenditure is almost the same across the board. That to me is worrying.

I wanted the Senate to help us. We are going to pass this but the Senate needs to help us and the country in insisting that the counties should look at the Constitution very clearly and know their functions. The core function of the counties in this country is health. If you visit most counties, you will find that the health docket is in a sorry state. The other major functions of the counties are agriculture, water, trade, Early Childhood Development Education (ECDE) and youth polytechnics. When it comes to roads, the differences are not very clear.

The other area that the Senate can help this country is on local revenue because it is never clear how much revenue is collected locally. This is not very clear even in my own County of Kakamega. It is not clear whether when they do their budgeting, this revenue comes in the budget or not or the county is just depending on the allocation from the national Government.

I have always said that the spirit and clamour for devolution in this country was not meant that primarily money should come from the national Government. It was meant to bring the Government close to the people, let the people in those respective counties know what their

local resources are and what can be exploited for them to generate money and jobs for our youth. I have always said that because if we just depend on the money that comes from the national Government, then the difference between the county governments and Constituency Development Fund (CDF) is not there. The Senate should help us look at each county. Each county has its own unique features and opportunities. If those opportunities can be exploited, we can generate revenue at the local level and more importantly, generate jobs for our youth.

I have to revisit this whole question of medical equipment. As a medical doctor, the amount of money that goes to the medical equipment keeps changing and rising all the time. I am in the Departmental Committee on Health and we started off with Kshs3.2 billion and then it rose to Kshs3.8 billion.

Lastly, when we were talking, it was Kshs4.2 billion but it is now Kshs4.5 billion in this Report. I do not know why these figures keep rising all the time or is this mega corruption that is staring us in the eyes?

Finally, I would like to leave the House and the country with a popular English saying: "What is good for the goose is good for the gander." For that, I mean that any revenue that goes to the county needs to percolate further down. If the counties are going to insist on 45 per cent, that money once it reaches the county headquarters needs to go further down with the same formula and percentage to the sub-counties and wards. That is what I mean by: "What is good for the goose is good for the gander."

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon.Kajwang'): Thank you. The Member for Ainamoi, what is the intervention for?

Hon. Langat: Hon. Temporary Deputy Speaker, judging from the mood of the House, your advice and the business before us, may I request that the Mover be now called upon to reply so that we spend our time wisely and efficiently?

The Temporary Deputy Speaker (Hon.Kajwang'): I agree with you but let me hear the sole voice of the Member who is opposing the passage of this legislation for just a few minutes. After that I will hear a word from the Member for Seme for only one minute.

Finally, I will hear a word from the Leader of the Majority Party in that order.

Yes, the Member for Kiharu.

Hon. Kang'ata: Hon. Temporary Deputy Speaker, one thing that I have noticed from this Bill is that it does not capture the formula.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, there are more succulent businesses before us. If you do not get to speak on this, you certainly will speak on several others that are before us and they are juicier than what we are prosecuting right now.

Proceed.

Hon. Kang'ata: Hon. Temporary Deputy Speaker, this Bill does not denote the formula that is going to be used to give the various counties money. I have looked at the power which is donated by the Constitution to the CRA which includes advising and recommending on how that money will be divided amongst the counties. This means that it is not the work of the CRA to decide what each county gets. The entity which decides who gets what money is Parliament namely, the National Assembly and the Senate. Therefore, that formula, in my estimation should be provided in this Bill. We do not have any other law under which you can capture that formula.

The Temporary Deputy Speaker (Hon. Kajwang'): Is that formula not the foundation that this Bill is based on? Have you looked at Article 96(3)?

Hon. Kang'ata: Yes, Hon. Temporary Deputy Speaker, I have looked at it. That formula only sets out the parameters. For instance, it talks about fiscal responsibility, but it does not give it weight. For instance in population, it does not say what weight is going to be attached to it.

The Temporary Deputy Speaker (Hon. Kajwang'): Why do you need this formula in the National Assembly when it is before the Senate when considering Article 96(3)? Yours is to approve or not to approve what the Senate has done.

Hon. Kang'ata: Hon. Temporary Deputy Speaker, to the best of my understanding, the best course of action would have been for the CRA to propose the criteria, for instance, in terms of population, land or geographical area and allocate the amount each should get. It should then recommend to the Senate and the Senate comes up with the final formula. That formula should be provided as a Schedule in this Bill and it is for us to discuss that. This has major implications. I have done calculations which show that, indeed, the way we have been giving money to the respective counties has been very unfair.

I have made effort to compare, for instance, the two forms of registers that we have namely, the Population Census, 2009 and the Voter Register. When I compare those two forms of data, I see big disparities particularly when you divide revenue. For instance, if you take the revenue going to Kisumu County and divide it with population as given in the Population Census, 2009, you will see the ratio and the amount of money that goes to a person in Kisumu. If you do such a division, you will see that, indeed, you need a representation---

The Temporary Deputy Speaker (Hon. Kajwang'): The Member for Garissa Township, what is your point?

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Speaker. Is my good friend, the Member for Kiharu, in order? The same House in which he sits approved the formula from the Commission for the Implementation of the Commission that is mandated by the Constitution. The formula has been approved and the Senate is using that formula to allocate money to the counties. Is he in Order? He is now taking us back.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you, the Member for Garissa Township. The Member for Kiharu, take that as information. Be advised because I think there is some substance in that information.

Hon. Kang'ata: Hon. Temporary Deputy Speaker, just to mention, it comes in form of a Report, but I am talking from my own understanding. It ought to come in form of a law. It should be captured in this Bill.

Finally, I raise the issue of Quorum. We do not have quorum in the House.

The Temporary Deputy Speaker (Hon. Kajwang'): Order! Sit down! Let us have the Member for Seme.

Hon. (Prof.) Nyikal: Thank you, Hon. Temporary Deputy Speaker. I will only raise two points. As we are passing this Bill, you get the feeling there is not enough time. That has come about because of the delay that we got around The Division of Revenue Bill discussions between the two Houses.

My view is that there is no good harmonisation between the Budget process at the county and the Budget process at the national level. By the time we get to the Budget Policy Statement,

which often looks like it is a Budget Policy Statement for the national Government and not for the counties, which I do not think is right, we have not heard anything and that is the time the County Fiscal Strategy Paper is being prepared. My view is that there should be harmonisation between the two, so that there is a fairly good estimate or figure of what is expected for the county. It should not just be merely the CRA formula and the 15 per cent constitutional need.

That can be possible because much earlier, there is a fairly detailed discussion at the Intergovernmental Economic and Budget Council (IBEC) that can feed into the Budget Policy Statement. I think that will help us.

Secondly, as a country, even though we have county governments and the national Government, we are one country. At the grass root level, the services serve everybody. Therefore, there is need for more coordination in the duplication of funds at the county level.

I will just give you two examples on where duplication can occur. For example, in the water sector, we have water boards that are still being financed from the national level and they have considerable amount of money.

In agriculture, there is money that goes into irrigation and other services and there is money that also goes to agriculture at the county level.

In health, you have just heard the issue of equipment. So, the Intergovernmental Relations Secretariat, which is being set up needs to take time and look at these details so that as we proceed with devolution, we find the finer moment that will make it smooth, well harmonised and the money is used efficiently.

The Temporary Deputy Speaker (Hon. Kajwang'): All right. The Member for Nambale, do you have your card with you now? Take some two minutes just to state what you have to say.

Hon. Bunyasi: Thank you, Hon. Temporary Deputy Speaker. I support this Bill, but I have some comments that I would like to make. Resource use efficiency in the counties has not been high by the assessments done by the Office of the Controller of Budget. When absorptive capacity issues are being raised about counties, we ought to understand the resource flow timetables. We need to know when the resources arrived at the disposal of the counties to understand whether, indeed, it is a capacity issue or there are other restrictions in the way resources are flowing.

Secondly, it is my strong belief that although we have calls that resources need to get down to the grassroots, if I was a governor, I would never run a county efficiently if I have to equalise flows down to the grassroots. This is because it depends on the priorities that you have. You can get key priorities in one corner of the county and look at a long period of time to see if there is a balance or no balance. You cannot do that with every Budget otherwise, it becomes an arithmetic question. It cannot be a development strategy. It will be a failing strategy.

There must be an element in which we allow people in the county to control how these resources are used. We should kick out people who are unable to push resources to priority areas that make a difference in their lives and not simply seek equalisation. If we want to equalise, we should go to income transfer arrangement and simply equalise income transfers. These are development funds which must depend on strategies and priorities.

As I conclude on this point, there must be a point at which we can see the resources that are coming out of the counties. I would like to see a conditional grant that depends on the amount of resources, in some proportion, that are raised locally by the county. That will be an

inducement for them to mobilise their own resources. One such calling from the centre, that seems to leverage that money, needs to show. We need to have some understanding on whether or not the counties are also making any effort to increase their resource collection.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, the Leader of the Majority Party. Give him the microphone.

Hon. A. B. Duale: Thank you, Hon. Temporary Deputy Speaker. From the outset, I want to refer the House to Article 216 of the Constitution that states the functions of the CRA. Article 216 (5) says:

“The Commission shall submit its recommendations to the Senate, the National Assembly, the national executive, county assemblies and county executives.”

The formula that is before this House, which was used in the county revenue allocation, is here legally. It came before the National Assembly in 2013, we approved it and the Senate has agreed with it. Hon. Member for Kiharu, if you have any issue with that then you are under obligation to bring an amendment through public participation.

This is a very important Bill for the Senate. Under Article 96, this is one of the Bills that is important in the creation of the Senate. It is a Bill that was supposed to originate from the Senate and is before this House for concurrence. The formula, as I have said, is approved by the National Assembly and the Senate.

I want to look at how the Kshs287 billion has been shared. The ten counties from the pastoral communities are getting over Kshs70 billion of this amount of money. We supported the Constitution in 2010 because we have never produced a President, Prime Minister or Vice-President. We were marginalised. The best we have reached in this Government is with the Speaker of the Senate who comes from a marginalised area. We were not fortunate enough to produce prime ministers, presidents and vice-presidents.

Hon. Members: Yes, the Leader of the Majority Party.

Hon. A.B. Duale: And a small position of the Leader of the Majority Party. Because my people did not have the opportunity to produce the many successive vice-presidents, prime ministers and presidents, we were marginalised.

We have no roads, we have very poor healthcare systems, we have no water and the education sector is now crumbling at the mercy of the Al Shabaab threats. We thought our saviour would be the devolved system of government. Today, I am happy that we are receiving over Kshs70 billion of the Kshs287 billion. We expect more roads, healthcare facilities and better facilities in the education sector. I hope the governors, county assemblies and the county executives from that region will make history in that the money allocated under the new dispensation will be to the benefit of our people.

I am happy this morning that in this Bill, the Senate has allocated more resources to county assemblies for them to have staff, offices and the capacity to oversee the county governments.

If you look at the Kshs10.67 billion which has been given by the development partners, you will find that about 40 per cent is going to the marginalised counties. If you look at the health equipment that the national Government is partnering with the county governments---

I was driving from Makueni and I decided to go through Machakos and see what Hon. Mutua is talking about. I went to that hospital about 10 days ago. If you see the new Machakos

Level 5 Hospital, in terms of cleanliness and equipment, it is a hospital that you can now say is better than Kenyatta National Hospital (KNH). If 94 hospitals in the 47 counties can be transformed to what I saw in Machakos County, then Kenya will transform in terms of the healthcare.

With regard to the Equalisation Fund for the 14 counties, as much as the money is in a safety basket, the Cabinet Secretary for the National Treasury should now, through the Budget and Appropriations Committee Chairperson, operationalise the money and the regions must receive their share. There is over Kshs10 billion now in the kitty. My problem is that as this House oversees the national Government, the county governments must be overseen by the Senate. Each and every penny of the Kshs287 billion must benefit the people of Kenya.

A lot of us have become victims of governors. Personally, I do not want to vie to become a governor. However, if you walk round the country, and I want to say it from the bottom of my heart, or if you visit the 47 counties, you will find that the governors and the county executives are our people. They are our friends and relatives and they are Kenyans. If you visit these 47 counties, starting with Nairobi County where this Parliament is established, you will not see evidence of the billions we are allocating to county governments at work. I want our brothers, the governors, not to see us as politicians but as friends. That all of us together, the National Assembly, the Senate, governors and the national Government, work towards making sure that we change the lives of our people and more of our people leave the poverty bracket.

Where is the problem? The problem is in many institutions. The problem is in the Auditor-General's Office. We have allocated a lot of money. We want the Auditor-General to make sure that each and every penny is accounted for. The other problem is in the Office of the Controller of Budget. The Controller of Budget must make sure that the Budget and Appropriation Bill presented to that Office must be one that has been passed by the assemblies and not one that is coming from the governors.

We want our brothers and sisters who work for the Ethics and Anti-Corruption Commission (EACC) and the Office of Director of Public Prosecutions (DPP) to do their job. We made those four offices to be independent, namely, the offices of the DPP, the EACC, the Auditor-General and the Controller of Budget. I had the benefit of serving in the last Parliament. We made those four offices independent and only answerable to the National Assembly so that they can fight the war against corruption.

Today, people are blaming the President and yet his hands are tied. The best he can do is to sack a member of his Cabinet or the national Executive. For that, he must get enough evidence as presented by the EACC. We are making it very clear from the outset that the onus on how to fight corruption lies with those independent bodies.

Hon. Temporary Deputy Speaker, I want to ask my colleagues - especially the chairpersons of the committees that oversee those bodies - to ensure that all the money that we, as the National Assembly, allocate to those institutions, positively impact the lives of Kenyans. The Kshs287 billion that will go to the 47 counties is not little money; it is not a drop in the ocean. It is money that can transform the lives of our people by between 20 to 30 per cent. We want to indulge our governors that we need to put our politics aside in the remaining two-and-half years and focus on positive change and transformation of the lives of our rural and urban populations. We cannot implement a Kshs2 trillion Budget and have no development in the country. We must see to it that the money that we allocate to the national Government, the

Constituencies Development Fund (CDF) and county governments transform the lives of Kenyans.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Langat, what was your intervention about?

Hon. Langat: Hon. Temporary Deputy Speaker, I was asking that we call upon the Mover to reply, given the mood of the House. Everybody seems to be supporting with reservations. May I request that you call upon the Mover to reply?

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

Hon. Musyimi: Hon. Temporary Deputy Speaker, I beg to reply.

Let me begin by thanking hon. Members for the quality of their engagement in the budget-making process, which has been with us for the better part of the last five months. I thank hon. Members for the quality of their interventions. I assure them that we have taken note of what they have said.

Hon. Members should know that this is the second Budget we are doing in earnest. That is because the 2013/2014 Budget was largely inherited from the former regime. The Budget that we have been squarely responsible for is for 2014/2015. I have watched the learning curve, especially on deliberations in this Chamber, in terms of the way we have engaged ourselves in this process. As the Chairman of the Budget and Appropriations Committee, I have been impressed. There have been a lot of lessons to learn. Many useful contributions have been made. There are plenty of lessons for us, as the Committee, to reflect on. I want to assure hon. Members that, with God’s help, we will do a fairly better job in the next round.

Hon. Temporary Deputy Speaker, we have given the oversight institutions a lot of money and, not least, the Office of the Auditor-General. The money that was given to the Auditor-General in the last financial year was Kshs3 billion. In the 2015/2016 Budget, we have upped that figure to Kshs4.1 billion. I hope that the Auditor-General will be seized of his responsibilities as there are many budget centres he must audit. As a Committee, we propose that this amount be adopted by this House to give the Auditor-General the capacity to audit the Judiciary, Parliament, National Government, independent commissions and county governments. As we wait for the report from the Controller of Budget on where we can improve going forward, I trust that we will learn and reflect on such reports and act on them.

Hon. Temporary Deputy Speaker, there are issues of fundamental nature that have come up. We have the socio-economic audit process, to which some of the interventions that we have made probably belong. We have given that process Kshs120 million, hoping that it will be concluded in October, 2015. Some of the questions that have been raised about the shared mandate between the two Houses of Parliament and the size of the county assemblies are fairly fundamental. Our society needs to ask such questions as we roll out the new Constitution.

Looking at the 11th Parliament, especially the National Assembly, I am very privileged to note the depth of patriotism and commitment by its membership. Ideological and political opposition notwithstanding, there is a general sense that we are in this together. For example, as one would watch the process of trying to get this country a new constitution for some time, the

fight was about resources and political power. That is what our people were struggling for around the time of *mlolongo* in 1998. We gave ourselves a new Constitution, courtesy of the Kenyan people. Now that we have it, I hope that we will implement it well for the benefit of our people. If the quality of the lives of our people does not improve, what is the new Constitution for? The usefulness of the new Constitution must be determined and judged by the extent to which the quality of the lives of our people improves. If it does not improve, we must go back to square one.

I am glad that there is clear evidence that the new Constitution is gaining traction, and that there is better citizenry involvement. As we listen and learn from each other on both sides of the aisle, there will be much to be heard going forward.

Hon. Temporary Deputy Speaker, I thank the National Assembly from the bottom of my heart for its patient engagement and perseverance, and for the manner in which we have conducted ourselves as we sought to give our country a new Budget. We were able to make difficult decisions about the most sensitive of all the subjects that money is.

With those remarks, I beg to reply.

The Temporary Deputy Chairman (Hon. Kajwang'): Very well. I order that the business appearing as Order No.11 in the Order Paper be published in tomorrow's Order Paper for purposes of taking a vote on it.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

*[The Temporary Deputy Speaker
(Hon. Kajwang') left the Chair]*

IN THE COMMITTEE

*[The Temporary Deputy Chairlady
(Hon (Ms.) Shebesh) took the Chair]*

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, we are in the Committee of the whole House to consider two Bills; namely, the Securities and Investment Analysts Bill (National Assembly Bill No. 21 of 2014) and the Water Bill (National Assembly Bill No. 8 of 2014). We will start with the Securities and Investment Analysts Bill (National Assembly Bill No. 21 of 2014).

THE SECURITIES AND INVESTMENT ANALYSTS BILL

Clause 3

Hon. Langat: Hon. Chairlady, I beg to move:-

THAT, Clause 3 of the Bill be amended in subclause (1) by deleting the words “Securities and Investment” and substituting therefor the words “Investment and Financial”.

Hon. Temporary Deputy Chairman, during debate in the Second Reading of this Bill, there was a proposal that the name and abbreviation of the institute be changed. We subsequently consulted with stakeholders and I am moving this amendment to take care of that. I propose that both the title and the name of the institute be changed. The institute will now be called “The Institute of Investment and Financial Analysts.” So, the amendment I am proposing is just to reflect that change, which I will come to later on.

(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)

(Clause 3 as amended agreed to)

Clause 4

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 4 of the Bill be amended—

(a) in subclause (1), by—

(i) deleting the word “is” appearing after the word “registered” and substituting thereof the words “under Section 16 of this Act as”;

(ii) deleting the acronym “IA” and substituting therefor “FA”;

(b) in subclause (2),—

(i) paragraph (a), by—

a. deleting the words “Securities and Investment” and substituting therefor the words “Investment and Financial”;

b. deleting the acronym “FCSIA” and substituting therefor “FCIFA”;

(ii) paragraph (b), by—

a. deleting the words “Securities and Investment” and substituting therefor the words “Investment and Financial”;

b. deleting the acronym “CSIA” and substituting therefor “CIFA”;

(iii) paragraph (c), by—

a. deleting the words “Securities and Investment” and substituting therefor the words “Investment and Financial”;

b. deleting the acronym “ACSI A” and substituting therefor “ACIFA”;

There are two things that this amendment seeks to achieve. One is to correct editorial errors. The second one is again arising from the change of name and abbreviations in Clause 4. Clause 4(1) says:-

“Each person who is registered as a member of the institute shall be allowed to place the prefix the term “IA” before the person’s name.”

However, following the proposed changes, it changes from “IA” to “FA” so that it becomes “Financial Analyst so and so”.

Thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, be sure to put your cards in the console if you want to speak to this matter. I can see names of some Members who are not even here. Is Hon. Peter Kaluma here?

Hon. Langat: He is represented by his card.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay.

*(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)*

(Clause 4 as amended agreed to)

(Clause 5 agreed to)

Clause 6

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): On Clause 6 we have amendments by both the Leader of the Majority Party and the Chairperson of the Committee.

The Leader of the Majority Party.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Chairlady. I beg to move:-

THAT, Clause 6 of the Bill be amended in subclause (1) by inserting the word “profession” immediately after the words “securities and investments”.

That is a very clear matter. I am only trying to widen the gap so that apart from taking care of securities and investments, we can also take care of Kenyans who have gone to school and are in that profession. I have agreed with the Chairperson of the Committee on this.

Hon. Langat: I support, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

*(Question, that the word to be inserted
be inserted, put and agreed to)*

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Langat, move your amendment.

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 6 of the Bill be amended—

(a) in subclause (1) by deleting the words “securities and investments” and substituting thereof the words “investment and financial analysts profession”;

(b) in subclause (3) by—

(i) deleting the words “Securities and Investments” and substituting therefor the words “Investment and Financial”;

(ii) by deleting the phrase “Hon FCSIA” and substituting therefor the phrase “Hon FCIFA”.

Again, this is coming as a consequence of the change of name.

(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)

(Clause 6 as amended agreed to)

Clause 7

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Chairperson of the Committee.

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 7 of the Bill be amended in subclause (1) by deleting the word “matter” before the word “provided” and substituting therefor with the word “manner”.

This is basically to correct a typo.

(Question of the amendment proposed)

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

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

(Clause 7 as amended agreed to)

Clause 8

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Members, on Clause 8, we have two amendments - one by the Chairperson of the Committee and the other one by the Leader of the Majority Party. If that of the Chairperson of the Committee is carried, the amendment by the Leader of the Majority Party will fall.

We will start with the Chairperson of the Committee.

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 8 of the Bill be amended—

- (a) by deleting paragraph (a);
- (b) in paragraph (b) by inserting the word “ethical” before the word “practice”;
- (c) in paragraph (e) by deleting the words “financial, securities and investments” and substituting therefor the words “investment and financial”;
- (d) in paragraph (g) by inserting the words “and integrity” immediately after the word “ethics”.

I want my good friend, Hon. Duale, to relax because we are talking about the same thing. You are only proposing deletion of paragraph (a), which is what I am also doing. We are also proposing a consequential amendment as per what I have explained earlier.

Clause 8 deals with the functions of the Institute which has been created. Clause 8(a) says:-

“The functions of the Institute shall be to:-

- (a) advise the Cabinet secretary on matters relating to securities and investments in all sectors of the economy.”

After consultations with the relevant ministry and other parastatals under the National Treasury, they say that function is already reserved for the Capital Markets Authority (CMA). Therefore, it might lead to conflicts between the two institutions as regards to the advice. Personally, I think advice can come from as many sources as possible because it is just advice. However, so that we avoid the conflicts, we proposed the deletion.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Duale.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Chairlady. The Chairperson of the Departmental Committee on Finance, Planning and Trade thought he is the custodian of everything but now, he has listened to the advice of experts, including myself, CMA and CS for Devolution. I agree and support him, but you do not create institutions to take powers from other institutions. Kudos to the Chairperson! Please, keep on listening to others. If you do that, you will go very far. You might become the President of the Republic of Kenya.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Leader of the Majority Party, can you confirm that you have withdrawn your amendment to Clause 8?

Hon. A.B. Duale: Yes, I have withdrawn my amendment to Clause 8.

(Proposed amendment by Hon. A.B. Duale withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Sorry, Hon. Makali. I know that you wanted to speak to this amendment but I forgot when I gave the Leader of the Majority Party an opportunity.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairlady. This is an area I have a bit of expertise in. I am concerned that we really want to restrict generation of advice to one institution. This area is a very complicated one and if I were the person being advised, I would not mind getting advice from many sources as long as I am able to pick which advice makes sense to the person being advised based on the current situation. Since it seems the Chairman of the Departmental Committee on Finance, Trade and Planning and the Leader of the Majority Party have agreed, I will go by that. But I think there is no harm for that particular body advising the Capital Markets Authority (CMA) so that, that advice is channelled and we have more sources of advice.

Thank you, Hon. Temporary Deputy Chairlady.

*(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)*

(Clause 8 as amended agreed to)

(Clause 9 agreed to)

Clause 10

Hon. Langat: Thank you, Hon. Temporary Deputy Chairlady. I beg to move:-

THAT, Clause 10(1) of the Bill be amended by deleting the word "boards" and substituting therefor the word "committees"

If you check the Bill, Clause 10 relates to formation of sub-committees of the board. In the printed Bill, they are calling them "boards". It reads:

"The Council may establish such boards as may be necessary for the performance of the functions of the institute."

So, we said the standard practice has been that, if you are the main board, you form sub-committees which you do not call boards. The amendment is aimed at best practice, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

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

(Question, that the word to be inserted in place thereof)

be inserted, put and agreed to)

(Clause 10 as amended agreed to)

(Clause 11 agreed to)

Clause 12

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 12 of the Bill be amended by inserting the following new subclause immediately after subclause (1)—

“(1A) The Secretary shall be the Chief Executive Officer of the Institute.”

This relates to the function of the Secretary of the Council or Institute. What we simply said as the Departmental Committee on Finance, Planning and Trade – because it was not clear in the Bill – is this: “Let us make it clear that the Secretary to the Council shall also be the Chief Executive Officer (CEO) of the Council just as it is the standard.”

(Question of the amendment proposed)

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

(Clause 12 as amended agreed to)

Clause 13

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): We have two amendments there. I start with the Chairman of the Departmental Committee on Finance, Planning and Trade.

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 13 of the Bill be amended—

(a) in subclause (1), by—

(i) deleting the word “board” and substituting therefor the word “committee”;

(ii) deleting the words “Registration and Quality Assurance Board” and substituting therefor the words “Registration Committee”;

(b) in subclause (2), by—

(i) deleting the word “Board” and substituting thereof the word “Committee”;

(ii) inserting the word “for” immediately after the word “responsible” appearing in paragraph (b);

(c) in subclause (3), by—

(i) deleting the word “Board” and substituting therefor the word “Committee”;

- (ii) deleting the words “financial securities and investments” and substituting therefor the words “investment and financial” in paragraph (a);
- (d) in subclause (4) by deleting the word “Board” and substituting therefor the word “Committee”;
- (e) in subclause (5) by deleting the word “Board” and substituting therefor the word “Committee”;
- (f) in subclause (6) by deleting the word “Board” wherever it occurs and substituting therefor the word “Committee”;
- (g) in subclause (7) by deleting the word “Board” and substituting therefor the word “Committee”;
- (h) in subclause (8) by deleting the word “Board” and substituting therefor the word “Committee”;
- (i) in subclause (9) by deleting the word “Board” and substituting therefor the word “Committee”;
- (j) in subclause (10) by deleting the word “Board” and substituting therefor the word “Committee”

This is basically to move to standard practice where sub-committees are referred to as “committees” and not “boards”. That is one.

Two, all the amendments are to convert it from “board” to “committee”. That is the standard practice. That is the summary of my amendments. Although they appear many, they are consequential.

(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)*

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 13 be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (d)-

“(da) one person nominated by the Capital Markets Authority”;

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Leader of the Majority Party, you are further amending.

Hon. A.B. Duale: Yes! I am further amending because the Chairman of the Departmental Committee on Finance, Planning and Trade was ahead of me.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Okay. Just indicate it is a further amendment.

Hon. A. B. Duale: Thank you, Hon. Temporary deputy Chairlady. I beg to move a further amendment:-

THAT, Clause 13 of the Bill be amended –
in subclause (2), by inserting the following new paragraph immediately after paragraph (d)-

“(da) one person nominated by the Capital Markets Authority”;

We are dealing with securities and investments as it is the title of this Bill. You cannot leave the regulator from having a membership in the committee. I have agreed with the Chairman of the Departmental Committee on Finance, Planning and Trade that, that was an oversight which happened in the Bill. I am only saying that the Capital Markets Authority (CMA), as a regulator and player in the industry, should have one member among the many other members in the committee.

(Question of the further amendment proposed)

Hon. Langat: Thank you, Hon. Temporary Deputy Chairlady. I wish to support that amendment because CMA is a regulator of the financial sector. This section relates to registration and quality assurance. We can only make it better if we have the regulator of the financial sector on board. I support my good friend, the Leader of the Majority Party, who earlier on prayed for me to rise even to become the President in future.

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

(Clause 13 as amended agreed to)

Clause 14

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chairman of the Departmental Committee on Finance, Trade and Planning.

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 14 of the Bill be amended—

(a) in subclause (1), by—

(i) deleting the words “financial, securities and investment” and substituting therefor the words “investment and financial”;

(ii) deleting the word “Board” and substituting therefor the word “Committee”;

(b) in subclause (2) by deleting the words “financial, securities and investment” and substituting therefor the words “investment and financial”;

(c) in subclause (3) by deleting the word “Board” and substituting therefor the word “Committee”;

(d) in subclause (5) by deleting the words “one million” and substituting therefor the words “two hundred thousand”.

This is to align it to the change of name and, of course, changing from “board” to “committee.”

I think those are the amendments. It is the same thing. In subclause (5), it deals with penalty if you make a willful, false or misleading statement and it was providing that such a person should be fined Kshs1,000,000. The Departmental Committee on Finance, Trade and Planning felt that, that is way too high and we said: "Let us reduce the fine to Kshs200,000".

*(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)*

(Clause 14 as amended agreed to)

Clause 15

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 15 of the Bill be amended—

- (a) in subclause (1) by deleting the words "financial, securities and investment" and substituting therefor the words "investment and financial";
- (b) by deleting the word "Board" wherever it occurs and substituting therefor the word "Committee".

Those are consequential amendments arising from change of name and changing the word "board" to "committee" so that we are on a standard practice.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Makali, should I give you the opportunity now? You wanted to say something.

Hon. Mulu: No, Hon. Temporary Deputy Chairlady.

*(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)*

(Clause 15 as amended agreed to)

Clause 16

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 16 of the Bill be amended—

- (a) in subclause (1)—

- (i) by deleting the words “securities and investment” and substituting therefor the words “investment and financial”;
 - (ii) by inserting the following new paragraph immediately after paragraph (b)—
 - “(c) has satisfied the requirements of Chapter Six of the Constitution;”
 - (b) in subclause (3), by—
 - (i) deleting the word “Board” wherever it occurs and substituting therefor the word “Committee”;
 - (ii) deleting the words “financial, securities and investment “in paragraph (b) and substituting therefor the words “investment and financial”.
- Again, those are just consequential amendments just like the earlier ones. So, it is nothing much.

(Question of the amendment proposed)

Hon. Kang’ata: Thank you, Temporary Deputy Chairlady. May I call upon Members to look at this clause kindly, or be very attentive. This is the key clause in this Bill. If you pass it as proposed by the Chair, what will be the effect? It will mean that those people who will be giving you advice on matters pertaining to security exchange will now be people who have done a certain exam that is administered by KASNEB. In a nutshell, the effect of what the Chairman is proposing will be that this profession will strictly be for a certain calibre of people. To me, that is wrong because that is not what other professions do. If for instance, you want to be a Certified Public Accountant (CPA), and you have a Bachelor of Commerce Degree from any recognised university, you will get an exemption. They will confirm the units you have done and then give you an exemption. This clause does not give you that exemption. So, the effect will be that it is only those people who have done the examination that is administered by KASNEB who will be entitled to give you advice on this profession. So, there will be loss of hundreds of jobs.

The best idea would have been to open up this profession, which is crucial and growing. We open it up to people holding Bachelor of Commerce and Bachelor of Economics as opposed to a situation where we keep it just only for a certain cartel; a cartel of about 20 or 30 people. We should move with speed and refuse what my colleague is proposing. We should refuse it and agree that we open this profession to people who have done accounting and economics. Otherwise, it will be a monopoly of about 20 or 30 people.

Let me give you a final example as I sit down. We have actuarial scientists. Presently, the way we have framed our law, we have only eight actuarial scientists in this country. They are only eight and yet, we have people who have done a degree in actuarial science. We all know that if you want to do actuarial science in this country, you have to get an A (plain). That is if you want to do a regular course. You would imagine those people have joined actuarial science but, because of some laws that we passed here without being very keen, that profession has now been monopolised by eight people. That is what is going to happen if we allow the Chairman to get away with this thing. Please, Members, refuse this one!

Hon. Langat: Hon. Temporary Deputy Chairlady, it is good to be very honest. In this country, we have a legal profession which has the Law Society of Kenya (LSK). Before you

become a member of LSK, first of all, you have to complete a Bachelor of Laws Degree from a recognised university and then you go to the Kenya School of Law (KSL) before you qualify.

I am an accountant by profession. I am also a graduate of the University of Nairobi, Bachelor of Commerce; Accounting Option. You have to do a CPA because it is regulated. I did the same and we are regulated. That is why we maintain professional practice. My colleague wants to say that if you have done Bachelor of Commerce or Bachelor of Arts in Economics, you automatically qualify to be a member.

It is good to have a profession which you qualify by being examined and then you are regulated on that criterion. So, if you open a profession to every Tom, Dick and Harry, then there is no point of regulating it. In any case, if he was truthful enough, he would have read Clause 16(2) which says: “The council may, in consultation with the Examination Board, from time to time, by notice in the Kenya Gazette, approve qualifications which it considers sufficient to allow a person to be registered and may, in like manner, withdraw any such approval”. So, his concerns are already captured under Clause 16(2). So, it is good to have a regulated profession with continuous training like in any other profession.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon Makali.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairlady. As the Committee Chairman has said, Hon. Kang’ata’s fears are already taken care of by Clause 16(2). It is important that some of those professional bodies have professional exams being taken by the people who are in it and, more so, if you are in this kind of area. In Clause 16, there is something else the Chairman should have said, which is also important. There is the inclusion of (c) which requires satisfaction of Chapter Six of the Constitution. He did not tell us the import of that, but it is straight forward. It is something which is also important for this clause. I support that inclusion.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): The Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, first, I want to disagree with the Member for Kiharu. There are many Kenyans who are actuarial scientists although he is talking about eight. There are about five from my constituency. Maybe, you are only counting those in your constituency. There are many Kenyans in that profession.

The gist of the matter is that we must deal with quacks. This is about security and investment. These days, there are many quacks in the legal profession. Their offices are around River Road. They do not come to the main city. Every profession, whether you do BCom or Finance, you have your line. If you have BCom, Accounting Option with CPA, there is something for you to do in this country. So, as Hon. Makali said, in the event that you feel that your BCom can satisfy this, then use Clause 16(2) to appear before the Board. This happens in the Engineers’ Board and in the LSK. So, why are you selfish that other professions should not be regulated? Today, if you want to become a lawyer after you finish the Law School, you must go and do pupillage. You must go to the Kenya School of Law (KSL) and you must go to top law firms to practice. An example is Ahamednassir Abdullahi and Advocates Law Firm that represents me. How long do you take to reach that stage?

We are dealing with securities and investments; very serious segments of our economy. We do not want quacks there. We do not want quacks in the medical profession or the

Veterinarian Board. All those boards have been formed to deal with people who have university degrees that are not recognised by the Higher Education Council.

For the Hon. Member for Kiharu, if you have a law degree that is not recognised by the Legal Council, you will not be admitted in any place in Kenya.

I support.

*(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)*

(Clause 16 as amended agreed to)

Clause 17

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 17 of the Bill be amended—

(a) in subclause (1) by—

(i) inserting the following new paragraphs immediately after paragraph (c) in subclause (1)—

“(ca) if such person does not meet the requirements of Chapter Six of the Constitution;

(cb) if such person sits and fails the annual ethics and integrity test administered by the Institute;”

(ii) deleting the word “Board” in paragraph (d) and substituting therefor the word “Committee”;

(b) in subclause (2), by deleting the word “Board” and substituting therefor the word “Committee”;

(c) in subclause (3), by deleting the word “Board” and substituting therefor the word “Committee”;

Clause 17 deals with the disqualification from registration. My Committee sought to add that among the listed items there that you will be disqualified from being registered “if such person does not meet the requirements of Chapter Six of the Constitution”. So, it is automatic that if you do not satisfy them, you are deregistered or disqualified. A person can also be disqualified if he or she sits and fails the annual ethics and integrity test administered by the Institute.

We said that members of the Institute should be people of high repute because they deal with very serious matters of investments, which can actually occasion losses if not properly managed. So, we said that the Institute must administer an annual ethics and integrity test which, if you sit and fail, then you will be disqualified. Those are the main issues we are proposing.

(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
be inserted, put and agreed to)*

(Clause 17 as amended agreed to)

Clause 18

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Benjamin Langat.

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 18 of the Bill be amended by—

- (a) deleting the word “Board” in subclause (1) and substituting therefor the word “Committee”;
- (b) deleting the word “Board” in subclause (2) and substituting therefor the word “Committee”;
- (c) deleting the word “Board” in subclause (6) and substituting therefor the word “Committee”;

Hon. Temporary Deputy Chairlady, this is, again, changing from “Board” to “Committee” as I had already explained earlier on.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Neto.

Hon. Oyugi: Thank you, hon. Temporary Deputy Chairlady. I actually wanted to speak to Clause 17. I think it has now been overtaken by events. If you permit me, I will want to speak on Clause 19.

Thank you.

*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)*

(Clause 18 as amended agreed to)

Clause 19

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Let us have the Chair of the Committee.

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 19 of the Bill be amended by—

- (a) deleting the word “Board” wherever it occurs and substituting therefor the word “Committee”;
- (b) inserting the following new paragraph immediately after paragraph (c) in subclause (1)—
“(d) if such person does not meet the requirements of Chapter Six of the Constitution;

Hon. Temporary Deputy Chairlady, it is the same consequential amendment of changing from “Board” to “Committee”. Clause 19 also deals with cancelation of registration of membership. In addition to what has been listed, if you do not meet the requirements of Chapter Six of the Constitution, then your certificate should be cancelled.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Neto.

Hon. Oyugi: Thank you, hon. Temporary Deputy Chairlady. The reason why I would like the Chair of the Committee to consider the phraseology of Clause 19 (d) is that it is a subjective test. It is the same reason I was raising on Clause 17. Let me speak on Clause 17 for its consideration and then I speak on Clause 19. If in Clause 17 (ca) you say that you do not meet the requirements of Chapter Six of the Constitution, that is a subjective test. All the other conditions of not being admitted are objective. For example, you should be of sound mind and you should not have been declared bankrupt. Saying that one does not meet the requirements of Chapter Six of the Constitution is a subjective test. Please consider Clause 17 to make sure that the test is objective as opposed to a subjective one.

The same applies to Clause 19. You are saying that the reason for cancellation is that the person does not meet the requirements of Chapter Six of the Constitution. It ought to read “has failed” because you have admitted the person. So, the person has failed to meet the requirements of Chapter Six. I hope that is clear.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Kang’ata.

Hon. Kang’ata: I agree with my colleague. The problem with this clause is that when you import the Constitution directly, there is always a problem when it comes to legislation. That is because, at times, the Constitution is usually framed in very general words. Chapter Six has so many elements in it. What is it? If at all Chapter Six talks about integrity, bring it directly in the Bill but not in such a manner that when one is trying to interpret, he or she cannot tell which Article of Chapter Six is being referred to. That is number one.

Two, assuming you were to take word for word of Chapter Six, the question then will be: What is the criterion for determining that, indeed, that person has not adhered to Chapter Six? This is because there are several criteria and it has to be an objective test. For instance, has this person been convicted? Is there pending appeal? I foresee a situation where the Committee will be so powerful. It will use such general language to ensure it is a cartel. That is the whole idea of my objection to this thing. We have seen it in the Engineering Board and in so many other professional bodies where those people are now a cartel. This particularly happens in the Engineering Board. I was with my colleague, Hon. Oner, in the university and, up to now, he has never been registered as

an engineer. That is because that cartel wants to protect itself against young people. That is the problem I have with this Bill. We are going to make this profession for the old.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Member for Rangwe.

Hon. Ogalo: Thank you, hon. Temporary Deputy Chairlady. I am also getting a little bit concerned with this constant mention of Chapter Six. I have actually taken time to look at the Articles in Chapter Six. Are you saying that if you are registered to practise in this sector, you become a State officer? That is because Chapter Six wholly deals with State officers. Article 73 talks about responsibilities of leadership, Article 74 on oath of office of State officers, Article 75 on conduct of State officers, Article 76 on financial probity of State officers while Article 77 talks about restriction on activities of State officers. Article 78 on citizenship and leadership says that: "A person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya". It is about being a State officer. I do not know how a practising engineer out there will meet the provisions of Chapter Six. What is it? There is nothing here about individual citizens. How do you lose a certificate because you do not meet the requirements of Chapter Six? How will you comply with Chapter Six? This is serious and it could cascade even to the amendments we have made.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Chair of Committee, can you respond?

Hon. Langat: Hon. Temporary Deputy Chairlady, I have listened to the two hon. Members, Hon. Kang'ata and Hon. Oner and, for the first time, Hon. Kang'ata seems to have convinced me, supported by my very good friend who can easily convince me.

(Laughter)

Based on what they have said, I want to drop that proposal because we do not want proposals which are not implementable. So, can I seek that I drop that amendment?

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Can you do it officially by quoting it as it is in the Order Paper and stating that you are dropping.

Hon. Langat: Hon. Temporary Deputy Chairlady, I wish to drop the proposed amendment which sought to insert the following new paragraph after paragraph (c) in subclause 1:-

"(d) if such person does not meet the requirements of Chapter Six of the Constitution."

I drop that bit only and remain with the others which are consequential amendments.

*(The proposed amendment to Paragraph
(d), Clause 19 by Hon. Langat dropped)*

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Gikaria, do you have a point of order?

Hon. Gikaria: Hon. Temporary Deputy Chairlady, the Chair wants to drop an amendment and Hon. Agostinho Neto has indicated earlier that Clause 17 had been approved. I do not know which direction we will take. I am also standing on this point of order because the same thing has happened before when one of the members of the Speaker's Panel was on the Chair. We approved something in the earlier clauses and then it was rejected later. We do not know how to proceed. I

had asked the Speaker to give us--- I remember you can do a re-committal but, it had been agreed--- Like now, if I draw your attention to Clause 18, deleting of the word “Board” and replacing it with “Committee” is okay. Then it appears thereafter in so many other clauses.

If you have actually passed it say in Clause 4, should we again go back and repeat for the HANSARD? But for now what happens under Clause 17?

The Temporary Deputy Chairperson (Hon. (Ms.) Shebesh): Chair, would you like to respond on whether or not you feel like you should recommit Clause 17?

Hon. Langat: Hon. Temporary Deputy Chairperson, as I said, because of the strong point which was raised by Hon. Agostinho Neto on Clause 17 regarding the amendment in Clause 17(a)(i)---

The Temporary Deputy Chairperson (Hon. (Ms.) Shebesh): Hon. Chair, we have already passed it but there is a process of re-committal.

Hon. Langat: Yes. I would wish to recommit at an appropriate time.

The Temporary Deputy Chairperson (Hon. (Ms.) Shebesh): Then at the right time you can re-commit it. This is not the right time.

Hon. Langat: Okay. Then I would wish to re-commit later on, based on those comments.

The Temporary Deputy Chairperson (Hon. (Ms.) Shebesh): Apparently even Clause 16. Would you like to look at it? Yes, Hon. Makali.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairperson. You know I am actually concerned that the Chairman is dropping this important inclusion. If you look at Chapter Six, the whole essence is to make sure that people behave and believe in high levels of integrity and transparency. We are talking about investments and securities. Many Kenyans are going to commit their resources to those particular professionals, in terms of making investment decisions. The question I am asking myself is: If you want to bring the bar to that low, that we do not hold those people to that high level of integrity, what are we saying? We have seen many Kenyans who have been misadvised and, at the end of the day, they lose so much out of their savings. Some end up dying due to pressure and such like things. To me, Chapter Six should be applicable to any Kenyan, whether you are a public officer or not.

We want people who are in charge of making such important decisions to be people of high integrity. That is what the whole Chapter is bringing on board. It is not a matter of being a public officer or not. We are saying that if we know that you are a criminal, you are not registered in the profession. That is the whole essence of Chapter Six. I may be wrong; I am not a lawyer but that is my simple interpretation, having done a lot of work in the governance sector.

The Temporary Deputy Chairperson (Hon. (Ms.) Shebesh): Hon. Chair, had you completed? The Leader of the Majority Party, I will come to you.

Hon. Langat: Hon. Temporary Deputy Chairperson, if you followed what Hon. Oner read, the whole of Chapter Six deals with State officers and the definition of a State officer is in the Constitution. If you look at the Bill, the list of disqualifications is captured in almost all the possible malpractices, but I will still leave it to the Chair to advise.

Hon. A.B. Duale: Hon. Temporary Deputy Chairperson, I tend to agree with Hon. Makali Mulu. We are dealing with investments and securities. Chapter Six, as much as I agree with Hon. Oner, there is the recurrent word on conduct suitability. If you look at Chapter 78, which talks about citizens and leadership, it gives the person who is not eligible for elections.

Then, Chapter 79 talks about legislation to establish Ethics and Anti-Corruption Commission. But now, the matter that is at hand is: How do we subject people who are outside the bracket of State or public officers in the corporate world? I am sure in the corporate sector and in the private sector, there is a standard called corporate governance which is their ethics.

I will ask the Chair, instead of dropping, we need to recommit it and look for a better amendment to subject those people to because, as much as we remove them from Chapter Six, we should not give them a blanket-- The matter Hon. Makali has raised is true. You remember the issues of pyramid schemes. Those are the people we must hold to certain moral standards.

The Temporary Deputy Chairperson (Hon. (Ms.) Shebesh): Okay, Hon. Benjamin Langat, you will be recommitting at the right time.

Hon. Langat: Thank you, Hon. Temporary Deputy Chairperson.

The Temporary Deputy Chairperson (Hon. (Ms.) Shebesh): We were at Clause 19. Are you still dropping it?

Hon. Langat: Yes, Hon. Temporary Deputy Chairperson. If you were to read Chapter Six of the Constitution, it is difficult to tag that section to Chapter Six. As we have said, the whole of Chapter Six talks about State officers. We have even seen the Leader of the Majority Party struggling but without success, to read to us a specific section of Chapter Six which can help us here. So, I wish to drop that one. We cannot pass laws in vain. I will just drop the issue of Chapter Six only.

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

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

(Clause 19 paragraph (a) as amended agreed to)

Clause 20

The Temporary Deputy Chairperson (Hon. (Ms.) Shebesh): We have two amendments; one from Hon. Benjamin Langat and the other from the Leader of the Majority Party. Would you like to start Leader of the Majority party?

Hon. A.B. Duale: Hon. Temporary Deputy Chairperson, I drop my amendment on Clause 20.

(Proposed amendment to Clause 20 withdrawn)

The Temporary Deputy Chairperson (Hon. (Ms.) Shebesh): The Leader of the Majority Party has dropped his amendment. That leaves us with one amendment of the Chair of the Committee. Go ahead.

Hon. Langat: Hon. Temporary Deputy Chairperson, I beg to move:-

THAT, Clause 20 of the Bill be amended in subclause 1, by—

(a) deleting the words “financial, securities and investment” and substituting therefor the words “investment and financial”;

(b) deleting the word “Board” and substituting therefor the word “Committee”.

This is just a consequential amendment from the change of name as I have already explained. The Leader of the Majority Party did not consult me when he was dropping his amendment, but I agree with him.

(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)*

(Clause 20 as amended agreed to)

Clause 21

The Temporary Deputy Chairperson (Hon. (Ms.) Shebesh): We also have both your amendments. We will start with the amendment of the Chair of the Committee.

Hon. Langat: Thank you very much, Hon. Temporary Deputy Chairperson. I beg to move:-

THAT, Clause 21 of the Bill be amended—

(a) by deleting the phrase “financial, securities and investment” wherever it occurs and substituting therefor the phrase “investment and financial”;

(b) in subclause (1) by deleting the word “securities” appearing in paragraph (c).

It is the same thing as I have been explaining. This is a consequential amendment.

(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)*

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Chairperson. I beg to move:-

THAT, Clause 21 (2) be amended by deleting the words “does not practice as a financial, securities and investment analysts by reason only of carrying on the work of an investment consultant or an investment advisor of a financial consultant” and substituting therefor the words “may only undertake the work of an investment consultant or investment advisor or a financial consultant in the course of practicing their profession.”

I think it is a very clear matter and I am sure the Chair will agree with me. This is just meant to harmonize and make sure that the line is drawn between when to do consultancy in the course of practising your profession.

(Question of amendment proposed)

Hon. Langat: I support.

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

(Clause 21 as amended agreed to)

Clause 22

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 22 of the Bill be amended in subclause (1) by deleting the word “Board” and substituting therefor the word “Committee”.
Again, this is just a consequential amendment.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): What is out of order?

Hon. A.B. Duale: Hon. Temporary Deputy Chairlady, can we put all the other three subsequent clauses together? This is because what the Chairman is doing is moving the same amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Unfortunately, it is not possible. We have to go clause by clause.

Hon. A.B. Duale. Thank you. Much obliged.

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

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

(Clause 22 as amended agreed to)

Clause 23

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 23 be amended in subclause (1) by deleting the word “Board” and substituting therefor the word “Committee”.

Again, it is the same thing.

(Question of the amendment proposed)

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

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

(Clause 23 as amended agreed to)

Clause 24

Hon. Langat: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 24 be amended by deleting the word “Board” wherever it occurs and substituting therefor the word “Committee”.

Again, it is a consequential amendment.

(Question of the amendment proposed)

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

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

(Clause 24 as amended agreed to)

PROGRESS REPORTED

THE SECURITIES AND INVESTMENT ANALYSTS BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh): Hon. Chairman, do you need to report progress?

Hon. Langat: Thank you, Hon. Temporary Deputy Chairlady. The Committee of the whole House is considering the Securities and Investment Analysts Bill (National Assembly Bill No. 21 of 2014) and has instructed me to report progress and seek leave to sit again tomorrow.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. Kajwang') in the Chair]*

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House is considering the Securities and Investment Analysts Bill and has instructed me to report progress and seek leave to sit again tomorrow.

Hon. Gikaria seconded.

(Question proposed)

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, the time being 6.30 p.m., this House stands adjourned until Thursday, 2nd July 2015, at 2.30 p.m.

The House rose at 6.30 p.m.