

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 9th August 2018

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: I will make a communication before we get to Order No.8.

Hon. Members, before we proceed, allow me to recognise the presence in the Speaker's Gallery and in the Public Gallery of students and pupils from the following institutions: Shelly Academy from Likoni Constituency in Mombasa County; Kaimosi Friends Primary School from Hamisi Constituency in Vihiga County; Laitoti Primary School from Narok South Constituency in Narok County; Nyandundo Primary School from Ol Kalou Constituency in Nyandarua County; Garrison School from Laikipia East Constituency in Laikipia County; and Bishop Muge Primary School from Mosop Constituency in Nandi County.

They are all welcome to observe proceedings in the National Assembly this afternoon. Let us move to the next Order.

PAPERS LAID

Hon. Benjamin Washiali (Mumias East, JP): Hon. Speaker, on behalf of the Leader of the Majority Party, I beg to lay the following Paper on the Table of the House:

The Report of the Auditor-General on the Financial Statements of the Kenya School of Government for the year ended 30th June 2017 and the certificate therein.

Hon. Speaker: I have information that Dr. Makali Mulu may not make it to lay his Report. Dr. Mulu, you are back. Very well. Proceed.

Hon. Makali Mulu (Kitui Central, WDM – K): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Delegation from the Youth Parliament of Kenya to the 4th Commonwealth Parliamentary Association (CPA), Africa Region, Youth Parliament Meeting held in Kampala, Uganda from 14th to 19th April, 2018.

Hon. Speaker: Let us have the Chairperson of the Parliamentary Broadcasting and Library Committee, Hon. Joash Nyamoko Nyamache.

Hon. Joash Nyamoko (North Mugirango, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Joint Delegation of the Committee on Parliamentary Broadcasting and Library Services and the Departmental Committee on Communication, Information and Innovation on:

1. The Global System Mobile Association World Congress held in Barcelona, Spain on 26th February to 1st March, 2018;
2. The 2nd Artificial Intelligence for Good Global Summit held at the International Telecommunication Union (ITU) Headquarters in Geneva, Switzerland from 15th to 17th May, 2018; and
3. The Visit to the National Broadcasters Show held in Las Vegas, Nevada on 7th to 12th April, 2018.

Hon. Speaker: Let us move to the next Order.

NOTICE OF MOTION

Hon. Speaker: Let us have Hon. Janet Nangabo.

PROVISION OF SPECIALISED TRAINING FOR FISTULA SURGEONS AND SUBSIDISING COSTS FOR FISTULA SURGERY

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that Article 43 of the Constitution provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care; further aware that Obstetric or Vesical Vaginal Fistula (VVF) is a devastating condition that affects women and girls across the country and which has seen many of the patients victimised, abandoned and ostracised by their communities; deeply concerned that it is estimated that more than two million women and girls live with Obstetric Fistula, and that four out of every 1,000 deliveries in Kenya result in fistula which results in between 50,000 to 100,000 new fistula cases every year; alarmed that according to available reports, though Obstetric Fistula is treatable with proper medical attention, only 7.5 per cent of patients with fistula are able to access medical care for the condition mainly due to the related costs and lack of suitably trained surgeons; this House urges the Government to provide specialised training for fistula surgeons and subsidises costs for fistula surgery in all health facilities in order to make treatment accessible and affordable.

Hon. Speaker: Let us move to the next Order.

STATEMENT

BUSINESS FOR THE WEEK COMMENCING 14TH TO 16TH AUGUST 2018

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Speaker.

Pursuant to the provisions of Standing Order No.44(2)(a), I rise on behalf of the Leader of the Majority Party to give the weekly statement on behalf of the House Business Committee (HBC). The Committee met this week, at the rise of the House, to prioritise business for consideration. On Tuesday the following Bills are scheduled for debate in the Second Reading:

1. The Finance Bill, 2018;
2. The SACCO Societies (Amendment) Bill, 2018;

3. The Warehouse Receipt Systems Bill, 2018;
4. The Health Laws (Amendment) Bill, 2018;
5. The Urban Areas and Cities (Amendment) Bill (Senate Bill No.4 of 2017); and
6. The County Governments (Amendment) Bill (Senate Bill No.11 of 2017).

We will also consider the Statute Law (Miscellaneous Amendments) Bill, 2018 in the Committee of the whole House.

In the same week, we will continue with the Report of the joint sittings of the Departmental Committees on Agriculture and Livestock and Trade, Industry and Cooperatives on the inquiry into alleged importation of contaminated sugar into the country, should we not conclude it today.

We will also consider several pending reports including:

1. The Second Report of the Procedure and House Rules Committee on their Consideration of Amendments to the Standing Orders;
2. The Report of the Committee on Members' Services and Facilities on a benchmarking visit to the Parliament of the United Kingdom and Northern Ireland;
3. The Report of the 49th Session of the African Caribbean and Pacific Group of States (ACP) Parliamentary Assembly and Inter-Sessional Meetings;
4. The Report of the 138th Assembly of the Inter-Parliamentary Union (IPU) and Related Meetings.

On questions before Committees, the following Cabinet Secretaries are scheduled to appear before Committees on Tuesday, 14th August 2018:

1. The Attorney-General will appear before the Departmental Committee on Justice and Legal Affairs to answer a question from Hon. Ndindi Nyoro, MP in the Mini Chamber, County Hall at 10.00 a.m.
2. The Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development will appear before the Departmental Committee on Transport, Public Works and Housing to answer questions from Hon. Bernard Shinali, MP, Hon. Gabriel Kago, MP, Hon. Abdullswamad Shariff Nassir, MP and Hon. Ruweida Mohamed Obo, MP in the Mini Chamber, County Hall at 11.00 a.m.

Finally, the HBC will reconvene on Tuesday, 14th August 2018 at the rise of the House to consider the business for the coming week.

COMMUNICATION FROM THE CHAIR

GUIDING DEBATE ON THE REPORT OF THE INQUIRY INTO ALLEGED IMPORTATION OF ILLEGAL AND CONTAMINATED SUGAR IN THE COUNTRY

Hon. Speaker: Order Members, Member for Ruiru you are likely to remain in that position for some time. The Member for Nakuru Town East, please take a seat. Hon. Members, I will assume that those others wish to remain standing.

Hon. Members, I have a Communication to make which will guide the debate on the Report of the Inquiry into Alleged Importation of Illegal and Contaminated Sugar in the Country.

Hon. Members, before we proceed with this Order relating to consideration of the Report of the Joint Departmental Committees on Agriculture and Livestock and Trade, Industry and Cooperatives on the inquiry into the alleged importation of illegal and contaminated sugar in the

country, I wish to make a Communication, which is aimed at facilitating the business of the House, in view of certain matters that have arisen relating to part of the contents of the Report.

Hon. Members, you will recall that on Wednesday 1st August 2018, I interrupted the business of the House to allow the chairpersons of the Joint Committees on Agriculture, Livestock and Cooperatives, Trade and Industry to table the aforementioned Report, long after the Order on Papers, under which the laying of reports would ordinarily take place, had been dispensed with. My decision was informed by the importance of the task undertaken by the two committees, the sensitivity of the matters that were under investigation and the public interest in the questions sought to be addressed.

Hon. Members, even though the House Business Committee (HBC) had neither sat nor scheduled the matter as part of the business for consideration that afternoon as is the practice, I did instruct that the highly anticipated Report be laid on the Table of the House and the matter, nevertheless, be considered the following day so as to cushion against speculations associated with any inordinate delay on such a sensitive matter. My decision was also informed by the fact that this House has the responsibility of deliberating and resolving issues of concern to the people, a function conferred upon each one of you by Article 95(2) of the Constitution. Suffice it to say, the issue of the alleged presence of contraband, and probably contaminated, sugar in the country is one that has been and is still of huge concern to the people of Kenya and they are looking up to this House, through the two committees, to get to the bottom of it.

Hon. Members, moving on, upon the Report being laid I received representations from a host of Members, including some of the Members of the Joint Committee regarding some of the recommendations contained in the reports. Indeed, the following day after the Report had been tabled, I received more representations from Members, including those of the HBC, to defer discussions in order to afford all Members an opportunity to read the Report. Requests were also made to defer the Report so as to allow sufficient time for those wishing to propose amendments to the Report to observe the timelines set out under Standing Order 55 relating to issuance of notices of amendments. Hon. Members, as you may be aware, that Standing Order requires the proposer of an amendment to a Motion to hand the proposed amendments in writing to the Clerk of the House at least two hours before the Order is read.

Hon. Members, you will recall that I forthwith ordered for the re-organisation of the business that afternoon and deferred the particular Order relating to the Report to the next soonest date agreed to by the HBC.

Permit me to also bring to the attention of this House the fact that I have in the past few days received further representations from Members of the Joint Committee who have expressed concern that some of the recommendations as worded may not fully represent the spirit of the resolutions of the committees. Conscious of the gravity of the matter, I have certainly also engaged in discourse with the two Chairpersons of the Committees with a view to establishing the actual position.

Hon. Members, before I proceed, I wish to state that I am dismayed that the questions relating to the accuracy or otherwise of certain parts, including findings of the Report were canvassed more in the media than before this House. Without belabouring the point Hon. Members, you will also recall that I recently guided the House on the investigatory mandate of committees. I urged that committees, and indeed its Members, refrain from anticipating debate on a Motion of which notice has been given contrary to provisions of Standing Order 85.

Of concern is the equally disappointing manner in which Members have conducted themselves in canvassing the issues in the media. No sooner had the Chairperson of the

Departmental Committee on Trade and Industry tabled the Report than the media reports became awash with information that some Members of the Joint Committee had disowned the contents of the Report. While Hon. Members may not have had the intention to besmirch the Committee, the accusatory tone of some comments in the media reports has yielded premature and undesired reactions from the public even before the Report is debated. This was indeed conduct unbecoming of the concerned Hon. Members as it is expected that any concerns relating to contents of a report should be addressed through appropriate parliamentary channels more so, bearing in mind the provisions of Standing Order 85, which prohibit Members from anticipating debate.

Ventilating on a matter before the House outside the domain of the debating Chamber goes against the long-held view that Parliament is an august House.

Indeed, on 9th July 1971, the then Speaker Hon. Mati, ruled that it was improper to carry on a debate in the newspapers on a matter that is active in the House. I quote:

“Hon. Members, my attention has been drawn to a report in one newspaper, the *Daily Nation*, where it is reported that one Hon. Member made a statement on the Trade Disputes (Amendment) Bill to the Press. I would like to remind hon. Members that this is completely out of order. It is not done once a matter is before this House, it is debated here and we do not carry on the debate in newspapers of Bills or Motions, which are presented to the House. I hope the Hon. Member did not intend to offend these rules. It is improper for any Hon. Member to carry on a debate in the Papers on something that is going on here in the House.”

Again on 15th July 1971, he ruled that:

“It is all right to make general statements, perhaps, when an organisation does not agree with something, but when you go as far as giving the details on the things which you either said here or could have said here, then, that is going too far and it makes the work of the House almost useless.”

Hon. Members, it is paramount to remind ourselves of our constitutional duties and obligations as Members of Parliament as conferred by the Constitution and more importantly on the duty we owe to our people, that is, to provide clarity where there is confusion; to provide direction where there is none; to provide reassurance where there is anxiety; to provide peace where there is dispute; and to give hope where there is despair. This, Hon. Members, should be our marking scheme, our guiding principle and the light that guides how we execute our duties even in our respective committees.

Hon. Members, having said that, allow me now to interrogate the following two questions that have arisen concerning the Report before this House... Hon. Members making their way here may come in now. Please make your way quickly so that we may proceed.

(Hon. Members went to the Dispatch Box to get water)

I just gave you an opportunity to take your seats and not to fetch water. You have to stand there because apparently you have assumed the role of a waiter in this Chamber.

(Laughter)

Hon. Members, I had indicated that I now want to interrogate the following two questions that have arisen concerning the Report before this House:

1. First, what is the authenticity of the Report before this House?

2. Secondly, did the Committees miss any procedural steps in compiling the final Report?

Hon. Members, in order to address the first question on the authenticity of the Report before this House, allow me to state that I am guided by the provisions of Standing Order No. 199 which provide as follows, and I quote:

1. The Report of a Select Committee shall be prepared and kept in the same form as the Votes and Proceedings of a Committee of the whole House and in such other form as may be prescribed in the Committee manual.
2. The report of a Select Committee having been adopted by a majority of the Members, shall be signed by the Chairperson on behalf of the Committee.
3. A Select Committee shall adopt its report in a meeting attended by a majority of its members.

Hon. Members, in light of the foregoing, as your Speaker, I am now compelled to answer the following questions which set out the procedural parameters of authenticating a Committee Report:

- (i) Is the Report properly before this House? The answer is yes, having been properly laid by the Joint Chairperson last week;
- (ii) Are there votes and proceedings of the Report in form of minutes appended? The answer is yes;
- (iii) Has the Report been adopted by a majority of the Members? The minutes attest that the answer is yes;
- (iv) Has the Report been signed by the Chairperson of the Committee? Page No. 62 of the Report indicated that the answer is also yes;
- (v) Was the Report adopted in a meeting attended by a majority of its Members? The minutes of the 24th Sitting of the Joint Committee held on 1st August 2018 and in which 28 Members were present attest that the answer is also in the affirmative.

In this regard, Hon. Members, and in accordance with the provisions of Standing Order No. 199, the Report before this House is, therefore, authentic as it complies with the requirements of that Standing Order.

Hon. Members, moving on to the last question on whether the Joint Committee overlooked or missed any steps in arriving at the final Report, I am further guided by the provisions of Standing Order No. 199(5) and (6) which provide that:

“5. A report having been adopted by a majority of Members, a minority or dissenting report may be appended to the report by the members of the Committee.

6. A report of a select committee including any minority report together with the minutes of the proceedings of the committee shall be laid by the Chairperson of the Committee within fourteen days of conclusion of its proceedings.”

Hon. Members pursuant to the provisions of Standing Order No. 199(5) and (6) and considering the representations I have received from various Members of the Joint Committee, I am persuaded that the Joint Committee may have missed an important step while considering and preparing a final report on this matter, that is, the opportunity to also have a divergent view or views or a minority report recorded as contemplated under Standing Order No. 199 (5) and (6), if the conduct of some of the Members following the tabling of the Report is anything to go by.

Permit me, Hon. Members, to remind this House of the Communication I issued on 30th July 2014 (On the Place of Minority Reports and Admissibility of Committee Report on the

Removal of IEBC Commissioners). Due to the importance of the matter at hand, I will quote a number of the findings in that Communication. The House was guided thus:

“There is a universally accepted principle of democracy that “the majority shall have their way, but the minority shall also have their say”. This principle does not decree that the majority ought to emasculate the voices of the minority, nor does it give the minority a blanket cheque to say anything under the sun. To the contrary, this principle encourages the majority in any group to recognise and take into account the views of the minority in that group... In parliamentary parlance, the application of this principle is not new... The Chairperson rules on relevance. The indication of a minority report is a mechanism to allow the House to be acquainted with the completeness of the issues about which there has been disagreement, before the House can make a resolution...

Hon. Members, the reading of these rules (Standing Order 199 (5) and (6) indicate that, as an advance of our previous practice, those with minority views have been accorded the higher privilege as they are allowed to have their views recorded substantially, and not just a mere mention and, in a rare occasion, have a dissenting report appended to the main report. This is in keeping with the spirit of our new Constitution to protect the rights of both the majority and the minority. However, should a committee not reach consensus, this does not imply that there should be two reports of a committee or a separate report compiled by the minority. The rule of thumb is that there can only be one report of a committee. That is the report that has been supported by the majority of the membership of the committee, which may contain, as part of it, a minority report.”

Hon. Members, it is my considered view that some Members of the Joint Committee who had a contrary view to that held by the majority, lost an opportunity to prepare a minority report that would have, in my view, also enriched debate in the House by informing the House on the substance of the divergent views that may have been held by them. It lowers the dignity of the House when we fail to observe our own rules on anticipation of debate and taking it outside the House, and more importantly by not utilising avenues available to express our divergent views.

Hon. Members, having disposed of the questions of authenticity of the Report and the probability of the missed steps, allow me now to inform the House that, pursuant to the provisions of Standing Order No. 55, the Office of the Clerk did receive proposed amendments to the Report from three Hon. Members. These are the Majority Party Whip, Hon. Benjamin Washiali; the Member for Homa Bay, Hon. Gladys Wanga, and Nominated Member, Hon. Geoffrey Osotsi. As you may have noticed by now, those amendments are published in the Order Paper for this sitting, save for those proposed by the Majority Party Whip, which failed to meet the standard test of admissible amendments.

For the information of the House, the Majority Party Whip was proposing to introduce new annexures and recommendations, whose basis was new evidence that he was proposing to introduce in the Report, by amending the Observations part of the Report. You will all agree with me that allowing such would have been procedurally untenable. Should the Member have intended to have that evidence considered, he should have tabled it either in the House when the matter was canvassed or in the Joint Committee sittings during the evidence taking sessions. Introducing new evidence at this penultimate stage will definitely present legal and procedural absurdity to the ordinary process of evidence taking as we know it!

Hon. Members, I, indeed, found myself in a very awkward position that requires me to adjudicate on the content of a Report whose conceptualisation, evidence taking, and drafting I did not participate in. In summary therefore, I rule as follows:

That, pursuant to the provisions of Standing Order 199 the Report before this House is authentic as it meets the requirements of the Standing Orders; and,

That, pursuant to the provisions Standing Order 199, the Members of the Joint Committee who may have had dissenting opinion from the majority of Members who adopted the Report ought to have considered recording, as part of the Report, their dissenting views, but in absence of such record in the Report, the House should proceed to consider the Report as tabled and ignore those purported minority views.

The House is, therefore, accordingly guided. I thank you.

(Applause)

MOTION

REPORT ON THE INQUIRY INTO ALLEGED IMPORTATION OF ILLEGAL AND CONTAMINATED SUGAR INTO THE COUNTRY

Hon. Kanini Kega (Kieni, JP): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Joint sittings of the Departmental Committees on Agriculture and Livestock and Trade, Industry and Cooperatives on the Inquiry into Alleged Importation of Contaminated Sugar into the Country, laid on the Table of the House on Wednesday, 1st August 2018.

This is the much awaited Report on importation of sugar. I begin by calling on colleagues to agree with the Committee and adopt the recommendations and findings contained in this Report. The Report was tabled last week and Members had ample time to read and reflect on the issues. I want to take Members down the memory lane to know exactly where we came from.

On 13th June 2018, the Cabinet Secretary for Interior and Coordination of National Government, Dr. Fred Matiang'i, made a public pronouncement while at the Directorate of Criminal Investigation (DCI) and alleged that sugar in the country was laced with mercury which triggered a national debate and led to public outcry. As a result of the public announcement, Hon. Naisula Lesuuda, Member for Samburu West, requested for a statement from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives on Tuesday, 19th June 2018, regarding the contraband sugar which was seized in most parts of the country. Pursuant to Standing Order No. 44(2)(c), the Speaker invited Members to comment on the issues raised in the statement where the matter was deliberated. I remember the first person to contribute to this matter was the Leader of the Majority Party who offered very important information. He gave us a list of companies that imported sugar and also where the godowns were. Subsequently, you directed that the matter be dealt with by the Departmental Committee on Trade, Industry and Cooperatives and the Departmental Committee on Agriculture and Livestock and report back to the House within a period of 10 days. The 10 days were extended three times. It is now one-and-a-half months.

The Members who were in the 11th Parliament remember that a similar inquiry was adopted in this House. It was titled, *The Crisis Facing the Sugar Industry*. This House does not act in vain. This is the document that was adopted by the House. It is part of the information that we have in Parliament. They took one-and-a-half years to come up with this document. We took one-and-a-half months to come up with the document that we are sharing today. The Committee was guided by the following terms of reference to respond to issues raised in the statement:

- (1) Measures in place to ensure that the sugar in the market was safe for human consumption;
- (2) The sources of contraband sugar and the entities responsible for importing the sugar;
- (3) Mechanism for disposal of contaminated sugar;
- (4) Measures in place to guarantee the safety and fitness of foods in the market; and
- (4) The circumstances under which the said contraband sugar acquired Kenya Bureau of Standard (KEBS) stickers.

It is very important for us to know what the request for statement was all about. Pursuant to Standing Order No. 44(2), Hon. Lesuuda requested for a Statement from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives regarding the contraband sugar which was recently seized in most parts of the country. I took time to understand what the term “contraband” means. It means goods that have been imported illegally or smuggled secretly into the country. Hon. Lesuuda also alleged that the sugar was unfit for human consumption as it contained mercury and copper which are believed to have adverse effects on human health. It is no wonder that even the rising cases of cancer were attributed to this.

(Hon. Aden Duale consulted loudly)

The Leader of the Majority Party is not listening. It is against this background that she sought from the Chair the source of this sugar, how it was cleared at the point of entry - these are the terms of reference - who is the importer, whether the sugar was inspected prior to consumption, and how the packaging of contraband sugar acquired KEBS stickers. We went through all these.

The Committee began its sittings on 22nd June 2018 by developing its operational guidelines, timetable and schedule of activities. The Committee held a total of 26 sittings during which it received information from the following institutions: The Ministry of Agriculture, Livestock and Fisheries; Agriculture, Fisheries and Food Authority (AFFA); the National Treasury; the Ministry of Trade, Industry and Co-operatives; the Ministry of Interior and Coordination of National Government; the Ministry of Health; the Diamond Wholesalers; Societe Generale de Surveillance (SGS) Kenya; Rai Group which represented West Kenya Sugar Company Limited and Sukari, Menengai Oil; Hydrey (P) Limited; Kenya Revenue Authority (KRA); Kenya Bureau of Standards (KEBS); Council of Governors (CoG) and SONY Sugar Company Limited.

I want to give a synopsis of the events that led to what happened last year. The country experienced severe drought and famine in the Financial Year 2016/2017. As a result, the prices of basic commodities escalated beyond the reach of many Kenyans. To remedy the escalation of prices of basic commodities and other effects of the drought, His Excellency the President and Commander-in-Chief of the Kenya Defence Forces declared drought and famine as a national disaster through Executive Order No. 1 of 2017 on 10th February 2017. He invited Government

ministries and departments to initiate measures aimed at mitigating the effects of the drought and famine.

Kenya's sugarcane production remained low in the Financial Year 2016/2017 due to the severe drought and famine. The continued poor performance of the State-owned sugar milling plants caused by depressed sugar production by milling companies also contributed to the reduced production of sugar in the country. According to the statistics by the Ministry of Agriculture, Livestock and Fisheries, the monthly sugar production was on a downward trend from 53,000 metric tonnes in January 2017 to 10,000 metric tonnes in August 2017 against a monthly demand of 60,000 metric tonnes. As a result of this deficiency, the Food Security Committee meeting was held at Harambee House on 5th May 2017 and 21st June 2017 at which the prevailing maize shortage, high prices of sugar and milk in the market were reviewed. The meeting reviewed the supply of sugar and milk in the market and noted that their prices had escalated beyond the reach of many Kenyans. To ensure steady supply of the products at affordable prices, the meeting requested the National Treasury to gazette free imports of sugar and milk for the purpose of lowering the prices.

Section 14(2) of East Africa Community (EAC) Customs Management Act 2004 allows the importation of goods duty free by a member State upon a phenomenon being declared a national disaster. On 12th May 2017, the CS for the National Treasury issued a Gazette Notice No. 4536 and allowed the importation of sugar and powdered milk duty free from the world market to mitigate the escalating prices of sugar and milk and guarantee availability of these commodities to the public. This Gazette Notice was to remain in force up to 31st August 2017. It said that sugar which would be imported by any person would be duty free but there were specifications that we had to import 9,000 metric tonnes of milk.

On 4th October 2017, the CS for the National Treasury through another Gazette Notice No. 9801 extended the duty free importation of sugar consigned to local millers up to 31st December 2017. Further, upon assessment of available quantities of sugar in the market, the Ministry of Agriculture, Livestock and Fisheries advised the CS for the National Treasury to bring forward the lapse of the duty free importation window, since there was sufficient stock in the country. Consequently, the CS for the National Treasury through Gazette Notice No. 10149 on 13th October 2017 brought forward the expiry date of duty free importation window from 31st December 2017 to 13th October 2017. It is important for Members to note that in total we imported 829,871 metric tonnes of brown sugar into the country in 2017.

Hon. Speaker, further, on 10th October 2017, following further analysis of the sugar situation in the country, the Ministry of Agriculture advised that the sugar in the country was reasonably sufficient and there was need to revoke the duty-free importation of sugar. Consequently, the Cabinet Secretary, National Treasury moved to revoke the duty free importation of sugar by amending Gazette Notice 9801 through Gazette Notice 10149 of 13th October to provide that the deadline of the importation should be 13th October 2017.

The Committee noted that Gazette Notice 9802 dated 29th September 2017 amended Gazette Notice 4536 of 12th May by deleting the word "imported" and substituting it therefor with the words, "loaded into a vessel destined to a port in Kenya." The effect of the amendment was that duty was not to be paid on sugar loaded into a vessel destined to a port in Kenya between 12th May and 30th November 2017.

Annexed to the Report is a list of companies that imported sugar duty free. I invite Hon. Members to check the list. We have annexed a list of over 135 companies that imported sugar during the duty free period, how much they imported and whether they paid duty or not. The

Committee went to great length to inquire into allegations of alleged importation of illegal sugar and contaminated sugar into the country and reported back to the House. That is the reason I have this Report. The Committee held 26 sittings under very strict timelines. Hon. Speaker, as you will recall, we called on your indulgence three times seeking extensions so that we could get substantial reports from relevant government agencies. Unfortunately, in some cases, we were not able to get the correct information because some agencies refused to come to us.

Hon. Speaker, in your ruling on the conduct of Members in committee proceedings, you made clear the role of other agencies such as Directorate of Criminal Investigation, Ethics and Anti-Corruption Commission and others tasked with the solemn duty of carrying our investigations. The Committee of the House relies on information provided by relevant government agencies, witnesses and members of the public. We also invited members of the public who participated in the deliberations we had.

We also had a number of challenges. The multi-agency team and the Government Chemist shied away from the Committee. We invited them to come and shade more light on some of the reports they had, but unfortunately, they did not come. This is very unfortunate because all Kenyans wanted to know is whether the sugar they have for consumption is safe or not. I assure the country that the market surveillance has shown that in 45 counties, there were no poisoned samples. No mercury was detected in the sugar samples in the 45 counties where samples were tested.

I want now to take Members directly to the observations because they will inform the recommendations. I seek the indulgence of Members that I pick particular observations. Members have all the observations.

The first observation is that the mandate of KEBS among others is testing of locally manufactured and imported commodities with a view to determine whether such commodities comply with provisions of the Standards Act and any other relevant law which provides for standards of quality or description of commodities. This is very important.

Observation 4.3 says that no traces of mercury were detected in the samples collected from seized sugar and from market surveillance by KEBS. The KEBS tested two categories of sugar samples: the first category of samples was drawn from consignments seized by the multi-agency taskforce (Annex 14) while the second category was collected by the KEBS market surveillance team from various outlets across the country (Annex 15). They were unable to take samples from Mandera and Tana River counties for logistical reasons. These market surveillance samples were collected from outlets most frequented by members of the public.

Out of 1,266 samples, that is, 351, 50kg bags, 837,244 bags equivalent to 66 per cent of the total haul failed the KEBS test. Only 157,392 samples passed. However, out of the 837,244 bags, 705,000 bags, amongst the ones that did not meet the standards, were meant for further processing. To date, KEBS has drawn a sample of 261 from 45 counties with the exception of Tana River and Mandera through market surveillance, and routine checks which establishes the quality of sugar in the market. The KEBS has tested 108 samples representing 42 counties of which 75 samples complied with the standards representing 68.81 per cent of the total samples. Now, 34 per cent failed to meet the standard representing 32 per cent of the sample test for moisture content, yeast, mould, colour, total viable count and polarisation.

It is also important to note that the samples collected by KEBS through market surveillance team were tested for the heavy metals, that is, mercury, arsenic, lead and copper. The KEBS did not find any non-conformity from the samples tested and analysed since lead and copper were within the recommended threshold. The samples collected from sugar seized at

Diamond Wholesalers Godown in Eastleigh and Paleah Stores in Ruiru were tested for the following heavy metals: mercury, arsenic, lead and copper. The KEBS detected heavy presence of copper at 20.7 ppm from samples of sugar seized at Diamond Wholesalers against a maximum acceptable limit of 2.0 ppm and the levels of lead was at 0.35 ppm in samples collected from Paleah stores against the recommended limit of 0.05 ppm.

Going to the Ministry where at that time the Government Chemist was domiciled, the initial report by the Government Chemist submitted to the Committee by the Ministry of Health on 22nd June 2018, indicated that from 174 samples collected from 19 counties, 60 per cent of the samples tested and analysed for moisture did not comply with the standards. The required standard is 0.2 and 0.5 maximum moisture content for brown sugar and light brown sugar respectively.

The sugar that did not meet the standards is therefore not fit for human consumption. In respect to heavy metals, laboratory analysis results revealed that copper, lead and arsenic contamination were within the standard specification for brown and light brown sugar. Industrial sugar was also tested and analysed for conformity with the standard specifications. The tests showed that the industrial sugar was fit for use in preparation of foods meant for human consumption.

This is another highlight that is also very important.

(Loud consultations)

Hon. Speaker, the consultations are too loud.

A subsequent report submitted by the Ministry of Health indicated that one sample out of five samples collected from Moi Airbase Eastleigh, Nairobi County, Ref. /MISC/267/17-18 tested positive for mercury at 0.1141 ppm. Out of five samples collected from Bungoma County, it was reported that one sample tested positive for mercury at 0.5910 ppm hence not fit for human consumption. We have annexed all that. The Committee's efforts to establish the ownership details of the consignment were unsuccessful. The contaminated sugar is under seizure by the multi-agency taskforce. Our efforts as Parliament to validate the same were thwarted by denial by the Ministry of Interior and Coordination of National Government through the multi-agency taskforce to allow us access.

Also important to note is that the Government Chemist was moved from the Ministry of Health to the Ministry of Interior and Coordination of National Government through Executive Order No.1 of 2018 dated 5th June 2018. The CS did not corroborate his statement on presence of mercury in sugar despite the Government Chemist being housed in his docket by the time he appeared before the Committee.

During the same period, 829,871 metric tonnes of sugar were imported against a deficit of 349,889 metric tonnes based on the local production of 367,118 metric tonnes hence resulting to overimportation by 454,760 metric tonnes. A total of 194 Companies imported sugar during the duty free period. We went to any length to get all the companies that imported sugar with all the directors. We have the Report with us.

The Gazette Notice No. 4536 failed to give guidelines on quality and quantity and type of sugar that was to be imported, whereas importation of milk powder was specified in paragraph (b) of the same Gazette Notice. The CS, National Treasury opened up the otherwise well-regulated sugar importation process which was taken advantage of by other unscrupulous traders. This allowed importation in excess of 800,000 metric tonnes of sugar.

We also had an interaction with the Ministry of Agriculture because the Ministry, through AFF gives the licences. After the expiry of Gazette Notice No. 4536 on 31st August 2017, the CS for National Treasury following the advice of the CS Agriculture, Livestock and Fisheries published a subsequent Gazette Notice No. 9801 on 4th October 2017 which is annexed, extending the duty free period from 1st September 2017 to 31st December 2017 destined to a port in Kenya and consigned to a local sugar miller. The Gazette Notice No. 9801 as amended by Gazette Notice No. 10149 published on 13th October 2017 created an avenue for tax evasion by sugar millers who imported sugar between 1st September 2017 and 3rd October 2017. The Gazette Notice does not operate retrospectively.

The Gazette Notice No. 9802 amended Gazette Notice No. 4536 to specify that only sugar loaded on a vessel between 12th May 2017 and 31st August 2017 would qualify for importation on a duty free basis. The failure to specify whether the waiver of duty was applicable to sugar loaded on a vessel within the duty free window or sugar imported within the duty free window was abused by unscrupulous traders.

There was no justification as to why 14 companies were given preferential treatment during the clearance of imported sugar. We have annexed the 14 companies.

Hon. Speaker, before we go to recommendations, it is also good to note the issue of handling of sugar and disposal. The handling, offloading, bagging, storage and transportation of some of the sugar was done in contravention of the standards set out in KES: EAS 749:2010. From field visits conducted by the Committee in Mombasa, Nakuru and Nairobi, it was evident that the sugar was stored in unhygienic conditions contrary to Section 127 of the Public Health Act. Specific violations included transporting sugar in open tippers which were also used to ferry other non-food products such as fertiliser, klinker and other things. The sugar was also put in warehouses that were dusty and contaminated with foreign elements.

According to the CS, Interior and Co-ordination of National Government, 95 per cent of sugar was imported through the port of Mombasa but there was a 5 per cent component of sugar that found itself through our porous border. He clearly said it is through Mogadishu. The fitness of that sugar could not be ascertained because it is considered contraband.

From the samples collected from 45 counties by KEBS and laboratory analysis by the Government Chemist, contamination of sugar was majorly in moisture, yeast, moulds, total viable count and polarisation. Sugar suspected to be laced with mercury was detected in two areas but our efforts to validate the same were thwarted by the multi-agency taskforce. Efforts by the Joint Committee to validate the findings of the Government Chemist on the presence of mercury in the seized consignment of sugar by independent agencies namely the University of Nairobi and the Kenya Plant Health Inspectorate Service (KEPHIS) were unsuccessful after they were denied entry to the two sites by the multi-agency taskforce.

I now move to the very important part which is the recommendations.

One, All sugar that does not comply with the set standards and hence unfit for human consumption should be destroyed by the multi-agency taskforce or any other appropriate government agencies within 21 days of the adoption of the Report of the Joint Departmental Committee on Agriculture and Livestock and Trade, Industry and Cooperatives.

Two, the importers, wholesalers, and millers dealing in contaminated sugar should be investigated by the relevant government agencies with a view to prosecution for violating the provisions of Section 3 of the Food, Drugs and Chemical Substances Act (Cap. 254), Section 131 of the Public Health Act (Cap. 242) and any other relevant law.

Three, the Kenya Revenue Authority should recover duty payable on all sugar imported between 1st September and 3rd October 2017. The importers benefited as a result of the retrospective application of the law vide Gazette Notice No. 9801.

Four, the Directorate of Criminal Investigation and the Ethics and Anti-Corruption Commission should investigate the alleged irregular transaction between South Nyanza Sugar Company Ltd and all other companies for the alleged tax evasion of approximately Kshs2.5 billion.

Five, the relevant investigative agencies should investigate the CS for National Treasury to ascertain the circumstances under which Gazette Notice No. 4536, Gazette Notice No. 9801, Gazette Notice No. 9802 and Gazette Notice No. 10149 were issued, leading to importation of excess sugar into the country and evasion of taxes.

Six, the relevant investigative agencies should investigate the then Cabinet Secretary for Agriculture, Livestock and Fisheries to establish the circumstances under which the CS recommended waiver of duty for the 14 companies which imported sugar under Gazette Notice No.9802.

Seven, the DCI and EACC should conduct further in-depth investigations on all irregularities relating to the importation of sugar into the country.

Eight, the Government should ban importation of un-bagged bulk sugar and institute measures to guarantee the safety of sugar and other food commodities imported into the country.

Nine, the Government should ban importation of raw sugar meant for further processing as table sugar to avoid diversion of this sugar into the local market and safeguard the local sugarcane farmers.

Ten, the KEBS should undertake a thorough review of its existing standards for sugar importation to provide that all sugar imported into the country is tested for presence of heavy metals prior to issuance of Pre-verification of Export Certificate and Certificates of Conformity (CoCs) from the country of origin. When we interacted with the SGS, they said that mercury is ordinarily not found in sugar. It is not tested when they are doing the CoCs. We have said it has to be tested henceforth.

Eleven, the relevant investigative agencies should investigate the then Cabinet Secretary of Trade, Industry and Co-operatives under whose docket the KEBS falls. This is to establish the circumstances under which KEBS failed to undertake adequate market surveillance to guarantee the safety and quality of sugar in the country.

Twelve, the Government, through the multi-agency team, should speed up investigations into the unfit and contraband sugar and publish its findings within 21 days of adoption of this Report of the Joint Committee comprising the Departmental Committee on Trade, Industry and Co-operatives and the Departmental Committee on Agriculture and Livestock.

Thirteen, the relevant agencies should ensure that all raw sugar imported into the country during the duty free window is reprocessed in compliance with the set KEBS' standards.

Fourteen, the multi-agency task force should ensure that seized sugar, which complied with the relevant tests and the set standards is released back to the owners immediately.

When the multi-agency team started the crackdown, a 50-kilogramme bag of sugar was costing Kshs3,500. At the moment, that bag goes for Kshs8,000. We are telling them to release the sugar that is fit for human consumption, so that we can stabilise the prices.

Fifteen, the samples collected from sugar that was seized at the Diamond Wholesalers Godown in Eastleigh and Paleah Stores in Ruiru were tested for the following heavy metals: mercury, arsenic, lead and copper. The KEBS detected a heavy presence of copper at 20.7 parts

per million (ppm) from the samples of the sugar. The relevant Government agencies to investigate the circumstances leading to the contamination of sugar with copper and lead.

Finally, in view of the findings submitted by the Government Chemist that two samples tested positive for mercury - Moi Airbase, Eastleigh, Ref:F/MISC/267/17-18 at 0.11 ppm and West Webuye, Bungoma, Ref:F/MISC27/17-18 at 0.591 ppm - and the obstruction of the University of Nairobi (UoN) and the Kenya Plant Health Inspectorate Service (KEPHIS) to validate the same findings through independent testing, the relevant Government agencies should immediately conduct further investigations on why the contracted institutions were denied access by the multi-agency task force to the consignment or lots on two occasions and the circumstances leading to contamination of sugar with mercury.

With that background and the challenges that we went through, I believe this is a good document. This is the best we would have done. I beseech Members to adopt this Report as it is because it identifies all the areas we were asked to focus on in terms of whether the sugar is safe, who avoided taxes and who imported the sugar. We have dwelt on those many issues. Moving forward, I thank the 38 Members of my Committee for their dedication. Most of them were there when we were going for field trips. We did three report writing sessions. That has never been done here by any Parliament. We did this Report within one-and-a-half months. The best thing for this House to do is to agree with the Report the team has provided. On that note, I call upon my friend and brother, the Member for Navakholo, to second this Motion.

Hon. Speaker: Very well. That is Hon. Wangwe. Something is wrong with your microphone. Is it infected by something?

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. I rise to second the Report as tabled and put forward by the Mover.

First and foremost, allow me to begin with the genesis of the whole issue. As the Mover said, it is all about the drought that was there in 2016 to 2017 that made the President to give an Executive Order requiring that the Government brings down the prices of sugar, milk and maize in the country. Notwithstanding that, allow me to help the Members to understand the whole document as it is. In the document, we have itemised the list of the very many importers that participated in the Gazette Notices Nos.4536, 9801, 9802 and 10149. These notices, especially 4536, indicated that anybody who was capable to import sugar into the country did so notwithstanding any other condition. It led to the importation of sugar to a tune of 829,000 metric tonnes using 135 importers.

Allow me to shed more light on the Report for the Members. We have put 24 annexures to the Report. I request my colleagues to look at them and see what they reveal in terms of what we have reported to the House. We looked at the effects of the entire importation. For instance, what does the importation entail? The importation of 829,000 metric tonnes against the advised quantity of 130,000 metric tonnes led to what we saw in Mombasa. You can see that the capacity of our importers to handle that difference is not there. You could witness that most of the sugar was laid on the bare floor. The handling of most of the sugar at the Kenya Ports Authority (KPA) was poor and the transportation of the sugar was not done in a safe environment befitting a food item.

The importation led to tax evasion. The 14 companies that have been mentioned should also be an issue to look at as a consequence of over-importation, just like the transactions by SONY Sugar Company and any other transaction that would be identified in the investigation thereto, leading to tax evasion. Importation in that quantity is as good as dumping. The definition of dumping is anything in excess of what you can consume or anything that is not viable in its

quality. We witnessed that the sugar we got was not *per se* good enough in terms of quality. That in itself, without looking at it beyond any other condition, is as good as dumping. In it, we shall have to look at it in the recommendations.

We would like to look at the impact of the import in terms of the pressure to the local farmers. What does it mean when we see an importer bringing in raw sugar? What does it look like when we are talking of a miller bringing in raw sugar instead of buying cane from our farmers? The effect is that we are now going to subject our farmers to competition with external people who are doing large-scale productions like those in Brazil and the rest of the world. Therefore, that pressure kills the market for our farmers.

We looked at the roles of the institutions in the Report. We have itemised KEBS, KPA, Port Health and KRA. The role of the various agencies in terms of importation, where they were supposed to act and how they acted is well itemised. I would call upon my colleagues to read the Report in full. For example, an importer wrote a letter to the KBS. There was communication to that effect and KBS could not tell the difference between one product from the other. There was the importation of raw sugar and table sugar in bulk being given two different letters. That is something that is annexed and Members need to look at it. We have also itemised where the agencies failed.

I want to call upon my colleagues to look at the observations in the Report from Page 52 to Page 59 that details the real observations as we observed in the last one month. The recommendation of the Report on Page 60 details what the Committee, in its wisdom, thinks the Report is supposed to look like. I would like to single out an observation on one company called SONY Sugar, where the documentation with the naked eyes was depicting some forgery. All the details that they were sending to us could not really determine that, that was an import in itself. We would want to look at the 14 companies, which evaded tax to a tune of Kshs10.6 billion. SONY Sugar evaded tax of Kshs2.5 billion, yet the taxman is looking for money and resources to help the country meet its expenditure.

With those observations and recommendations, I beg to second.

Hon. Speaker: I will propose the Question, but thereafter, there is a request by Hon. T.J. Kajwang' under Standing Order No.97. You can look at the Order Paper and you will see what he is seeking to address on Page 897.

(Question proposed)

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Speaker, I rise under Standing Order No.97;

THAT, notwithstanding the resolution of the House of Wednesday 14th February 2018, that the time be limited for every Member speaking to five minutes.

You can see the House is full and the exuberance and the robustness with which Members want to contribute to this Report. It is not because of the mercury in their body, but it could be the lead or the copper. I, therefore, urge that the House do agree with me, that we have the resolution to limit time to five minutes per Member contributing.

Hon. Speaker: Hon. Members, the proposal by Hon. T.J. Kajwang' is that the debate be limited to five minutes. But in keeping with your rules, you must make that decision.

(Question, that debating time be reduced, put and agreed to)

Hon. Members, for the orderly conduct of business, I propose before the debate commences to dispose of the proposed amendments so that you are either debating the Motion as amended or not amended. I, therefore, call on Hon. Gladys Wanga, to move her amendment. Be brief.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Speaker, I beg to move that the Motion be amended by inserting the following words immediately after the figure '2018' – "Subject to insertion of the following new recommendations-

- (a) That Recommendation No.5.5 on Page 60 of the Report be deleted and substituted with the following new recommendation-
5.5 The Cabinet Secretary for the National Treasury should be held responsible for the excess importation of sugar into the country and consequent tax evasion based on the Gazette Notice No.4536, Gazette Notice No.9801, Gazette Notice No.9802 and Gazette Notice No.10149.
- (b) That Recommendation No.5.6 on Page 60 of the Report be deleted and substituted with the following new recommendation-
5.6 The then Cabinet Secretary for Agriculture, Livestock and Fisheries should be held responsible for recommending waiver of duty for the fourteen (14) companies which imported sugar under Gazette Notice No.9802.
- (c) That Recommendation No.5.11 on Page 61 of the Report be deleted and substituted with the following new recommendation-
5.11 The then Cabinet Secretary, Ministry of Trade, Industry and Co-operatives under whose docket KEBS falls should be held responsible for failure to undertake adequate market surveillance to guarantee the safety and quality of sugar in the country.
- (d) That Recommendation No.5.16 on Page 62 be amended by inserting the following new sub-paragraph (c)-
(c) that the owners of the sugar whose samples were tested and found to contain traces of mercury with references; Moi Base, Eastleigh Ref:F/MISC/267/17-18 and Webuye West, Bungoma Ref: F/MISC/270/17-18, including owners of Diamond Wholesalers and Paleah Stores mentioned in Paragraph 5.15 be held responsible.
- (e) That a new recommendation 5.17 be inserted on Page 62 as follows-
That the Ministry of Health, assisted by the relevant Government agencies, should conduct random tests on sugar that is currently on the shelves across the country and report back to Parliament on its suitability for human consumption within six months.

The current recommendation reads;

“Relevant investigative agencies should investigate the Cabinet Secretary for National Treasury to ascertain the circumstances under which Gazette Notices as listed there, were issued leading to importation of excess sugar”.

The intention of my amendment is to tighten this further. The basis of this amendment is the observation within the Report on Page 55 and 56, which reads observation No.4.20. The Gazette Notice 4536 failed to give guidelines on the quantity and type of sugar that was to be imported whereas the importation of milk powder was specified in Paragraph (b) of the same Gazette Notice. We specified the importation of milk, but we refused to specify the importation of sugar. The Cabinet Secretary for the National Treasury opened up the otherwise well-regulated sugar importation process to abuse by any person. This allowed for importation of 829,871 metric tonnes of sugar when the deficit based on local production was 343,889 metric tonnes, hence an over-importation of 453,860 metric tonnes of sugar. If this was not killing the

sugar industry, then, tell me what it was. This is the reason I am saying that there is nothing more to be investigated. The CS should be held responsible. That is the gist of that amendment.

I move to the next amendment, which has the same gist, but relates to the then CS for Agriculture, Livestock and Fisheries. While the CS tried to advise the CS for the National Treasury, in a note that I have, in terms of limiting the amount and type of sugar and who could import sugar, later on, in a letter annexed to this Report as Annex 11, wrote to the CS for the National Treasury demanding that 14 other companies be asked to import sugar.

Finally, there are companies which imported sugar that was laced with mercury. These companies must be held to account, not just investigating the circumstances under which mercury laced the sugar. We do not want the circumstances to be investigated. We want the companies to be held to account.

(Applause)

These include Diamond Wholesalers, Paleah Stores and others.

I am also requesting in this amendment that the CS for Health and the relevant Government bodies do a sampling of all sugar across the country so that they can tell us if the sugar on the shelves is safe or not.

Hon. Speaker: Hon. Members, be looking at the lights. When it is yellow, it means you have a balance of one minute and when it turns red, you have 30 seconds, so that you organise yourself accordingly.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Speaker. I beg to move these amendments and call upon Hon. Benjamin Washiali to second.

Hon. Speaker: Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Speaker. I will be very brief. I request the Members in this House to understand that there is diversity in this House. We have Members who represent sugarcane farmers, like me.

Hon. Amos Kimunya (Kipipiri, JP): On a point of order, Hon. Speaker.

Hon. Speaker: There is a point of order by Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, we are discussing some very serious matters. Whatever this Parliament does must be in accordance with the Constitution. Looking at the amendment that has just been moved and being seconded, it is very clear that it attempts to take action on the CSs in a manner that is not in accordance with Article 152 of the Constitution.

(Applause)

This House cannot discuss anything that goes against the Constitution. I would like to appeal to you to give us a ruling on whether this amendment goes against the spirit and letter of Article 152 of the Constitution, so that we can stop any further debate on a matter that is clearly unconstitutional.

Hon. Speaker: Hon. Members, you would recall recently I allowed Hon. Otiende Amollo to rise on a point of order to raise a constitutional matter. Your own rules dictate that a matter of constitutionality or otherwise of any business can be raised at any time. I know many of you have not looked at the Standing Orders. You are the ones who adopted them in June last year. It has always been like that. A matter touching on the constitutionality of any business before the House can be raised at any point.

Nevertheless, I will allow Hon. Washiali to finish what he is saying before I allow many more of you to raise that issue.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Speaker, for the permission. I want to request the Members of this House to sympathise with us, the Members who represent sugarcane farmers. As we speak, farmers are doing literally nothing. Farmers have already delivered cane to millers, but they have not been paid. Farmers have cane on the farms but are not able to harvest because they cannot sell it to any miller, and even if they were to sell it, they would do so at a throwaway price.

We are talking of sugar importation. It is cane that produces sugar. The CS for the National Treasury was well advised, in advance, by his counterpart for Agriculture, Livestock and Fisheries on what that Gazette Notice was likely to do to sugarcane farmers. If you allow me to quote, CS, Willy Bett, on 18th May 2018, wrote a letter, which read in part:

“Please also note that the sugarcane pricing mechanism links the price of sugar to the price of cane and therefore unregulated importation of sugar will lead to collapse of sugar prices resulting into drastic drop of cane prices, which will directly affect the 300,000 sugarcane farmers with their dependants”.

Honestly, with this kind of advice from the CS in charge of agriculture, the CS in charge of the National Treasury should not have gone ahead to give notice to allow open importation without regulation of sugar importers.

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

Hon. Speaker: What is your point of order, Hon. Ichung’wah? Hon. Washiali, unfortunately, your proposed amendment, which I rejected is what you are prosecuting, not this amendment. You are giving evidence. It is a totally different thing. So, please, second the amendment. Do not tell us about evidence.

Hon. Kimani Ichung’wah (Kikuyu, JP): Hon. Speaker, thank you because you have captured what I wanted to bring to your attention. Indeed, Hon. Washiali is alluding to a letter that this House does not know about because it is not part of the annexures in the Report. Therefore, it must be something that Hon. Washiali is aware of, but he has not tabled before the House. Therefore, the House does not know what he is reading. It is only he who has the purported letter from one CS to another. Therefore, he should be well guided to prosecute his secondment and not to adduce new evidence that nobody else has.

Hon. Washiali, please, be guided accordingly. In fact, I want you to dispose of this matter because I want Hon. Gladys Wanga to tell us what it means when you say ‘be held responsible personally’. What do you mean in light of the provisions of Article 152(6)? Are you alleging violation of a national or international law or a provision of this Constitution or gross misconduct? Which of these are you dealing with? Just finish your contribution so that Hon. Wanga can respond to this.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Speaker. I was one of the friends of the two Committees. In the course of attending the business of the two Committees, this letter was brought on the Floor. I am surprised this letter was advising the Cabinet Secretary for the National Treasury not to go ahead and open up sugar importation, so that everyone that brings in sugar could be stopped. With the advice of this letter...

Hon. Speaker: Is that letter part of the annexures?

Hon. Benjamin Washiali (Mumias East, JP): I am wondering why we are bringing the amendments and why such an important letter missed to be part of the annexures of this Report.

Hon. Speaker: Hon. Washiali, I know you have a lot of interest when matters sugar are in the House and that is perfect. However, if what you are alleging is about a letter which is not part of the annexures, is that not new evidence?

Hon. Benjamin Washiali (Mumias East, JP): Hon. Speaker, I do not know how you would want to handle this. The question we are asking is...

Hon. Speaker: You may have been given a letter in your capacity as the Majority Whip. You should have tabled it yourself before the Committee because you were there either as a witness or a friend.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Speaker, this letter was tabled during the Committee proceedings. I think you must make a ruling specifically on this letter because this letter is very important.

I wish to second.

Hon. Speaker: Hon. Members, I raised some questions with Hon. Wanga, the proposer, of this Motion. Hon. Wanga, we have looked at the grounds for removal. When you say: 'Be held responsible', what do you mean?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Speaker, what I mean is to be held to account as per Article 153 of the Constitution, which speaks to the decisions, responsibility and accountability of the Cabinet and Cabinet Secretaries. The CSs are accountable individually and collectively to the President for the exercise of their powers and performance of their functions. What I am calling on is that they must account on this matter to the appointing authority. Hon. Speaker, yesterday you guided us accordingly on the Floor of this House, that as a House...

Hon. Speaker, Pukose, will not intimidate me because I am now a ranking Member.

Hon. Speaker: Proceed.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Speaker, you guided us accordingly on the Floor of this House yesterday that, as a House, we make recommendations then it falls upon the appointing authority to take whatever action they require based on the recommendations of this Parliament. That is exactly what I have done. I have made a recommendation for action to be taken accordingly by the appointing authority, who is the President of the Republic of Kenya.

Thank you, Hon. Speaker

Hon. Speaker: Hon. Members, as you are all aware, many of you have gone through this Report since it was tabled. Now you are proposing amendments about every CS. From the proceedings before the Committee, for instance, the former CS for Agriculture was never given a chance to appear before the Committee. That would be a serious omission of a person's right and now you have put him together with the rest to be held responsible. Anyhow, on the question raised by Hon. Kimunya, I find the proposed amendment admissible.

(Question, that the words to be added be added, proposed)

Let us have Hon. John Mbadi

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. I have the Floor. Please, protect me from a shouting match. Hon. Speaker, I can see Members are agitated and they want you to put the Question, but I think we need to understand that when we are making a decision of this magnitude, it is important that we engage ourselves and our minds to what is being proposed. I have been agonising a lot with these amendments. I was weighing between

political expediency *vis-a-vis* my role as a Member of Parliament and a senior Member experienced in this House who is supposed to help others understand the work of Parliament. I am asking myself what I should do. I have decided to sacrifice political expediency and do what I think is right.

Hon. Speaker, I want Members to listen to me. The proposed amendment is for us to hold three CSs, one former and two current ones, to personal liability. Also, bringing to accountability the millers, traders and wholesalers. I partly agree with this amendment in so far as the millers, traders and the wholesalers are concerned because I was asking why the Committee did not record the names of the millers who have imported this questionable product to the market. But I want to speak to the responsibility.

First, you have taken words from my mouth on Willy Bett. I have looked at this Report and the precedent in this House is such that before you cite someone and hold any person personally liable, that person must be given an opportunity to appear before the committee. I am looking to this Report and not seeing anywhere where Willy Bett, as a person, appeared before the Committee. If there is, let the Committee tell me. The person who appeared is the current CS, Hon. Mwangi Kiunjuri. You cannot, under the law of natural justice, hold someone accountable personally without giving that person an opportunity. I would want to be CS and I cannot be held accountable if you do not give me an opportunity to defend myself. So, the Committee must demonstrate to us that Willy Bett was given an opportunity to defend himself.

Secondly - and that is the last contribution I am making because as I told you, I have agonised - there is also a lot of rumours in the room and I was asking myself whether when I make this contribution, immediately I leave here, I will not be accused as one of the people who probably have benefited from these rumours. However, the Mover of the Motion, Hon. Gladys Wanga, who is my woman representative...

(Loud consultations)

She is a woman representative -sometimes we have a problem with English - and not a women representative. As far as I am concerned, she is a woman representative because she does not just represent women. She also represents even men.

Hon. Speaker, I have had issues with Henry Rotich in terms of performance, but on this one, what are we being told that he did wrong? We are being told...

(Loud consultations)

Listen. I want to explain. You will have to listen. Hon. Speaker, protect me.

Hon. Speaker: Order, Hon. Members! Order!

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, what Henry Rotich did which is wrong...

(Loud consultations)

Hon. Speaker: Order, Hon. Members! Order, Hon. Members! Order! Order! Order! Order, Hon. Members! Hon. John Mbadi will be heard.

Hon. John Mbadi (Suba South, ODM): What Henry Rotich did, which was wrong, according to the amendment, is that he allowed importation...

(Loud consultations)

Hon. Speaker: Proceed.

Hon. John Mbadi (Suba South, ODM): He allowed importation of excess sugar via a Gazette Notice. Hon. Speaker, if you want to help the House, please, debate, this idea of shouting before I even mention what I want to say is wrong. You cannot intimidate and blackmail me. I am a senior Member. I understand what I can say. So, Gazette Notice No.4536 allowed anybody to import sugar up to 31st August. It is clear from this Report that after 31st August 2017, there was still shortage of sugar in the country. That is in this Report. I will read. Just listen I read:

“Millers, under the umbrella of the Kenya Millers Association, reached out to the CS for Agriculture and Livestock and the Directorate of Agriculture, Fisheries and Food Authority (AFFA) to discuss the need of restricting importation of sugar to only allow millers who had the capacity of ensuring quality sugar was sourced and imported.” The response the millers got from the Ministry was that restricting permission to import sugar to millers would amount to discrimination against other traders.

That is the Report of this Committee. What does that mean? It means that the Ministry of Agriculture, Livestock and Fisheries insisted that the importation should be done by anybody. So, it is not the decision of Rotich. Hon. Speaker, I want to continue and say this as I sit down, the Gazette Notice that is being talked about lapsed on 31st August 2017. After the lapsing of that Gazette Notice, the Ministry did an assessment and found that there was still shortage of sugar in the country. Then you are telling us that, that Gazette Notice allowed excess sugar and yet the Gazette Notice referred to here, lapsed on 31st August 2017 and still after that, the Ministry of Agriculture, Livestock and Fisheries recommended that more sugar should be brought. So, what are you telling us that Rotich allowed excess importation? Tell me. If you have been given something to move, move it and convince me. I want to be convinced how this Gazette Notice No. 4536 allowed excess sugar yet after the lapse of that notice, Kenyans still did not have enough sugar and the Ministry advised that more should be brought.

Hon. Speaker, let us be serious. If you want to play politics, we can play politics, but if we are saying what is in this Report, there is nothing in this Report that one would use to implicate Rotich to take personal responsibility for Gazette Notice 4536. If you said generally, I would understand. However, if you are specific to Gazette Notice No.4536, which lapsed on 31st August 2017 after which the Ministry of Agriculture, Livestock and Fisheries still went to the National Treasury and asked for more importation, we have to be serious.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, this is a debating Chamber. Those of you who have found it difficult to debate and have assumed that when you shout from where you are seated, you are now in the business of resolving issues of concern to Kenyans, obviously, you are in the wrong place. Therefore, I told you we need to, first of all, dispose of the amendments because there is still another amendment proposed by Hon. Osotsi, which I have approved and needs to also be canvassed. We are not going to spend time. You have heard what the proposed amendment is all about. So, I will proceed right away to put the Question so that we know whether we are debating the Report as amended or we debate it without amendments. Hon. Members, you better listen to the Question.

(Question, that the words to be added be added, put and negated)

(Several Hon. Members stood in their places)

Order, Hon. Members! Order, Hon. Members! Order, Hon. Members! Those of you who rose in your places claiming for a Division did not raise the numbers. So, relax.

(Loud consultations)

Order, Hon. Members! Order, Hon. Members! As I indicated earlier, we must dispose of the amendments. You have been counted. You were only 21. The requirement under the Standing Order No. 72(2) is 30. So, that matter is over. Hon. Osotsi, proceed with your proposed amendment.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Speaker, I beg to move the following amendment:

THAT, the Motion be amended by inserting the following words after the figure '2018' "Subject to insertion of the following new recommendations after recommendation 5.16 on Page 62 of the Report-

- 5.17 That, in view of observation No.4.19 of the Report regarding excess sugar in supply, within twenty-one (21) days, the inter-ministerial Multi-Agency Task Force on Sugar undertakes a thorough and comprehensive audit of the sugar imported into the country between May, 2017 and August 2018 to determine-
- (i) the exact quantities and quality of the sugar imported during the said period; and,
 - (ii) the amount of excess sugar so imported against the projected demand.
- 5.18 That, the Ministry of Agriculture, Livestock and Fisheries, having conducted the audit specified in Recommendation 5.17, immediately puts in place and enforces a temporary embargo (ban) on any further importation of sugar until any safe sugar found to be excess is consumed;
- 5.19 That, within sixty days (60), the Cabinet Secretary for Agriculture, Livestock and Fisheries submits a report to the National Assembly on the findings of the audit under Recommendation 5.17 and a confirmation of the implementation of Recommendation 5.18;
- 5.20 That, in view of the submission by the Ministry of Agriculture, Livestock and Fisheries as contained in Paragraphs 2.18 and 2.19 of the Report regarding absence of regulations to streamline the sugar sector, within thirty (30) days, the Cabinet Secretary for Agriculture, Livestock and Fisheries ensures that the said sugar regulations are concluded and gazetted in accordance with the Statutory Instruments Act; and,
- 5.21 That, the Cabinet Secretaries for Agriculture, Livestock and Fisheries, and the National Treasury ensure that any future importation of sugar that enjoys any duty benefit including duty-free arrangement is restricted to allowing direct importation only by-
- (i) State corporations dealing with sugar; or,
 - (ii) any other company for which the Government of Kenya has a shareholding.

Hon. Speaker, the gist of my amendment in Recommendation No.5.17 is to determine the exact amount of quantities of sugar in the market. The Report clearly indicates that there was an excess of 376,111 metric tonnes of sugar, which was imported into the country. The Report also

suggests that contraband sugar was imported into the country through our porous border points. It is important for us to determine the quantities of sugar which we have because the excess sugar in the market will definitely affect the laws of demand and supply and hurt the farmer because of reduced prices.

Recommendation No.5.20 is important because the Report refers to regulations which have been there in the Ministry of Agriculture, Livestock and Fisheries for too long now, but they have never been gazetted. If we have to deal with the problems in the sugar industry, these regulations are important. This Report should also have recommended these regulations to be gazetted in the shortest time possible.

This Report talks about commercial and safety issues, but it does not talk about the farmer who is suffering. That is why we are saying that in the event that we have a need to import sugar duty free, the public sugar millers and the sugar millers where the Government has a shareholding like the Mumias Sugar Company should be the only ones allowed to import sugar. I call upon Hon. Titus Khamala, Member for Lurambi, to second.

Thank you, Hon. Speaker.

Hon. Titus Khamala (Lurambi, ANC): Thank you, Hon. Speaker. I rise to second the amendments by Hon. Godfrey Osotsi to this Report. I represent a sugar belt constituency. I am a sugarcane farmer and I understand the problems that we have in the sugar industry. If we are in a hurry to pass the Report without making the necessary amendments, it will not be of any help to Kenyans. We need a proper audit of the sugar industry. If we have to resolve the problems that ail the sugar industry, we need to know how much contraband sugar is in our market.

Two, what are we doing or what is in the Report that can help put an end to the mess that we have? There should be a temporary ban on the importation of sugar, because you cannot control something that is ongoing. We have to stop it.

(Loud consultations)

Hon. Speaker: Order Hon. Members! I can see that the Member for Budalangi has already crossed over here.

Hon. Titus Khamala (Lurambi, ANC): Hon. Speaker, I am a sugarcane farmer. I represent Lurambi, which is a sugar belt constituency. My Senior, Hon. Washiali, knows that this matter is very personal to Members who come from western Kenya.

As much as we are shouting here in the House, we have people in western Kenya who cannot afford a meal. Will we provide food to our people by shouting? There is poverty in my constituency. Parents cannot take their children to school because the sugar subsector has collapsed as a result of illegal importation of sugar. We stand here in pain.

Hon. Speaker: Are you seconding the proposed amendments or talking generally about sugarcane growing?

Hon. Titus Khamala (Lurambi, ANC): Hon. Speaker, I am seconding the amendments by Hon. Godfrey Osotsi. We need them. There is need to have a temporary ban on the continuity of illegal importation of sugar. Sugar should not be imported into this country.

(Loud consultations)

We should also know how much sugar is out there. We are talking about sugar which is laced with mercury. How much mercury do we have out there? Therefore, before they lynch me, I second the amendments.

Hon. Speaker: Order Members. When the Mover was moving these amendments, he did not talk about mercury. However, the Member who seconded said that he wants to know how much mercury is around here. I do not know whether it is here or wherever.

(Question, that the words to be added be added, proposed)

Hon. Members: Put the Question.

Hon. Speaker: Is it the mood in the House that I should put the Question?

Hon. Members: Yes.

(Question, that the words to be added be added, put and negatived)

Hon. Speaker: Hon. Members, having disposed of the proposed amendments, we now go back to the Report as moved and seconded by Hon. Wangwe. Remember that you have already passed a Motion, which was moved by Hon. T.J. Kajwang', that every Member should contribute for a maximum of five minutes. I know that there are several of you who will not contribute for five minutes. If you feel like you want to speak for one minute or half a second, you are still okay.

Proceed. Leader of the Majority, do you want to contribute?

(Debate on the original Motion resumed)

Hon. A.B. Duale (Garissa Township, JP): Thank you, Hon. Speaker. I am sure Kenyans were waiting with bated breath for the outcome of the Report of the two Committees this afternoon. I am glad because the two Committees have given us an opportunity, through the Report, to debate on issues concerning the inquiry into the alleged presence of contaminated sugar in the country. Because I have five minutes to contribute, let me raise some very substantial questions. I want to ask Members some questions. This is a very important Report which is on live coverage. All of us must live by the Standing Orders, so that we listen to each other and when given an opportunity, we respect the rights of others. The people in the streets of Nairobi and the great people of Garissa Township, whom I represent in this House, will ask a number of questions. If they are answered conclusively by this Report, then one way or the other, this House will decide. These are the questions: Is there contaminated sugar in the country? Does it have mercury or even any other metal? I am only posing questions, so that they can be recorded in the HANSARD. I do not want answers. If yes, what are the quantities of the metals present and are they harmful to humans? Where is the contaminated sugar located? Where can it be found? In which godown or warehouse is the contaminated sugar stored? Is there excess sugar in the market and how much is it? Who imported the contaminated sugar? Which companies imported the contaminated sugar? Which companies, name by name, did not pay duty and evaded taxation? We want to know the names and not 14 companies. What role did public officers, including ministers, play in the importation of sugar?

Hon. Speaker, I am sure Hon. Maanzo and Hon. Arati are listening to me. This is a Report which has already been debated out there. Hon. Kimunya raised a fundamental matter. He

cited Article 152 of the Constitution. Hon. Kimunya is a victim, a living example in this House of a minister who was impeached for nothing, but on very flimsy grounds. In the 10th Parliament, Hon. Kimunya was perceived to be one of the most arrogant ministers and because of that perception, he was impeached. So, when he talks about responsibility, he understands. The Constitution is very clear on how a minister is impeached and how he is removed from office.

Hon. Speaker, you gave a Communication that the grounds or threshold for removal of a Cabinet Secretary is so high that I am sure the only impeachment process that went through this House was when Hon Kaimenyi was being impeached and he survived by only 11 votes.

The Report before the House is the property of the 349 Members. Nobody should be offended by it. From where I sit, I am at all times ready to support reports of committees. But there is one thing I have learnt, that never again are we going to form a joint committee. If this Report was by the Departmental Committee on Trade, Industry and Cooperatives, I am sure it would have been better. If it was done by the Departmental Committee on Agriculture and Livestock, it would have been better. We put together, I think, 38 Members. Sugar is like drugs. People who deal in the business of sugar are the same people... I cannot say they are the same people. It is a very emotive thing. It is a serious thing and that is why you can see it is like the House has consumed mercury or some drugs this afternoon. Members do not want to listen to one another.

Minister Adan Mohammed is being indicted in the Report for a function of a corporate entity called the Kenya Bureau of Standards. The KEBS is a corporate entity that can sue and be sued. As we speak here, its CEO is in court. So, what are you telling us when you recommend that Adan Mohammed must be held responsible?

The Cabinet Secretary, Rotich, acted on an Executive Order from the President. He acted on a Cabinet decision. He did not sit under a tree to formulate a *Gazette* notice! He acted on an Executive Order given by the President.

(Applause)

He acted on a Cabinet approval. He acted on a situational analysis that the country was facing drought. Let us use our resources and time to go and dig into Rotich and bring a substantive Motion to discuss the person of Rotich under Article 152(6) of the Constitution. But we should not indict ministers through the back door. This Report is trying to indict ministers through the back door.

To finish, when somebody is told to take responsibility, the next thing the President will do, from tradition, is to tell him to step aside. We must protect, as legislators, the public and State officers who come from our constituencies. Everybody who works in the Executive and in the Judiciary comes from our constituencies. It was wrong.

The other recommendations in the Report are good. What has polluted the minds of many Members is the inclusion of Rotich and Bett. Mr. Bett never appeared before the Committee. This House passed the Fair Administrative Action Act in the 11th Parliament, which states that any Kenyan cannot be sacked without being given a fair hearing. Did you give the former Minister, Mr. Bett, a hearing? Did you even interrogate Mr. Rotich and ask if it was a Cabinet or Executive Order from the President? Why should Adan Mohammed, the former Cabinet Secretary for Industry, Trade and Co-operatives and now Cabinet Secretary for East African Community and Regional Development, take a bullet for a corporate entity that can be sued and sue?

I was in a function with the President and I told him that if I am not here, they will tell me that I have eaten and disappeared. So, I had to leave the President to continue with his function and I came here. So, that is why I came back late.

I oppose the Report.

(Applause)

Hon. Speaker: Hon. Members, we are now back to the Report. You know the precedence in speaking in the House and I am not about to break that protocol. So, I will give a chance to the Leader of the Minority Party, after which, as a matter of priority, the Member, Hon. Lesuuda, who stood here and read out a Statement that was referred to the Joint Committee, will speak. For your information, Hon. Members, those of you who have so far requested to speak are 67. So, I can see, as Hon. Duale has said, matters sugar are very juicy and sweet.

Hon. John Mbadi.

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, many of the Members who were agitated when I was contributing to the amendment have left. Now I can be heard properly.

I am contributing to the main Report. Again, I am agonising because chances are that we may throw the baby with the bath water. This is because the Committee was given a responsibility. With all due respect to my friend, Hon. Kanini Kega, who chaired the Committee and I know his capability very well, I am shocked the Report, important as it is, has a lot of gaps. That is my main concern. Why was it necessary for the Joint Committee to carry out this investigation? It was because on 13th June 2018, the Cabinet Secretary in the Ministry of Interior and Coordination of National Government, Dr. Fred Matiang'i, made a public pronouncement while at the Directorate of Criminal Investigation alleging that sugar in the country was laced with mercury, which triggered a national debate leading to a public outcry. I remember when Hon. Lesuuda brought the matter to the House, we were very passionate and asked whether the sugar that we take in the country has mercury or not. The effect of that Statement, and what we expected this Committee to help this country to sort out, is what could bring even the economy of the country down because we use sugar even to make soda which is sold even in the neighboring country. If you are saying that our sugar has mercury or is poisonous, you are in effect telling even those who are importing processed goods made of sugar from this country that they should be careful. In fact, this could result to some travel warning to this country by other countries.

If you are going to a country which is not sure of the food that they take, it is a very dangerous thing. I, therefore, expected that an explanation is offered to the people of Kenya whether the sugar we consume has mercury or not. But that answer is not properly given. I know it has been glossed over that there was sugar found in Eastleigh and there was another one found in Bungoma that has some traces of mercury. Is it significant enough to say that this country has sugar laced with mercury? Those Members who come from sugar-growing areas are the ones who should be very worried with this Report.

In fact, I wonder whether they are fighting for those sugarcane farmers they claim they are fighting for. When you dare say that sugar in this country could be having mercury, no one will know which sugar is manufactured in SONY or which one is imported. Therefore, you are killing the very industry you think you are supporting. Let us be sober enough.

I am looking at the observation by the Committee. It is clear to me that this Committee failed substantially to name the sugar importers who have imported contraband sugar. We

expected explicit names of those companies, traders, wholesalers and the directors. I know the Chair will talk about annex. On the recommendation, the Committee has said the following:

“The importers, wholesalers and millers dealing in contaminated sugar should be investigated by the relevant government agencies with a view to prosecution for violating the provisions of Section 3 of the Food, Drugs and Chemical Substances Act (Cap. 254), Section 131 of the Public Health Act (Cap. 242) and any other relevant law.”

There is no mention of the list of those particular traders, wholesalers and importers. If it is there, why have you not mentioned in the Committee recommendation? I have not seen it. If it is somewhere in your archives or annex, how do you expect this House to know? By the way, why did you hide it if it is there? You are hiding it for what? This Committee needs to be serious.

There is this point that I raised.

Hon. Kanini Kega (Kieni, JP): On a point of order!

Hon. John Mbadi (Suba South, ODM): What point of order? You will respond to me when you are replying.

Hon. Speaker: Hon. Members, because we reduced the speaking time, let us not interrupt.

Hon. John Mbadi (Suba South, ODM): The Chair has an opportunity to reply. He will tell me if I was wrong. If he has that list, he will tell us where it is found.

Let me go back quickly to this issue of the recommendation on investigation of the Cabinet Secretaries. Hon. Duale has repeated what I said on Willy Bett. If you wanted former Cabinet Secretary to be investigated, you should have given him a chance to appear before you to defend himself.

Let me go back to Rotich again. I mentioned that I have issues with Rotich but on this one, I have no issue with him. Rotich issued three Gazette notices. The first Gazette Notice he issued was No. 4536 in May that was running up to 31st August 2017. That is the Gazette Notice that allowed anybody to bring sugar. But at the expiry of that Gazette Notice, there was still sugar shortage according to this Report. So, you cannot blame Rotich for excess sugar based on that single *Gazette Notice*. There are other Gazette notices which were issued. I have read this Report.

First, according to this Report, he was advised that there was still a sugar shortage. I did not do this Report; it is the Committee. He was advised that there was still a shortage. That is why he varied the termination of the gazetted period to December. Later, he was again advised by the relevant Ministry that there was enough sugar. He did the right thing and reduced the period to October. What mistake did Rotich make?

I have been asking myself this: If I want to sacrifice this Rotich, on what basis will I do it? If I were the Cabinet Secretary for Finance in charge of Treasury, I would be the one constitutionally and legally allowed to issue Gazette notices. If you have been advised by the inter-ministerial committee in charge of food that there is shortage of sugar, you are required to issue a Gazette notice. It was not Rotich's responsibility to determine who was to bring sugar into this country, that responsibility is with the Kenya Sugar Board (KSB) and the Ministry of Agriculture, Livestock and Fisheries. By the way, there is licensing procedure. If Rotich had issued a Gazette notice waiving the licensing procedure, then we would hold him accountable but he just gave a go-ahead for sugar importation. It was the duty of the AFFA to ensure that sugar that was being imported into this country was being imported by who and what quantity. That was supposed to form part of the licensing procedure. That is not the work of Rotich as far as I am concerned. The issue of quality is with the KEBS.

Finally, where I want to agree with Hon. Duale, the Leader of the Majority Party is where you are asking Adan, the then Cabinet Secretary in charge of trade, to be investigated for failure by KEBS to do market surveillance. Just listen to that recommendation. I need to read it so that you hear how ridiculous this recommendation is:

“The relevant investigative agencies should investigate the then Cabinet Secretary, Ministry of Trade, Industry and Co-operatives under whose docket KEBS falls to establish the circumstances under which KEBS failed to undertake adequate market surveillance to guarantee the safety and quality of sugar in the country.”

In this Report, there is no officer of KEBS. The KEBS has a responsibility to monitor quality. Not even the Managing Director of KEBS has been indicted but you are indicting a Minister for failure to do surveillance. Honestly? You could have asked the Minister to take political responsibility. If I am the investigative officer, and you tell me to investigate Adan, why there was no surveillance, what am I going to investigate because he is not the one with technical capacity to do surveillance? So, what are you investigating?

Hon. Speaker: Hon. Members, I said what is going to happen. So, I do not see the need to raise your hand because there is no chance. The next chance is to Hon. Lesuuda who raised the statement. Many of you from sugar cane-growing areas did not even raise the issue. So, allow the person who raised the issue to contribute then I will come to sugar cane growing areas.

Hon. (Ms.) Naisula Lesuuda (Samburu West, KANU): Thank you, Hon. Speaker for giving me this opportunity to contribute to this very important Report that has been tabled before this House.

I just want to make two points clearly. I will even read from the Committee Report whether its findings answer the questions that they have stated here. Question number one is: To establish whether the sugar imported during the 2017 duty free window was fit for human consumption. On that issue, in my own statement, I was not even specific on when. My question was based on what the Cabinet Secretary for Interior and Coordination of National Government, Dr. Matiang’i, in full glare of the public said, that there was mercury in our sugar. That was my most important concern; whether the sugar that we are taking is fit for human consumption. It goes further to say: To establish measures in place to ensure that the sugar in the market is safe for human consumption; to inquire whether there is contraband sugar in the market and the measures taken regarding the same; to establish if the required procedures were followed in the importation of sugar under the 2017 duty free window - something I did not ask - and, to establish the disposal mechanism for the unfit or contraband sugar.

(Loud consultations)

Hon. Speaker: Hon. Members, it is very important we listen to what Hon. Lesuuda is saying. She has first clarified that she never asked about 2017. She is saying she did not make reference to 2017 in her question. That suggests that the Committee asked itself that question and then gave an answer.

Proceed.

Hon. (Ms.) Naisula Lesuuda (Samburu West, KANU): I will proceed to the issues which I think are the reason we are getting all this confusion, the recommendations or further amendments. It is because some answers are not very direct. One says that no traces of mercury were detected. This is good for all of us. I would be very happy to know that we have no mercury

in our sugar. It is good for us, our health, our trade and everything for us as a country. It is in the Report and it says that. It is done in bold.

In the recommendations, the Report goes further to say that the samples collected from sugar which was found in the Diamond Wholesalers Godown in Eastleigh and Paleah Stores Limited in Ruiru which were tested by KEBS have mercury, lead, copper and all manner of metals. The Report says there is no mercury, but then it is in some of the sugar. What is of more concern to human consumption is the sugar that was found at Moi Airbase, Eastleigh. It is what was revealed by the CS. This is what Matiang'i used to say sugar is not fit for human consumption.

It was in public glare and we even know where he spoke from. Then, the Report goes ahead to say the Committee was not allowed access to some places. It is the Committee that says there was obstruction of the UoN and the KEPHIS to validate the findings through independent testing agencies. Then, the Committee comes back to tell this House that it could not find out whether that sugar had mercury or not. Why was the Government Chemist not indicted in this Report?

(Applause)

How could they block an independent body, which is the Committee formed by this House, to go and find out a matter? The Committee has not indicted the Government Chemist. It has only said that the institutions were denied access by the multi-agency taskforce to check the circumstances leading to the contamination of sugar with mercury. So, we again say it has mercury. We need a definite answer on the issue of mercury. Is it there or not?

On companies, the Committee has mentioned some, for instance, Diamond Trust. However, for others it has not mentioned the names. It only talks of, "in Webuye". Which ones are these in Webuye?

(Applause)

We have to be very clear because I asked for a list. Some have been mentioned and some have not. We know, as you had said, that the issue of sugar has very many interests. When you really try to look at it, all of them can conflict in one Report. I hope my question will be answered when the Mover will be replying. Is the sugar we are consuming fit for human consumption or not?

I oppose.

(Applause)

Hon. Speaker: Member for Mumias West. Has he gone to bed? It is Hon. Johnson Naicca.

Hon. Johnson Naicca (Mumias West, ODM): Thank you, Hon. Speaker. I rise to support this Report.

This habit of people going to the Press when there is an issue does not help our people on the ground. What we need is to articulate matters that will help Mumias Sugar Company (MSC), Chemelil Sugar Company, Muhoroni Sugar Factory and other factories that are now on their knees.

As I rise to support this Report, I want to fault the Government. I want them to acknowledge that they made a mistake by importing 829,871 metric tonnes instead of the stipulated tonnage they were allowed. They did not pay tax for the over 400,000 metric tonnes extra sugar that was imported. Calculating that amount, that money is enough to run Kakamega County for one full year. I, therefore, plead with the Government that it must collect these taxes from whoever has this sugar.

My main interest here is that the Government has an undertaking to finance the ailing sugar industries. The MSC is supposed to get Kshs12 billion to be on its feet again. If you pass near Muhoroni, it is just an idle thing; it is dead, just like the MSC. I am sure the same is the case with Chemelil. We want to ask the Government to intervene. These factories must be on their feet again. There is no country in the world which does not have sugar factories. Why do we want to depend on imported sugar all the time, yet we have over 11 factories? If we kill them, we would have even killed employment. The MSC has been having over 8,000 employees. Now, it does not have even 150 employees. This is not fair.

I want to appeal to the Government to be serious with agriculture. If one of the four pillars is agriculture and they are not taking factories like the MSC, Chemelil and others seriously, then their aim is not right. You cannot build 500,000 houses for people who have nothing to eat; people on empty stomachs. It is better to divert the money meant to construct the 500,000 houses to the milling factories so that we have production. It is better to even sleep outside, but we have something to eat.

Lastly, if the MSC and other factories are revived, the economy of this country will also improve.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I will strictly apply the rules of relevance. The question raised by Hon. Lesuuda is about the safety of the sugar in the market.

Hon. Johnson Naicca (Mumias West, ODM): We do not have any sugar in Mumias. Whether it is safe or not....

Hon. Speaker: Sit down, Hon. Naicca! Next time you do that, you will be out and you will live to regret.

Hon. Members, we wanted Hon. Lesuuda to restate her question: Is the sugar in Kenya safe for human consumption? It is not about how to improve sugarcane farming or how you need to go and do a study to find out which cane grows faster. Let us be focused. Hon. Mishra, Member for Kesses.

Hon. Swarup Mishra (Kesses, JP): Thank you, Hon. Speaker for allowing me to talk. This is a very serious matter in our country. We are talking about adulteration and contraband sugar. There are so many serious diseases that come about because of adulteration of sugar, one of them is cancer. Adulterated sugar also affects the fetus in pregnant women. We have to be very serious because once a human being becomes cancerous; his next generation will become cancerous too, because it is hereditary. Today, if we know that there is contraband and controversial sugar; can we burn it all?

In medicine, we do not take chances, once life is gone, it is gone. We are just pleasing barons. About 50 million Kenyans are at the mercy of about 14 corrupt mafia. Kindly, we should be human. We should not balance human life with mafia's money.

We are talking about these three Cabinet Secretaries that have been mentioned. We should change the system not human beings. Waving of duty is not a decision of one Cabinet Secretary, but the whole Cabinet. It is either you sack the Cabinet and everybody, or you do not

sack anybody. A Cabinet Secretary is not a policeman or an officer of KEBS. Therefore, the Cabinet Secretary, National Treasury is not responsible for quality and quantity of any product of this country.

We should aim then shoot, do not shoot then aim. Before we table a Report in Parliament, how can you impeach the Cabinet Secretary? We do not know what is in the Report, yet we are putting down our signatures to impeach the Cabinet Secretary. It is, therefore, vindictive, personal and not in the interest of the Republic of Kenya. Therefore, few individuals should not take advantage of the whole House for their own interests.

Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Members, let us not go to matters which are not yet before the House. I am told that a few Members are busy addressing the media about the same Report they are supposed to table. I wonder whether there is need for me to indicate to the House... Very soon, we may have to amend our Standing Orders so that we can deal with that level of indiscipline.

Hon. T. J. Kajwang'.

Hon. T.J. Kajwang' (Ruaraka, ODM): Thank you, Hon. Speaker. This Report is designed to fail. You read this Report and you get an irresistible view that it was designed to fail by the people who wrote the Report, not by the evidence that they had.

Hon. Lesuuda has explained what she expected. Kenyans are waiting for an answer to one question: Is the sugar safe or not safe? There is no other question. When my people from Mathare consume sugar, and they consume a lot of it by the way, are they going to die of cancer because of lead or mercury? This is the only question. These other things that people are discussing here and there is because they design their own terms of reference, they spoke to themselves and started writing reports. Therefore, it is not the people who appeared before them as witnesses, it is the people who wrote these things.

Hon. Speaker, we should not waste a lot of time discussing these things. It looked to me that we are being used here. Parliament is being used! We are trying to get evidence which is extraneous and bring it to Parliament so that when people will be investigated as they should, they will say on the doctrine of estoppel that these matters had already been canvassed in the National Assembly; that these things are now mute and cannot be investigated. This is what clever Kenyans know. We will not allow Committee Members to put us in a position where we are being used. We are taking time allowing people to go scot-free over a very important issue. The response that should have been here is whether the sugar is safe or unsafe or that the person who made this statement is a rumormonger. That is what we should have been told. That this fellow was talking about things that he did not know. If the fellow was talking about things he knew, then we should just be told that these things were there or not.

Secondly, I think we still have an opportunity to remedy this. We cannot fail because the question of madam has not been responded. The fact that we have a shoddy Report should not be the reason why we should end this debate here. In my view, we should take the Statement of madam to the Departmental Committee on Health to investigate these issues. They go to the 45 counties then they select one Uchumi, one Tusky's and a shop. These things are all over. One county has eight constituencies. How can you tell me by any data or mathematical precision that one supermarket can represent the whole county? It looks to me that we have mercury or lead in this country. We are sitting on a time bomb. If we do not do this, then we should bring World Health Organisation (WHO) here. There is a big problem. The shelves are giving us things that can make me stagger and say other things that I am not used to say. Sugar is used in beer and

other confectionary which even children partake of. I do not want to take my five minutes, I just want to take the few minutes I have used and say that this Report was designed to fail. Let it fail, but we are not going to stop there. Let us create a relevant departmental committee such as the Departmental Committee on Health, which will look at these things professionally and design a matrix by which we are able to answer the question, whether the sugar is safe or not safe.

I oppose.

(Applause)

Hon. Speaker: Member for Nakuru Town East.

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Speaker. I rise to oppose this Report. Let me start from where Hon. T. J. Kajwang' has just left. By virtue of the small misdeeds of the joint committee, we should not allow this issue to die. We will be asking you for a directive. Assuming that this Report fails and it is not adopted, what happens? I am saying this because in Nakuru County where this sugar was found, some of those people acted under some instruction from someone and they took the same sugar that was supposed to be destroyed to a dumping site. It was then collected by people who went home with it. Later they found some of this sugar in our sewerage treatment works. This brought a lot of issues.

It is important for us, as T.J. Kajwang' has said, if the report fails we need to have an *ad hoc* or select committee that can take up the matter; maybe a select committee that involves almost every other person and not just the Committee on Health.

As I oppose, it is very unfortunate that the Committee did not adhere to the Terms of Reference (TORs) that it gave to itself. I do not want to read the TORs as indicated on page 10.

(Hon. Kanini Kega spoke off record)

Hon. Speaker, I listened to the Chair of the Committee. He should allow me to give my views. First and foremost, if indeed the Committee was serious in what it was doing, it ought to have understood what Hon. Naisula was talking about: the mention of sugar in Eastleigh. If in Eastleigh this sugar never came through the right channel, what did the Committee say about our porous sugar where some of this sugar could be coming through? The Committee ought to have looked at the porous borders where sugar could be coming through illegally.

Secondly, as was mentioned by Hon. Aden Duale, it is important, when you say somebody is culpable, for you to exactly mention the infringement of the laws they are culpable for. I want to believe the CS for National Treasury could not have acted on his own. It could have been a Cabinet meeting where they sat and agreed. After that, because it fell under his docket, he went to write the letters that gave the waiver for the importation of sugar.

The mention of public health is very important. Under the Public Health Act, public health officers play a role in terms of food safety. That was the gist of the statement that was raised by Hon. Naisula. So the Committee ought to have invited public health officers to give their verdict.

Lastly, we are talking about sugar which normally goes through some inspection, even in the countries it comes from. The Committee ought to have visited one country where this sugar was coming from and maybe get some inspection report so that we could know whether the sugar was contaminated in the country of origin or in this country.

With those few remarks, Hon. Speaker, I oppose the report.

Hon. Speaker: Member for South Mugirango.

Hon. Silvanus Onyiego (South Mugirango, KNC): Thank you, Hon. Speaker. I equally rise to oppose this report. It is very important not to allow ourselves as Members of Parliament to be used, just like one of my colleagues mentioned. Going by the Report, the vagueness it displays, right from the content all through to the recommendations, shows clearly that the Committee did not understand the question that was raised earlier.

You notice that the Committee questioned various CSs who gave all right channelled answers. They questioned the CS for Interior, the CS for Agriculture and the CS for Trade and they all agreed that there was an issue in regard to the sugar in this country. Then there was an Executive Order by His Excellency the President and they all agreed that we needed to allow importation of sugar. This brought forth Gazette Notice 4536. All the other Gazette notices are extensions of Gazette Notice 4536 that arose out of a collective Cabinet agreement.

It will be wrong for us to write a report and then recommend the opposite of what the Report has. The Report does not seem to answer the question of contaminated sugar. The Report does not seem to answer the question of who should be held culpable individually. It will actually be very shocking to notice that even Recommendation 5.1 is so ambiguous to read. They are saying that all sugar that does not comply with the set standards.... What were they finding out? How do you say all sugar? It is too open. They should have told us specifically that this type of sugar of this number of kilos has issues and should be declared unfit for human consumption, not just saying generally that all sugar. Which sugar? What were they investigating?

They equally say that CS Rotich should be investigated on Gazette Notice 9801. Then they go back and say that in their Report Gazette Notice 9801 came about out of an advice from the CS for Agriculture. Then they now want authorities to investigate CS for Agriculture on surveillance and not on the instructions he gave to the CS for National Treasury. This is witch-hunt. This is nothing. The Committee ought to have done a good job and not jump up and down and allowing themselves to be used to settle political scores. We should not allow Members of this House to be used in any way by some political masters. We understand the handshake is real but it should not be used to replace very competent Government officials like CS Rotich and CS Adan. We should not allow that. On that note, I oppose the Report.

Hon. Speaker: Hon. Kangogo Bowen.

Hon. Kangogo Bowen (Marakwet East, JP): Thank you, Hon. Speaker, for giving me this opportunity to talk about this Report. From the outset, I want to oppose it. As a House we need to differentiate between the facts and fiction. We need to put aside politics and reality. I am happy you gave Hon. Naisula Lesuuda opportunity to shed some light as the originator of the question which led to this Report.

The question as to whether the sugar in the market is safe for Kenyans is very important. It is something which many Kenyans across constituencies have been calling us to find out if the sugar they are consuming is safe or not.

I have gone through the Report and I took issue with Recommendation 5.1.5 where the Committee cited only one wholesaler called Diamond Godown in Eastleigh and they have indicated that the KEBS detected metals such as mercury and copper. It is very serious and that is just a sample. As somebody said, it was a mistake to have a joint committee on this important national issue. The Committee retreated for almost three weeks, wasted Government resources and has brought a Report which they know is not going to pass through the test of this House.

Hon. Speaker, the Agriculture and Food Authority, KEBS and even anti-counterfeit agencies are not mentioned in this Report and yet their functions are very clear. On the issue of

culpability of the three Cabinet Secretaries, on February 2017 there was an Executive Order from the President declaring famine in the country a national disaster. On 5th May, 2017, there was an inter-ministerial meeting at Harambee House where several CSs met and deliberated based on the Executive Order No.1/2017 dated February, 2017. There were no three CSs. That inter-ministerial committee was not only about Rotich, Adan and the former CS for Agriculture. So, this Report is very malicious.

Like those who spoke before me, we should not end here. I would suggest that later on we form an *ad hoc* committee to look into this sugar issue afresh or we leave it to one committee. This is very serious. There is a recommendation from the Committee that the University of Nairobi was denied opportunity to test the sugar. That is very serious and it raises issues on the Government Chemist who now falls under the Ministry of Interior and Co-ordination of National Government. It is a big issue of which we have to check. There must be a sinister motive.

Hon. Speaker, I oppose.

Hon. (Dr.) Robert Pukose (Endebess, JP): On a point of order

Hon. Speaker: There is a point of order from Hon. (Dr.) Pukose

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Speaker, I know everybody would want to contribute to this Motion. However, listening to the contributions from the Members...

(Loud consultations)

Let me say what I want. Under Standing Order 95, I propose that the Mover be called upon to reply.

Hon. Speaker: Very well. Hon. Members, I will give one person from each side and then... Let me do this. All of you who are coming here to whisper that you would like to get a chance are disqualified.

(Laughter)

So, the moment, you see someone standing here, know that they are disqualified except Hon. Mariru who is supposed to relieve me.

Anyhow, let us go by our rules. You are the ones to make the decision. Hon. (Dr.) Robert Pukose stood in his place and urged that under Standing Order No. 95 the Mover be called upon to reply. It is you to make the decision

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

Mover.

Hon. Kanini Kega (Kieni, JP): Hon. Speaker, it is very unfortunate that we are coming to the end of this debate when we have not interrogated this document properly. I beseech that you allow me to donate two minutes. One to Hon. Oundo and another to Hon. Mutunga, if it so pleases you. I would like to donate few minutes of my time.

Hon. Speaker: Has the Mover replied?

Hon. Kanini Kega (Kieni, JP): Hon. Speaker, I was requesting...

Hon. Speaker: In a situation of this nature where the House has decided that you reply, you are the one to reply. The others have to just relax.

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Speaker. It is one year since we were elected as MPs. For us who are serving their second term we have five years and an extra one year. By being an MP, you have three cardinal rules; oversight, legislation and representation. As the captain of the ship that delivered this baby, I want to remain firm with the team and say that we brought to this House a Report that is credible and that has answered all the questions.

I want to say clearly that if Members read this document, some of the questions that were asked here naively could have been answered. The question of health is well addressed. The issue of culpability is well addressed. The issue of CSs was not to indict them. We said in the correct language that the relevant agencies to investigate. I believe that as a team and Committee we did the best. Unfortunately, the Members who have contributed on this, chose only to focus on the issue of the CSs, whereas we have so many other issues. We have dealt with the issue of how much sugar was imported in the country, who imported and whether the sugar is safe. I want to reiterate that observation No.4.3 says:

“No trace of mercury was detected in the samples collected from seized sugar from market surveillance.”

It is a strong statement. We went out there to different parts of this country and have brought a good document.

Hon. Speaker, we have delivered a baby—a bouncing baby boy who is alive and normal. It is upon the House today to kill the baby or suckle it and ensure that, that baby lives to see tomorrow. It is all in your hands. I will say like Pontius Pilate that I have washed my hands; I have put the document to you. It is a good document. There could be problems here and there but do not throw the document away basically because you have been told out there...

Hon. Speaker: Hon. Oyoo, you are a Member of the Committee on Powers and Privileges. When you stand there and you are just shouting across, you should be taken before that Committee to explain why you are misbehaving.

Hon. Kanini Kega (Kieni, JP): Hon. Speaker, history may judge us harshly. I listened to Hon. Mbadi, who of late is like the Deputy Leader of the Majority Party. I saw a lot of naivety in his contribution. This document has the names of all the people who imported sugar. If he had interrogated this document, we would not have some of the issues being raised.

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

Hon. Speaker: Hon. Ichung’wah, what is your point of order?

Hon. Kimani Ichung’wah (Kikuyu, JP): Hon. Speaker, the Chairman is treading on dangerous ground. Before you cut him short at some point, he was alluding to things happening out there. Now he has just accused the Leader of the Minority Party, who we hold with great respect as a leader in this House, to be acting like the Deputy Leader of the Majority Party. He knows that the indomitable father of the House, Hon. Jimmy Angwenyi, is the Deputy Leader of the Majority Party. The Leader of the Minority Party has a right and he said he was conflicted as to whether to articulate issues on political expediency or what is right. Should Hon. Kanini, as Chairman of the Committee, be allowed to indict the Leader of the Minority Party on the basis of his conviction of what he was doing which was right? In fact, we should allow him to conclude because, without contributing, we set them out on a mission to go and do tests and not tasting sugar. We need to get answers.

(Laughter)

Hon. Kanini Kega (Kieni, JP): Hon. Speaker, as I conclude, I have no doubt in my mind that I will vote with my conscience. This is a good document. It is a document that we have interrogated and sacrificed so much and done so much as a Committee to come up with. I stand with my Committee. I said earlier on that as the captain, I will be the last person to disown this document because I believe it is good. I beseech Members today. I need to inform them: today you have to be counted either on the right side of history or the wrong side of it. The decision is yours.

Thank you, Hon. Speaker.

Hon. Speaker: Order, Hon. Members! Again, the Member for Budalangi is not in the House. Hon. Members, I now put the Question.

(Question put and negatived)

(Several Hon. Members stood in their places)

Hon. Members, are these Members who are walking about claiming for a division or where are they?

(Hon. Simba Arati stood in his place)

Hon. Simba Arati, are you calling for a division? You need to have another 29 Members. Unfortunately, you have not raised the number. We go to the next Order! The net effect is that the Report has failed, having been rejected by the House. So, it goes back to where it came from. They say, "Return to sender"

BILLS

Second Reading

THE SACCO SOCIETIES (AMENDMENT) BILL

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. The Chairman of the Departmental Committee on Agriculture and Livestock is not here and I really indulge you that we defer Order Nos. 9, 10 and 11 because the Chairpersons are not available. Order No. 12 is the Finance Bill. The House Business Committee has agreed that if they table the Report next week, it can be debated in the week beginning 21st August 2018.

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

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

Then the Warehouse Receipt System Bill...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Leader of the Majority Party. Let us do it the right way. Let us deal with one after the other. What are you saying about Order No. 9?

Hon. Aden Duale (Garissa Township, JP): On Order No. 9, the Chairman of Departmental Committee on Agriculture and Livestock who is supposed to second on behalf of the stakeholders is not available. So, I seek your indulgence to step it down.

The Temporary Deputy Speaker (Hon. Patrick Mariru): It is stepped down.

(Bill deferred)

Next Order!

Second Reading

THE URBAN AREAS AND CITIES (AMENDMENT) BILL

Hon. Aden Duale (Garissa Township, JP): Again, the Chairman of the Departmental Committee on Transport, Public Works and Housing was supposed to bring a report, but he is yet to bring it. I have advised the House Business Committee. I really indulge you to step it down also.

The Temporary Deputy Speaker (Hon. Patrick Mariru): That is stepped down in light of your request.

(Bill deferred)

Next Order!

Second Reading

THE COUNTY GOVERNMENTS (AMENDMENT) BILL

Hon. Aden Duale (Garissa Township, JP): Again, the Chairman of the Departmental Committee on Administration and National Security has written to the Speaker and asked for one more week so that he can bring the Report to the House on this Senate Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall defer that as well in light of the request by the Leader of the Majority Party.

(Bill deferred)

Next Order!

Second Reading

THE FINANCE BILL

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, the House Business Committee has confirmed with the Chairman of Departmental Committee on Finance,

Planning and Trade that he will table the Report next week. On that basis, we ask for a deferment. It is a very important Government Bill. So, the stakeholders' views will ultimately translate into amendments and we ask for this Bill to be put on the Order Paper the week beginning 21st August 2018.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall defer that again in light of the request by the Leader of the Majority Party.

(Bill deferred)

Next Order!

Second Reading

THE WAREHOUSE RECEIPT SYSTEM BILL

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, we have two Bills, one by me and I see another one from the Senate. They are similar word for word. I need to consult with my colleagues. Because it has gone through the Senate, it will be advisable that I drop mine at the House Business Committee next week so that we carry this one of the Senate. I seek your indulgence that we also defer it.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Well, that business is deferred in light of the request by the Leader of the Majority Party.

(Bill deferred)

Next Order!

MOTIONS

REPORT OF THE 49TH SESSION OF THE ACP PARLIAMENTARY ASSEMBLY AND INTER-SESSIONAL MEETINGS

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Katoole Metito, leader of the delegation. Him being absent, we shall have that business deferred.

THAT, this House notes the Report of the 49th Session of the ACP Parliamentary Assembly and Inter-Sessional Meetings of the ACP-EU Joint Parliamentary Assembly held at the ACP House and the European Parliament in Brussels, Belgium on March 20th - 22nd 2018, laid on the Table of the House on Tuesday, 24th July 2018.

(Motion deferred)

Next Order!

REPORT OF 138TH ASSEMBLY OF THE INTER-PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. William Kamket, the leader of the delegation. Clearly, Hon. William Kamket is also absent from the Chamber. In light of that, we will have business deferred as well.

THAT, this House notes the Report of the 138th Assembly of the Inter-Parliamentary Union (IPU) and related Meetings held in Geneva, Switzerland on March 22 -28, 2018, laid on the Table of the House on Tuesday, 24th July 2018.

(Motion deferred)

Next Order!

REPORT ON BENCHMARKING VISIT TO PARLIAMENT OF UK AND NORTHERN IRELAND

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chairperson of the Committee on Members' Services and Facilities. What is happening? The Members took leave after that significant business. What is it Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I will raise it tomorrow in our Liaison Committee and leadership meeting because the House has demarcated special seats for Chairpersons. It is not good practice... I am sure the Clerk's Office must have notified these Chairpersons that their Reports are coming. In fact, in the House Business Committee, we passed on Tuesday that the Reports by Committees must be given priority today. I do not know whether that has been communicated to the Chairs but it is not a good practice. I will raise it at the session tomorrow morning.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Leader of the Majority Party, that is correct. It is good to raise that with the Chairs because if the business is itemised on the Order Paper, the Chair, or at the very least, a Member of that Committee, must be present so that we do not keep deferring business. Be that as it may, that business is deferred.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chairperson of the Committee on Members' Services and Facilities. It is the same Chair. What is your point of order, Hon. Savula?

Hon. Ayub Angatia (Lugari, ANC): Thank you, Hon. Temporary Deputy Speaker. We came in to transact the business of the House today. The House Business Committee had allotted all this time to the respective Motions and reports from various Committees as listed on the Order Paper. It seems that the Chairs of various Committees are not taking the business of this House seriously. The Jubilee Party has enough Members of Parliament. Can you replace the lazy Chairpersons and appoint others? We are here to transact business on behalf of the people of the Republic of Kenya.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, Hon. Savula is the last person in terms of competence to advise the Jubilee Party which has 175 Members of Parliament compared to his party which has 12 MPs. I am a pastoralist. You can only be advised by somebody who has the same number of camels or cows that you have. If you have 100 camels, you can only be advised by a person with 80 camels. This is a man who has

two camels and he wants to advise a pastoralist who owns 500 camels. You must treat that with the contempt it deserves.

We will have an in-house meeting with the Chairs which you, Hon. Temporary Deputy Speaker, as a substantive Chair will attend. We will put our house in order. I have taken his comments.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. The comment is taken clearly. In light of the absence of the Chairperson of the Committee on Members' Services and Facilities, the business in Order No.17 is deferred as well.

THAT, this House notes the Report of the Committee on Members' Services and Facilities on a benchmarking visit to the Parliament of the United Kingdom and Northern Ireland Assembly held between March 12 & 16, 2018, laid on the Table of the House on Tuesday, April 24, 2018.

(Motion deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the time being 5.52 p.m., this House stands adjourned until Tuesday, 14th August 2018, at 2.30 p.m.

The House rose at 5.52 p.m.