

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 28th November 2018

The House met at 9.30 a.m.

*[The Temporary Deputy Speaker
(Hon. Christopher Omulele) in the Chair]*

PRAYERS

QUORUM

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, I direct that the Quorum Bell be rung for 10 minutes.

(The Quorum Bell was rung)

Hon. Members, I direct that the Quorum Bell stops ringing. We have quorum now. We can begin our business. Order, Hon. Members.

PAPERS LAID

The Temporary Deputy Speaker (Hon. Christopher Omulele): We had a few Papers to be tabled but, due to some technical defaults here and there, they will be tabled in the course of the day. Therefore, I direct that we proceed.

NOTICE OF MOTION

The Temporary Deputy Speaker (Hon. Christopher Omulele): Member for Meru County.

ENGAGEMENT OF YOUTH IN AGRICULTURAL ENTREPRENEURSHIP

Hon. (Ms.) Kawira Mwangaza (Meru County CWR, Independent): Hon. Temporary Deputy Speaker, I beg to give notice of the following Motion:

THAT, aware that as the country rolls out the Big Four Agenda amid concerns over high rate of youth unemployment, agriculture is believed to be among the sectors of the economy that country must target for possibilities to create employment and lift people out of poverty; further aware that the growing population and continued land degradation due to overgrazing, poor farming practices, deforestation and climate change, high cost of farming are among the factors harboring the youth from engaging in agriculture as a business for gainful employment thus realization of the Big Four Agenda;

cognizant that for the economy to grow the country must harness the demographic dividend by creating a huge working-class youth base through agriculture, this House urges the National Government to ensure access to friendly financial services for agricultural entrepreneurship, improve access to markets, promote climate-smart agricultural technologies and address cross-cutting challenges including setting aside land for agricultural activities by the youth farmers.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Shall we make progress?

QUESTIONS

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, the first Member to ask a Question is Hon. Gideon Mulyungi, Member for Mwingi Central.

Question No.266/2018

QUESTION BY PRIVATE NOTICE

CRITERIA FOR RECRUITMENT INTO KENYA DEFENCE FORCES

Hon. Gideon Mulyungi (Mwingi Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I would like to direct my Question to the Cabinet Secretary for Defence regarding the current recruitment exercise for the Kenya Defence Forces (KDF):

a) Could the Cabinet Secretary explain how many persons both male and female will be recruited to join the Kenya Defence Forces (KDF) in each sub-county and constituency during the ongoing recruitment exercise?

b) What criteria is used in determining the number of persons to be recruited per constituency or sub-county to ensure gender parity and regional balance, and how is the recruitment exercise being done to reflect transparency and accountability?

c) Are local leaders allowed to observe and witness the recruitment exercise?

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, you will notice from your Order Paper that this is a Question by Private Notice. You will recall the directions that were given by the Speaker yesterday. This is a Question that requires very urgent response and therefore it will be treated as such within the directions that were issued by the Speaker. Hon. Mulyungi, that is quite in order.

(Hon. Andrew Mwadime raised his hands)

Who is that carrying up his hand? That is not procedural. It should not be done. What is out of order, Hon. Member for Mwatate?

Hon. Andrew Mwadime (Mwatate, ODM): I am not out of order, Hon. Temporary Deputy Speaker, it is just that I raised the same Question. I wanted to add more meat instead of the same Question coming back to Parliament. I just wanted to request that the recruiters include villages and locations.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Member for Mwatate, as much as you may want to add meat, this is not the time to add meat. It is not procedural. I know that this particular inquiry is close to all Members' hearts. It is an issue that a lot of Members are concerned with. That is why it has been set out as a Question by Private Notice requiring an urgent response. This requires that the Cabinet Secretary be in attendance. It will be proper that when the answer or response is being tendered, you may add meat at that point. I think we will proceed that way.

The next Question is by Hon. Ronald Tonui, Member for Bomet Central. He is absent. I will direct that we move to the next Question.

ORDINARY QUESTIONS

Question No. 078/2018

HARMONIZATION OF SALARIES IN PUBLIC SERVICE

(Hon. David ole Sankok walked into the Chamber)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Nguna, what is out of order? I distantly heard your voice.

Hon. Charles Nguna (Mwingi West, WDM-K): What type of dress code is the Hon. Member dressed in? Hon. Temporary Deputy Speaker, is it in order for the nominated Member No.001 to enter into the House with such a dress code?

The Temporary Deputy Speaker (Hon. Christopher Omulele): What is wrong with how Hon. Sankok is dressed? I can see he is dressed in a coat; he has a tie and shirt. Hon. Sankok is quite in order. He is dressed properly and he is fine. There is no trouble with the way he is dressed. We shall proceed with the Question by the Hon. Member for Mwatate, Hon. Andrew Mwadime.

Question No. 086/2018

RETIREMENT AGE IN HOTEL INDUSTRY

Hon. Andrew Mwadime (Mwatate, ODM): Thank you, Hon. Temporary Deputy Speaker, I rise to ask the Cabinet Secretary for Labour and Social Welfare:

- a) Is the Cabinet Secretary aware that workers in the hotel industry retire on attaining 55 years of age instead of 60 years?

(Loud consultations)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Order Members! I cannot hear what Hon. Mwadime is saying.

Hon. Andrew Mwadime (Mwatate, ODM): I will proceed.

- b) what steps is the Ministry taking to address the said concern?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well, Hon. Mwadime, we shall proceed to the next Question. Hon. Vincent Kemosi Mogaka.

Question No. 209/2018

ROADS TARMACKED IN KISII AND NYAMIRA COUNTIES

Hon. Vincent Kemosi (West Mugirango, FORD-K): My Question is directed to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

Could the Cabinet Secretary provide a list and details of roads that are tarmacked in Kisii and Nyamira counties as budgeted for in the Financial Years 2013/14, 2014/15, 2015/16, 2016/17, and 2017/18, and in particular roads within West Mugirango Constituency, in the last five years?

The Temporary Deputy Speaker (Hon. Christopher Omulele): That Question will be replied to before the Departmental Committee on Transport, Public Works and Housing.

The next Question is by Hon. Dominic Koskei, Member for Sotik Constituency.

Question No.235/2018

COMPENSATION FOR PEOPLE AFFECTED BY 2007/2008 POST ELECTION VIOLENCE

Hon. Dominic Koskei (Sotik, JP): Thank you, Hon. Temporary Deputy Speaker. My Question is directed to the Cabinet Secretary for Interior and Coordination of National Government.

What is the status of compensation for the people of Sotik, Bureti and Emurua Dikirr constituencies bordering the Kisii County as a result of the 2007/2008 Post Election Violence?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well, that Question will be replied to before the Departmental Committee on Administration and National Security.

The next Question is by Hon. Marwa Maisori, Member for Kuria East Constituency.

Question No. 268/2018

DELAYED COMMENCEMENT OF MIGORI AIRSTRIP RUNWAY EXTENSION PROJECT

Hon. Marwa Kitayama (Kuria East, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to ask Question No. 268/2018 directed to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

a) Could the Cabinet Secretary explain why the construction of the Migori Airstrip Runway Extension Project has not commenced despite funds being allocated in the budget for the previous three financial years, and when will this project begin?

b) Could the Cabinet Secretary further explain why the construction works at the Kehancha-Kendege Airstrip has stalled, and when will Kenya Airports Authority fence the airstrip to safeguard public investment from wastage?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. That Question will be replied before the Departmental committee on Transport, Public Works and Housing.

Second round, Hon. Tonui, Member for Bomet Central Constituency. He is not present, that Question then stands dropped. We will make progress.

Question No. 078/2018

HARMONIZATION OF SALARIES IN PUBLIC SERVICE

(Question dropped)

Hon. Wanyonyi, what is out of order? What do you want to clarify?

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, a very good question. Question No. 266 was asked by Hon. Gideon Mulyungi. It will be a Question of great interest for most of us. I was wondering whether we should have the venue in this hall so that we can be able to...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wanyonyi, you are an old Member in this House. This is a Question that has been asked, I do not know whom you want a clarification from. I do not know whether you want clarification from the Speaker or from Hon. Mulyungi. I have already given directions that if you want any clarifications or expanding a little bit on what he has asked, then the Cabinet Secretary appears to respond to Hon. Mulyungi. The Hon. Members will be at liberty to expand the scope on that. The inquiry that you are making will correctly be made at that time when the Cabinet Secretary will be available to respond to Hon. Mulyungi. Kindly avail yourself at such a time that will be communicated here, when the Cabinet Secretary will be appearing so that all Members can listen to him and ask for verification and clarifications. Are we in agreement, Hon. Wanyonyi?

Hon. Ferdinand Wanyonyi (Kwanza FORD-K): Hon. Temporary Deputy Speaker, I will appreciate if you can make it clear that it should be here in the public interest. It is a very general Question on a matter affecting everybody.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wanyonyi, the Chair has already communicated on that matter. I have said that this is a matter that is very close to the hearts of all the Hon. Members of this House. We also gave direction. We said that communication will be made in good time on the date the Cabinet Secretary will appear. Every hon. Member will be at liberty to seek clarifications when he appears.

That is the way we do business here. We shall make progress.

Next Order.

PROCEDURAL MOTION

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move:

THAT, this House orders that the business appearing as Order Nos.10, 11 and 12 in the Order Paper be exempted from the provisions of Standing Order 40(3) being a Wednesday morning, a day allocated for business not sponsored by the Majority or Minority Party or Business sponsored by a Committee.

Hon. Temporary Deputy Speaker, Order No. 10 is the Report on the Inquiry into Allegations of Bribery of Some Members. Order No. 11 is the Public Investments Committee (PIC) Report. Order No. 12 is the First Public Accounts Committee (PAC) Report for the Financial Year 2014 / 2015.

We have only this week and next week. By Thursday next week, the House will go on along recess at the end of the first calendar year. So, the House Business Committee (HBC) felt that at least this morning we deal with those three items – Order Nos. 10, 11 and 12 – and if we happen to have more time, we go to Order No.13. So, this is a Procedural Motion because Wednesday is a specific day for Members' and this exemption must be done in accordance with Standing Order 40(3).

I beg to move and ask my colleague, the Leader of the Minority Party, who was in the HBC meeting, to second.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. I second the Motion as moved by the Leader of the Majority Party. We deliberated, as the HBC, and decided to request the House to approve that we exempt the three items in the Order Paper from the provisions of Standing Orders 40(3) that requires today to be specifically dedicated to Private Members' Motions and Bills.

I am sure that Hon. Wandayi is prepared to move the Motion on the PIC Report. This Report is necessary because it will push us to cover up to June 2015. We will be left with two financial years. That will help us to have more updated accounts for division of revenue in this country. Remember, this House has been previously accused of failing to approve accounts for the division of revenue that goes to our counties. The PIC also had started the debate and we want to conclude it before we go on recess.

Finally, there is the elephant in the room. The image of this House has been compromised a lot by the serious allegations of bribery during the debate on sugar Report. It is important that we do not adjourn for recess before this matter is debated and possibly the truth comes out so that we redeem the image of this House. So, we felt that it was important that this Report is prioritised for debate this morning.

With those remarks, I beg to second and plead with the House to support the Motion.

(Question proposed)

((Question put and agreed to))

Next Order.

PROCEDURAL MOTION

LIMITATION OF DEBATE

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move:

THAT, notwithstanding the provisions of Standing Order 97(4), and the House resolution of 14th February 2018 limiting speech in a debate on a Report of a Committee, this House further orders that debate in respect of the Report of the Committee of Powers and Privileges be limited as follows: A maximum of one hour, with not more than ten

(10) minutes for the Mover in moving and five minutes for any other Member speaking, including the Leader of the Majority Party and the Leader of the Minority Party and that five minutes before the expiry of the time, the Mover shall be called upon to reply; and further that priority in speaking shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that order.

Again, this is about time management because we have much business ahead of us in this Order Paper – the Public Accounts Committee, the PIC Report and Private Members' Bills. So, the HBC felt that debate on the Report of the Powers and Privileges Committee would be conducted within one hour and every Member speaking, including the Leader of the Majority Party and the Leader of the Minority Party, would be given five minutes so that we dispose of this matter as fast as possible. Therefore, I will ask the Leader of the Minority Party, who was in the HBC meeting of last night, to second.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Speaker, I second. I echo that this is to manage our time.

We were even debating whether to limit the time allocated for debate for the two other Motions by PIC and PAC but again the HBC decided to exclude those from this limitation because our main role is to oversee the Executive. There is no better way of overseeing the Executive other than through the reports of these two key watchdog committees. The Report of the Powers and Privileges Committee is straightforward. So, Members can take as little time as possible to dispose of it. I request this House to approve this Procedural Motion so that we limit the time for debate on this Motion by the Powers and Privileges Committee.

I second.

(Question proposed)

((Question put and agreed to))

The Temporary Deputy Speaker (Hon. Christopher Omulele): Next Order!

MOTIONS

REPORT ON THE INQUIRY INTO THE ALLEGATIONS OF BRIBERY OF SOME MEMBERS

The Temporary Deputy Speaker (Hon. Christopher Omulele): Chairperson, Committee of Powers and Privileges.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Temporary Deputy Speaker. The Chairperson of this Committee is none other than the Speaker of the National Assembly. But on behalf of the Committee, I will be moving the business under Order No.10.

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

THAT, this House adopts the Report of the Committee of Powers and Privileges on the Inquiry into Allegations of Bribery of Some Members of the National Assembly during consideration of the Report of the Joint Sitzings of the Departmental Committees on Agriculture and Livestock and Trade, Industry and Co-operatives on the Inquiry into Alleged Importation of Illegal and Contaminated Sugar into the country, laid on the Table of the House on Tuesday, 20th November 2018.

Hon. Temporary Deputy Speaker, Section 15(1) of the Powers and Privileges Act establishes the Committee of Powers and Privileges. While Section 15(4)(a) mandates it to inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege in terms of Section 16 of the Act.

The Committee may inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege either of its own motion, that is *suo moto* or as a result of a complaint made by any person. Upon conclusion of inquiry the Committee may recommend any or all of the sanctions provided for in Section 17 of the Act.

On or around 7th July 2018, there were media reports published in the *People Daily* Newspaper of bribery allegations against Members of Parliament and Parliament as a House of bribe. It was titled, "*House of Bribes*". Subsequently, allegations of bribery against certain Hon. Members arose during debate on the Report of the Joint Sittings of the Departmental Committees on Trade, Industry and Cooperatives and Agriculture and Livestock on the inquiry into importation of alleged illegal and contaminated sugar into the country.

Consequently, the Speaker of the National Assembly refereed claims to the Committee of Powers and Privileges to investigate and report on the matter which touched and related not only to the integrity of the Members of the National Assembly but the dignity of the House as a whole. As a Committee mandated to deal with this matter, the Committee resolved to investigate the adverse allegations on the conduct of certain Members of the National Assembly around the time of the debate on the Sugar Report.

The Committee resolved to analyse the media reports including newspaper articles and video clips with a view to determining specific members that made allegations and the nature and velocity of those allegations. The Committee held 12 sittings to consider the matter. At its first sitting held on Wednesday, 1st September 2018, the Committee reviewed the matter of article on *House of Bribes*. That is what we were termed by the media, particularly by the *People Daily* Newspaper that also made claims of bribery in the House. It resolved to visit and hear the journalists in the subsequent sitting that was held on 2nd September 2018.

At the sitting held on Wednesday 5th September 2018, the Committee reviewed the terms of reference on the communication made on 8th August 2018 by the Speaker referring to claims of bribery to Members to reject the Sugar Report and the newspaper articles attributed to various Members on the matter.

The Committee identified the following Members as persons of interest to be invited to give evidence: Hon. (Capt.) Didmus Wekesa Barasa, Member for Kimilili Constituency; Hon. James Onyango Oyoo, Member for Muhoroni Constituency; Hon. Godfrey Osotsi, nominated MP; Hon. Jayne Kihara, Member for Naivasha; Hon. John Waluke, Member for Sirisia; Hon. Geoffrey Odanga, Member for Matayos Constituency; Hon. Simba Arati, Member for Dagoretti North Constituency; Hon. Samuel Atandi, Member for Alego-Usonga Constituency; Hon. Makokha Murunga, Member for Matungu Constituency; Hon. Gathoni Wamuchomba, Member for Kiambu County; Hon. Angatia Savula Ayub, Member for Lugari Constituency and Hon. Rahab Mukami Wachira, MP, Member for Nyeri Constituency.

The Committee received oral submissions from the above stated witnesses during sittings held on Wednesday, 19th September 2018, Tuesday, 25th September 2018 and Wednesday, 3rd October 2018 in Committee Room No.12. The Committee further conducted a site visit on Tuesday, 16th October 2018 to enable it make a determination of the matter under consideration. The Committee finally retreated on Friday, 16th and Saturday, 17th November 2018 to analyse the evidence and review the footage of National Assembly proceedings of Thursday, 9th August

2018 as recorded by the Parliamentary Broadcasting Unit (PBU) to ascertain whether or not envelopes allegedly containing bribes were exchanged in the Chamber.

Offering bribes and this is known to all of us, to Members to influence them in their conduct or any fee or reward in connection with promotion of or opposition to any Bill, resolution, matter or things submitted or intended to be submitted to the House or any Committee is a breach of privilege. The acceptance by a Member of such bribe in similar circumstances is also a breach of privilege.

Therefore, in this regard the Committee observed the following:

- (i) There might have been bribery of Members of National Assembly to reject the Report on the importation of alleged illegal and contaminated sugar in the country.
- (ii) That, we picked evidence from witnesses on oath pursuant to provisions of Parliamentary Powers and Privilege Act, Section 20 as well as Standing Order No.191. Of importance notice is to note the following observations and contradictions that were given by Members under oath:
 - (a) Whereas Hon. Didmus Barasa stated that Hon. Fatuma Gedi offered him a bribe within the plenary chamber, Hon. Fatuma denied, stating that she had never had any interactions before with Hon. Didmus Barasa and only knew him through the media when he made the allegations.

*[The Temporary Deputy Speaker
(Hon. Christopher Omulele) left the Chair]*

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

- (b) Whereas Hon. Didmus Barasa stated that Hon. John Waluke witnessed Hon. Fatuma Gedi attempting to bribe him, Hon. John Waluke denied the allegations by stating that he did not see any exchange of money in the House and that indeed they do not even sit on the same side of the aisle;
- (c) That Hon. Geoffrey Odanga, stated that the Hon. Joseph Tonui...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Mwathi, I know you have limited time and we heard the Motion had been moved. I wish you can go to observations, findings and recommendations.

Hon. Peter Mwathi (Limuru, JP): Hon. Temporary Deputy Speaker, I am now on the observations and then I go to the recommendations.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You have few minutes. I am just guiding you.

Hon. Peter Mwathi (Limuru, JP): I ask for your indulgence because these observations have informed the recommendations.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I am just warning you because of time. Just manage your time.

Hon. Peter Mwathi (Limuru, JP): Hon. Temporary Deputy Speaker, I have just given two examples of the contradictory nature of the evidence and the rest of it is as contained in the Report.

Therefore, in moving to conclude this matter, we noted as follows:

While there is a case for saying that any alleged corruption activity by a Member of Parliament in relation to their Parliamentary duties could be a matter for Parliament alone and that the courts and criminal law should not intervene, the Constitution of Kenya now subjects all persons to the rule of law.

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

*[The Temporary Deputy Speaker
(Hon. Christopher Omulele) resumed the Chair]*

Hon. Temporary Deputy Speaker, guided by this rule of law, the Committee undertook its task bearing in mind the responsibilities of leadership as enshrined in the Constitution of Kenya in Article 73 which provides, *inter alia*, that we all must demonstrate respect for the people, bring honour to the nation and dignity to our office in order to promote public confidence in the integrity of our institution, which is the National Assembly.

Therefore, the Committee, in making the recommendations, was guided by the principles of leadership and integrity, which comprise, among others, objectivity and impartiality in decision-making and ensuring that decisions are not influenced by nepotism, favouritism, ethnicity, regionalism, religion, gender consideration or social status. In order to deal with this matter conclusively, it is important that Parliament works with other Government agencies that are mandated to undertake investigations into bribery activities, unethical conduct and impropriety.

In conclusion, it is against this backdrop that the Committee made the following one recommendation:

THAT, pursuant to the provisions of Section 17(2) of the Parliamentary Powers and Privileges Act, 2017, the Directorate of Criminal Investigation and the Ethics and Anti-Corruption Commission do investigate the allegations of bribery of some Members of the National Assembly during the consideration by the National Assembly of the Report of the Joint Committee of the Departmental Committee on Trade, Industry and Cooperatives and the Departmental Committee on Agriculture and Livestock on the importation of alleged illegal and contaminated sugar into the country within 90 days of adoption of this Report.

Hon. Temporary Deputy Speaker, I beg to move and request a Member of the Committee in the name of Hon. Omar Mwinyi to second. I thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Mwinyi.

Hon. Omar Mwinyi (Changamwe, ODM): Shukrani, Mhe. Naibu Spika wa Muda kwa kunipatia fursa hii kuafiki Ripoti hii ya Kamati ya uwezo na kivuli kinachowawezesha Wabunge kuongea na kutekeleza shughuli zao bila kuwekewa vikwazo na sheria.

Vilevile, tukielewa kwamba sheria zote ambazo tumepewa zina ukingo *au limitations*, sheria inatupatia nafasi kuwa sisi twaweza kusema lolote ambalo twataka kusema lakini sheria hiyo hiyo vilevile imetuwekea ukingo ambao hatuwezi kuvuka. Kwa sauti hiyo, tumekuwa na kazi ngumu katika kuangalia suala hili ambapo tulifadhaishwa sana na ripoti ambazo zilikuwa zinaonyeshwa katika magazeti kwamba Wabunge wanachukua hongo, Bunge limeoza na masuala kama haya. Hapo ndipo tukasema, kulinganisha na uwezo ambao tumepewa kama Kamati, tufanye uchunguzi. Katika uchunguzi, tuliona kwamba, kwasababu ripoti hii ilikuwa

inaonyeshwa moja kwa moja katika vyombo vya habari, mashahidi wengine pengine waliona kuna hatari na wakija pale katika Kamati wakasema: “Sisi hatukuona na hatukusikia.” Sasa kama mtu ashasema hakuona wala hakisikia, hakuna mahali ambapo tungeweza kusonga mbele.

Vile vile, katika Ripoti hii, tumeona kwamba iko haja ya Bunge hili lijichukue kama Bunge la kitaifa. Ripoti ambayo inakuja hapa iangaliwe kwa mujibu wakitaifa na tusione kwamba ni Wabunge wa magharibi peke yao ndio wanafaa kuchangia mambo ya sukari na wengine wawe wanapinga. Jambo la haki liwe la haki. Katika Ripoti hii tumeona kwamba kumekuwa na bidii na juhudi za kuwa Hoja hii iangushwe kwa sababu kulikuwa na mawaziri ambao walikuwa lazima wakingwe wasije wakaumia. Nafikiri huu si mwendo ambao Bunge hili lafaa kuchukua. Ikiwa twataka kukomesha ufasidi, kila mtu ambaye atakuwa ametajwa apewe nafasi aweze kuulizwa na yeye mwenyewe aweze kujisafisha. Hivyo tungeweza kukomesha mambo ya ufasidi katika nchi yetu.

Hata jana katika Bunge la Seneti, walikuwa wakijadili mambo ya Ruaraka, tuliona bado kuna watu walikuwa wanakingwa katika Ripoti hiyo. Nafikiria mwendo huu ukiendelea, itakuwa sisi kama Bunge hatutekelezi kazi yetu sawa sawa. Mwisho, napenda kuangazia maombi yetu katika Bunge hili. Kabla hatujaanza kikao chetu huwa tunasema: “Ewe Mwenyezi Mungu, ambaye kwa hekima na wema wako umeteua nyadhifa za viongozi na mabunge kwa ustawi wa jamii na utawala wa haki wa wanadamu: twakusi hi ututazame kwa neema nyingi sisi watumishi wako, ambao umeridhika kutuita ili tutekeleze shughuli muhimu za Jamhuri hii yetu.”

Mhe. Naibu Spika wa Muda, hili ni moja katika mambo ambayo twatakiwa tuyazingatie. Mwisho kabisa, ombi hilo linasema: “Twakuomba ututeremshie Baraka zako sisi tuliokutanika hapa...”

Kisha inamalizia ikisema:

“...ufanisi na heri ya nchi hii yetu na wale ambao haja zao umezikabidhi mikononi mwetu.”

Ikiwa wananchi wametukabidhi sisi majukumu yakuangalia maslahi yao na mambo yao yaende sawa sawa, itakuwa hatutekelezi kazi zetu ikiwa tutaenda kinyume chao.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Mwinyi, you remember at the beginning we said that we will have five minutes. However, you have one minute for you to second.

Hon. Omar Mwinyi (Changamwe, ODM): Mhe. Naibu Spika wa Muda, ninaomba dakika moja. Asante sana. Tulikuwa na kizaaza wakati tulipoenda katika ukaguzi kule chooni. Ilisemekana Wabunge wanawake hawafungi milango yao wakienda chooni na hili ni jambo ambalo hatukuweza kulithibitisha kwa sababu hatungeweza kwenda chooni wakati wako pale. Kwa hivyo, pengine tungefanya utafiti zaidi kuhusu Wabunge akina mama ili watueleze kama wakienda chooni huwa wanaacha milango yao wazi. Hili ni tatizo kubwa sana ambalo Kamati yetu ilipata.

Kwa hayo, naunga mkono Kamati hii na vile vile, Ripoti hii.

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

Hon. Aden Duale (Garissa Township, JP): Mheshimiwa Naibu Spika wa Muda, nasimama kwa suala la nidhamu. Ile lugha ambayo Mheshimiwa Mwinyi ametumia si lugha ya Bunge. Ni lugha isiyo ya ustaarabu. Amesema kwamba wengine wetu hapa wakiingia chooni hawafungi milango. Hiyo ni aibu kubwa sana. Kama suala hilo lipo katika Ripoti, ni sawa. Lakini kama halipo kwenye Ripoti, atoe hoja hiyo.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Mheshimiwa Mwinyi, hujakosea nidhamu. Kwa hivyo, mtanikubalia nisome Hoja ilivyo.

(Question proposed)

Let us have Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Temporary Deputy Speaker, I beg to move that the Motion be amended as follows:

THAT, the Motion be amended by inserting the following expression immediately after the words “November 20, 2018” –

“Subject to deletion of paragraph 7(2) on page 46 on the recommendations of the Report and substituting therefor the following new paragraph on recommendations –

In view of the foregoing, taking into account the contradictions and inconsistencies in the evidence of the witnesses who appeared before the Committee on Powers and Privileges, and the fact that the Committee lacks capacity to conclusively investigate such matters which may border on criminality, the House notes that the Hon. Members who made claims of bribery against fellow Members are at liberty to make formal reports to other relevant competent State investigative agencies to undertake investigations.”

As you have heard, the Chair of the Committee reported that there might have been corruption. If there might have been corruption, we would not want to gag Members who feel that the evidence they gave to the Committee might not have been acted upon. They are at liberty to go to other investigative agencies, make those claims and provide evidence so that the individuals who are involved can be investigated and prosecuted. I would not want there to be a blanket cheque for all the 349 Members of Parliament to wait and see who is next to be investigated on this matter.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I do not want to interrupt you, Hon. Pukose. Hon. Members, this proposed amendment by Hon. Pukose has received the approval of the Speaker. I direct that it should be distributed to all the Members so that they have it in their hands.

Proceed, Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Temporary Deputy Speaker, the aim of my amendment is to delete the recommendation that the Committee made in terms of the Directorate of Criminal Investigation (DCI) to investigate all the 349 Members. There are Hon. Members who would not want to go into their constituencies and feel that they are under investigation. That is the import of my amendment. I urge the House to support it and ask the Leader of the Majority Party to second.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I support this amendment. Without this amendment, the Committee was asking the DCI and the Ethics and Anti-Corruption Commission (EACC) to investigate the 349 Members. I thank Hon. Pukose for bringing this amendment. If you are the person making allegations, go to the DCI or the EACC today, make your allegations and investigations can be opened.

Parliament is an institution and we must protect the independence of the institution in the same way the Judiciary protects its members.

I have just read the Report. It is very sad when a female Member of Parliament appears before the Powers and Privileges Committee and says that when we go to the toilet, we do not

close the door. That is the height of irresponsible behaviour. It is childish. Even my child who is seven years old closes the door. It is very shameful. We should not put cameras there.

This is a very good amendment. I support it. You cannot indict 349 MPs. In fact, it is 350 Members, including the Speaker. If you have a problem with Hon. Fatuma Gedi or Hon. Omar Mwinyi, go to the independent investigative agencies. Do not involve Hon. Jessica, Hon. Nyikal and myself. This amendment is very good because they could not provide conclusive evidence.

The Member is saying that you are at liberty to go to the investigative agencies and make your allegations because you could not prove them in front of the Committee chaired by the Speaker. Walk to the DCI or the EACC. Strip yourself of the immunity that the Powers and Privileges Act gives to you. When you become Member of Parliament, you enjoy certain immunity when you are within the precincts of Parliament. That is why when you speak on the Floor of the House you have free thought, speech and conscience. You can say anything on the Floor of the House.

Hon. Pukose is a surgeon. I had been asking the Clerk whether he is sure that this recommendation is in order. I am happy that a surgeon has dissected the problem, found the “tumour”, removed the “tumour” and is now sending the sick to the wards.

I beg to second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, allow me to propose the Question so that you can deal with what the surgeon has proposed.

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

Hon. Members: Put the Question!

The Temporary Deputy Speaker (Hon. Christopher Omulele): Is that the mood of the House?

Hon. Members: Yes!

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

(Question of the Motion as amended proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, these are the directions on how to proceed with this. We shall proceed with debate on the Report as amended, taking into account the amendment that we have just approved. The first Member on my list here is Hon. Atandi Onunga.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Temporary Deputy Speaker. Before I begin my contribution, I would like to thank Hon. Pukose for the amendments that he has introduced. When I went through this Report last week when it was tabled, I was disturbed because I felt that the Committee had done a shoddy job.

If you look at the Report and the submissions that were given by Members of Parliament who were invited, the conclusion and recommendation that came from this Committee demonstrated that the Committee is not in touch with the reality of Parliament. From the word go, let me ask the reason for Powers and Privileges Committee to begin to investigate Members

of Parliament. The reason was that there were some media reports that portrayed Members of Parliament as having been bribed. Members of Parliament are not going to act on the basis of what the media writes because it appears that Parliament is under attack right now by the media. The media writes false information about what Parliament is doing with the sole purpose of putting Members of Parliament at loggerheads with the public. This is not going to be the situation we are going to act on. If you look at the Parliamentary Service Commission Bill which is being discussed right now, the information that the media has given out as far as the context of this Bill is concerned is erroneous and false. This is purely to ensure that Members of Parliament are not respected and are attacked everywhere by the public. I want this House to be resistant, resilient and protect its integrity.

The other issue that I have observed in this Report is that the Committee was relying on newspaper cuttings to establish the integrity of Members of this House. Members of Parliament were invited to this Committee on the basis of newspaper cuttings on what a Member said in rallies and funerals as a basis for investigating integrity of Members of this House.

Hon. Omar Mwinyi (Changamwe, ODM): On a point of information.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Atandi, just hold on for one second. Hon. Mwinyi, I have heard you saying “point of information”. Whom do you want to inform?

Hon. Omar Mwinyi (Changamwe, ODM): Hon. Temporary Deputy Speaker, I would like to inform Hon. Atandi that we did not act on the basis of newspaper cuttings but it is as a result of Members of Parliament casting aspersions on their colleagues. They are the ones who went to report to the journalists who wrote it in newspapers. You cannot accuse the Committee of having done shoddy job and acting on the basis of newspaper cuttings. We were acting on the premise that some Members of Parliament accused their colleagues.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Mwinyi, that is not a point of information but point of argument. Allow Hon. Atandi to make his contribution.

Hon. Samuel Atandi (Alego-Usonga, ODM): Hon. Temporary Deputy Speaker, I went to school very well. I am a graduate of Egerton University. I am also very good in English. I have read this Report and I am talking about what I understand and know. Members of Parliament were invited to this Committee based on information that appeared in newspapers. For instance, were Members reacting to what initially had been captured and written in the newspapers? We do not know the sources of their information. I have not seen anywhere in this Report where a journalist has been invited and asked to explain the source of his information. If the journalist said in the newspapers that so and so was bribed, he should give that evidence. Therefore, we will not allow this House to be turned to some form of ping-pong where the public is kicking the Members of Parliament, left, right and centre and our Committee is making some funny recommendations on Members of Parliament to be investigated by the Director of Criminal Investigation (DCI).

If this Committee did not find any evidence to link any Member of this House to corruption, they should have made a very clear Report and say that. They cannot hide behind the DCI and say that some Members will be investigated. This is a fake Report. I thank God for the amendments. I would recommend that some of these Members of this Committee be removed and changed.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kemosi, what is out of order?

Hon. Vincent Kemosi (West Mugirango, FORD – K): Hon. Temporary Deputy Speaker, is the Member in order to say that this is a fake Report given the fact that Hon. Atandi agrees in the Report that he made a Press statement? He has said that he contacted a media house to express the fact that he never said something about bribery allegations in the Sugar Report. Is he in order to say that this is a fake Report which we have sat as a Committee, deliberated and presented to this House?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Atandi, I direct that you withdraw that statement which you said that this is a fake Report. This is a Report of the House.

Hon. Samuel Atandi (Alego-Usonga, ODM): Hon. Temporary Deputy Speaker, I will not withdraw my statement because I was invited by this Committee because I made a reaction to what the media already highlighted about corruption in the Sugar Report.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Atandi, I have directed that you withdraw that part of your statement which you said that this is a fake Report. You can disagree with the Report but you cannot say that it is fake.

Hon. Samuel Atandi (Alego-Usonga, ODM): I am sorry I will not withdraw my statement.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Members, Hon. Atandi said that he has withdrawn that part where he said that the Report is fake.

Hon. Members: He has not withdrawn the statement.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Atandi, just to make it clear. Order Members. We will have order, Members. Hon. Atandi, please withdraw your statement on the part where you said that the Report is fake for the sake of the record.

Hon. Samuel Atandi (Alego-Usonga, ODM): Hon. Temporary Deputy Speaker, with the amendments by Hon. Pukose, the Report is okay.

(Laughter)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Atandi, listen to my directions so that we can just make progress. Withdraw the part where you said the Report is fake.

Hon. Samuel Atandi (Alego-Usonga, ODM): Hon. Temporary Deputy Speaker, I am saying that with the amendments by Hon. (Dr.) Pukose, the Report is now credible and not fake.

The Temporary Deputy Speaker (Hon. Christopher Omulele): It is quite in order. We will make progress. Hon. Members, we shall proceed. Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. I also want to make my contribution to this Report. First, when these issues came up, it really brought down the image of this Parliament. We must admit that fact. It takes me back to ask whether we are behaving honourably as Members of Parliament. There is a matter like casting aspersions on the character, conduct and integrity of other Members. There is no law which bars you from making those allegations. However, they should be backed by concrete evidence that would stand the test of time.

I find it a bit careless that Members, especially in this Parliament, just talk carelessly about the integrity, conduct and credibility of other Members. We are in this House to debate. We should be allowed to debate in this House freely so that we make decisions. There are so many reports. I have been here for a while from 2008. I would like to tell you that there are numerous Reports of the House which have been defeated. However, this is the first time I have heard scandalous allegations and accusations against other Members. I thought that, probably, the Members who made the allegations had concrete evidence and if they appeared before the Powers and Privileges Committee, we would slay the dragon that has been with us for years, namely, there are Members of this House who take bribes.

Hon. Temporary Deputy Speaker, we must admit that it was a shame that the Members who made the allegations, when they appeared before the Powers and Privileges Committee, they made what I would call... - but because this is Parliament, I would not want to use the word “fool”. I am trying to avoid it. The Members did not do justice to themselves. When you make allegations that a colleague has either given or taken a bribe, you must prove it or provide evidence. Otherwise, we will be chasing rumours or propoganda that hurt the image of this House.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Mbadi, I am sure the proper term you are looking for would be “spurious.” It is good that Hon. T.J. Kajwang’ has come in.

Hon. John Mbadi (Suba South, ODM): Yes, disparaging.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Spurious allegations.

Hon. John Mbadi (Suba South, ODM): Disparaging. But I was looking for a term on the character of the Members who made the allegations. Personally, I have issues with the Members who made the allegations. They are not helping this country. If you make serious allegations that Members have taken bribes to shoot down a report that was commissioned by this House and then you fail to substantiate the allegations, what would you be telling the country? After reading the Report, I realised that none of the Members came with concrete evidence. Some even withdrew the allegations after going to the media.

We can also look at it this way, are we supposed to respond to media reports? I do not know when we lost the Standing Order which provided that media reports were not supposed to be quoted in Parliament. There is the *Citizen Weekly* newspaper that I do not like quoting much, because its credibility is not known. It lines up names of Members of Parliament, some of whom were not in Parliament that day. That is the report many media houses and vernacular stations quoted. I listen to one vernacular radio station a lot and they mentioned those Members. Unfortunately, one of the Members whose names appeared in that list comes from my region. The vernacular radio station kept on hammering that Member despite the fact that the Member was not in the House that day. He is the Member for Suna West. He was in the village, but he was mentioned in the media. Yesterday, the same newspaper apologised to Members yet the whole country has been scandalising Members.

My last word is that I expected the Powers and Privileges Committee - Hon. Mwathi should note this - in a case where Members make serious allegations and cannot substantiate them, to reprimand them.

(Applause)

We have our names and integrity to protect. In fact, a politician eats his or her name. They should not play with our names. If you have evidence against me, mention it. If you do not have any evidence and you make wild allegations against me, you should be reprimanded and bear the consequences.

(Applause)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Korere Paulata, Member for Laikipia North.

Hon. (Ms.) Sara Korere (Laikipia North, JP): Shukrani, Mhe. Naibu Spika wa Muda. Nimesimama kuchangia Hoja hii na kuiunga mkono vile imerekebishwa na Mhe. Pukose. Vile wanenaji wengine wamesema, hata Bibilia takatifu, katika Zaburi 22:1, inasema kwamba ni bora mtu kuwa na jina zuri kuliko fedha na dhahabu. Kwa hivyo, wenzetu walilimbikizia lawama wengine; kwamba walikula rushwa na Kamati ya Bunge ikakaa ikafanya uchunguzi na wakatoa mapendekezo yao. Kule nje, majina ya wengi wetu yameharibika na tunaonekana kuwa watu waliokuja hapa kula rushwa ya Kshs10,000 ama Kshs20,000.

Kama walivyosema Wabunge wenzangu, tungependa pia kuona wenzetu ambao walitoa lawama hii wakisema waliona hiki na kile, waende kwa Idara ya Ujajusi ama kwa Tume ya Kupambana na Ufisadi wakatoe ripoti zao huko ili wachunguzwe. Hatutakaa hapa baada ya kupitia hali ngumu katika maisha halafu tuchafuliwe majina na watu ambao wako na maneno yao. Nimesoma Ripoti iliyoko mbele yetu na nikaona mheshimiwa mmoja ambaye ametajwa akisema mheshimiwa mwenzake alimlimbikizia lawama kwa sababu walishindania kiti fulani. Sasa ni viti gani vinashindaniwa Bungeni baada ya kuwashinda wapinzani wetu kule nyanjani? Sasa wameleta maneno hayo yote na wameharibia jina Bunge nzima.

Nawaomba Wabunge waheshimiwa, jina “mheshimiwa” lina heshima zake. Wale ambao wameharibu heshima hiyo, wakutane na wale wanafanya uchunguzi na wabebe mizigo yao wenyewe.

Naunga mkono Ripoti hii.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Martin Owino, Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity. The dignity of this House depends on what Members say, how they say it, why they say it and to whom they say it.

I commend the Committee for the Report, but from the beginning, I have a problem with their observation. They say that there might have been bribery of Members, not of some Members. That is why they were invited to investigate 349 Members. That is not correct.

I want to reiterate one thing; this House is being looked at by the citizens as the highest law-making House. We, as Members, have an obligation to live to that expectation. It is as if we are piercing our own feet with a spear and crying for help. The witnesses appeared before the Committee without any evidence, and these are the people who started the allegations and spoke loudly to the media. At this level, we need to have an audit of our behaviours.

So, the Committee ought to have strongly recommended a reprimand for those who made the allegation without evidence. The Committee has powers. I do not think it is right for them to refer this matter elsewhere when they have powers outlined clearly in the Standing Orders. If they have no evidence, they should just have concluded that there is no evidence. We are a separate institution from the Executive. So, when we roll our problem for the Executive to take care of it, we are opening a can of worms to the institution of Parliament. I do not think that is a good move. I thank Hon. Pukose for proposing an amendment.

I support the Report and urge ourselves to live up to the expectations of the people who elected us to this august House.

Thank you, Hon. Temporary Deputy Speaker.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, first, I thank the Committee on Powers and Privileges chaired by the Speaker for the good Report. Section 15(4)(a) of the Parliamentary Powers and Privileges Act, 2017, mandates that Committee to inquire into the conduct of Members whose conduct is alleged to constitute a breach of privilege in terms of Section 16 of this Act. This is the Act that regulates our behaviour within the precincts of Parliament including the Chamber.

It is appalling that the allegations were made by Members and the same Members could not substantiate the allegations in front of the Committee. It is shameful. There are some people who feel that by talking about their colleagues, they will become popular out there. Please, when you are in a funeral, rally or constituency meetings, keep our names off your radar. Talk about your constituency. I watched a Member saying he was ready to give each of the 349 Members Kshs10,000 if they queue in front of his house. Who told you we want your Kshs10,000? That Member should give us space. If you have money, that is your money. Some of us may not have the money. When you say you are ready to give each Member Kshs10,000 and you want them to queue, what message are you sending?

This is the first Report of the Committee on Powers and Privileges. In the next report, anybody who makes allegations and cannot substantiate them before the Committee must be indicted. The Speaker should write to the Ethics and Anti-Corruption Commission (EACC) for the Member to be investigated. Colleagues, this morning we need to look at this Report with sobriety.

The first observation is incriminating all Members of the House. That is why Hon. Pukose saved the whole House. Where are we coming from? Majority of those Members are new. What are you excited about? This excitement about *The Big Question* Talk shows... When you get hold of the microphone, please, talk to us. Some of us who have stayed here for long know that the same people who you think will profile you will bring you down. Hon. T.J. knows this because he served in the 11th Parliament. That recommendation was handing over the 349 of us to the DCI and the EACC. The DCI can start an investigation and in 2022, you might not get clearance. It is as simple as that. That is why the framers of the Constitution felt that Parliament must regulate itself. It must discipline itself. All the allegations that were said were never proved. In fact, you made the Committee's work very difficult. We watched this thing on television. Why should a Member of Parliament talk about what goes on in the washroom? Why? In this 12th Parliament, you have degraded the stature of a Member of Parliament. This is a soul-searching Report. Each one of us, the word "honourable" means a lot of things.

As I conclude, Members of Parliament, please, in your private meetings out there, let our names not be your denominator. Do not discuss us. Parliament is now putting in place comprehensive closed circuit television (CCTV) cameras. We do not want to be part of anybody who takes bribes. If you are a Member of Parliament, it is not your business to give out bribes to protect the Executive. Why are you protecting the Executive? We have the Public Accounts Committee (PAC) Report on the Financial Year 2015/2016. Come and discuss it.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Leader of the Majority Party, I will allow you one minute.

Hon. Aden Duale (Garissa Township, JP): Come and discuss the PAC Report and see the way money has been lost. Come and discuss the 21st Public Investments Committee (PIC) Report. You are here to oversee, represent and legislate and you are not here to collect money on behalf of other people and come here to bribe us.

Hon. Member for Saboti is one of the guys I have a lot of respect for, but he invited me to his house to take Kshs10,000. Invite me to take Kshs2 million. What is Kshs10,000? The Member for Saboti was on television saying that all the 349 Members with the Speaker *mpange laini mbele ya nyumba yangu nitawapatia* Kshs10,000. We do not care whether you are rich or not. Next time, do not invite us to take Kshs10,000. Invite us for a *harambee* to open projects in your constituency.

I beg to support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, I will now call upon the Mover to reply.

Hon. Members: No!

(Several Hon. Members raised their hands)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Order, Hon. Members! There is no need to raise your hands. You will recall that you made a resolution that this Motion

will be debated for only one hour. You have now done 55 minutes. There is only five minutes for the Mover to reply. The Mover, proceed to reply.

Hon. Peter Mwathi (Limuru, JP): I thank you, Hon. Temporary Deputy Speaker. I thank the Members for bringing out real issues regarding our conduct here in Parliament and how we should behave when we are out there. I quite agree with the Leader of the Majority Party that there are some people who made this look like a joke. While on one side, they were out there in the media talking about Members, when they came to our Committee, they reneged on every word they had spoken out there including those about whom we had video clips evidence which we played and they started playing around with words. It is time for us to be serious when we are discussing matters of colleagues and this House because it touches on our integrity. It depends on how it is taken by members of the public. They will always want to hit back at Parliament. A good recommendation which I picked from Members is that for those who give allegations and they are not able to substantiate in the Committee, we shall be using the provisions in the Parliamentary Powers and Privileges Act to reprimand all by use of any other punishment that is given or provided for by the Act.

With those many remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, you should always remember the resolutions that you make in the House.

Question of the Motion as amended put and agreed to)

Resolved accordingly:

THAT, this House adopts the Report of the Committee of Powers and Privileges on the Inquiry into Allegations of Bribery of Some Members of the National Assembly during consideration of the Report of the Joint Sittings of the Departmental Committees on Agriculture and Livestock and Trade, Industry and Co-operatives on the Inquiry into Alleged Importation of Illegal and Contaminated Sugar into the Country, laid on the Table of the House on Tuesday, 20th November, 2018, subject to deletion of paragraph 7(2) on page 46 on the recommendations of the Report and substituting therefor the following new paragraph on recommendations –

THAT, in view of the foregoing, taking into account the contradictions and inconsistencies in the evidence of the witnesses who appeared before the Committee on Powers and Privileges, and the fact that the Committee lacks capacity to conclusively investigate such matters which may border on criminality, the House notes that the Hon. Members who made claims of bribery against fellow Members are at liberty to make formal reports to other relevant competent State investigative agencies to undertake investigations.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Next business.

TWENTY-SECOND REPORT ON AUDITED FINANCIAL STATEMENTS FOR STATE CORPORATIONS

THAT, this House adopts the Twenty-Second Report of the Public Investments Committee on Audited Financial Statements for State Corporations, laid on the Table of the House on Tuesday, 6th November 06, 2018.

(Hon. Abdullswamad Nassir on 21.11.2018)

*Resumption of Debate interrupted on 21.11.2018
– Morning sitting)*

The Temporary Deputy Speaker (Hon. Christopher Omulele): Debate on this had commenced. Hon. Njoroge Wamaua was on his feet and had a balance of three minutes. Hon. Njoroge Wamaua? Is she here or is not desiring to be present? Is she here? Yes, you have three minutes.

Hon. (Ms.) Mary Njoroge (Maragwa, JP): Thank you, Hon. Temporary Deputy Speaker. I had contributed on this Report. I was only remaining to say that it is very good for us to support the Report of the Committee as per the recommendations which were made out of the observations.

I support the Report.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Amin Kassim, Member of Wajir East.

Hon. Rashid Kassim (Wajir East, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute and support the Motion of moving the audited reports of State corporations in Kenya.

State corporations are State investments. They are supposed to be guided by the Act so that they provide certain guidelines and securities in terms of their financial transactions. Investments which are meant for Kenyans and to support development initiatives in various entities should be done prudently, in regard to the Public Finance Management (PFM) Act and State regulations on financing business corporations. As we adjudicate on this Committee Report, we have realised a number of flaws that have emerged in a number of State corporations. Nonetheless, we have been able to transact 221 of them. We have realised certain flaws. The initial one was the usage of independent auditing firms.

*[The Temporary Deputy Speaker (Hon. Christopher Omulele)
left the Chair]*

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

The Auditor-General (AG) is mandated to provide services in auditing regulations and man auditing. We have observed that seven out of 21 State corporations used independent auditing firms. We have realised that out of them, an entire seven have been coming from the Ministry of Energy and they have been given unqualified reports. That means they had no flaws. We have realized that over the period of time that...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Member. What is it, Member for Wundanyi? You seem to have pressed an intervention.

(Hon. Danson Mwashako bowed to the Chair as he withdrew from the Chamber)

He pressed it and left. Very well. Please, proceed.

Hon. Rashid Kassim (Wajir East, WDM-K): The idea of using independent audit firms and allowing them to continue providing unqualified reports has made us realise that there continues to be pilferage of public funds. A number of them have been arraigned in court including the Kenya Power and Lighting Company (KPLC) for that matter yet they had five years of unqualified reports. This is wanting. It does not reflect transactions that have been going on in a number of organisations. So, we suggest, as are the recommendations of this Committee, that audit of all State corporations, particularly of key institutions, should be done by the Auditor-General instead of relegating the responsibility to others.

One other observation that we have also realised is that there is an abuse in terms of variations which have been done on the various costs. It appears that most State corporations are not properly planning their projects. They do not give specific time frames and quotations. They seem to be doing projects without due consideration of the requirements in planning, procurement plans and costing. We have realized that a number of State corporations have a variation of 300 per cent and above. Such a variation is unacceptable. The acceptable variation is 25 per cent. One wonders when an entity conducts a project and has a variation of over 300 per cent. That is a clear indication of misuse of public funds, funds that are entitled to be used effectively to discharge the functions of that entity, for example, the National Hospital Insurance Fund (NHIF).

We have also realised that in the National Social Security Fund (NSSF), a building of 15 storeys went to six storeys yet the financial aspect has never changed. That is an indication to equally suggest that there was no proper planning for that kind of a project.

Most State corporations do not have confirmed board membership. You will find that some boards do not have even chairmen. A number of boards have not been properly constituted. So, it is a recommendation of this Committee that all boards should be properly constituted before they undertake adjudication of certain concerns. They should be properly constituted. They should have the board, a chairman and the various board committees, so that they have adequate quorum to execute as required. Naturally, there are certain boards, particularly the NSSF Board, which have realised that even the head of department and the CEO have been acting for over four years. You wonder how an institution has a CEO acting in the position for years. Certain directors are equally in acting positions. There is no confirmed board to transact which cripples such organisations.

Indeed, it is a recommendation of the Committee that all boards be properly constituted with substantive CEOs and directors. The boards should be properly constituted within a period of six months as suggested in our concerns, as a recommendation.

One other critical observation that we made, as we adjudicated a number of these issues, is that State corporations are making investments in banks that are likely to collapse. The Kenya Railways Corporation (KRC) had invested about Kshs800 millions in the collapsed Chase Bank and within a period of three or four months thereafter, the bank collapsed. That leads to a loss of that amount of money. Similar investments have been done by the NHIF and other State corporations. The NSSF does the same. Generally, there should be due diligence and proper investment done by the State corporations before they go into short-term investment of their funds.

The other critical issues that we have seen is that most State corporations engage in purchase of land as a way to invest. But most of the land they invest in is not properly observed or vetted. The National Land Commission (NLC) does not do due diligence as required in terms of the ownership of the land such that a number of organisations, as we have realised, including the NSSF, the NHIF and the Kenya National Library Services (KNLS) have bought land which has queries. The ownership has not been seen. That is a clear indication to suggest that this is bad investment. They should be done properly within the limits. It appears there is a collusion between the sale of land, those who are likely to sell the land and the buyer. This collusion should cease. When land is bought by State agencies, it should conform within the laws and requirements of the NLC - due diligence should be properly done.

Another critical observation that we have made is that most State corporations, particularly the Kenya Airports Authority and the Kenya Airways, have certain land which they both claim ownership. To date, despite written recommendations, the NLC has never been able to commit that land to a specific entity, that is, whether it should go to the Kenya Airways or to the Kenya Airports Authority.

These are issues that have been happening. Most State corporations seem to have similar problems. So, as a Member of Parliament and a Member of this Committee, I would like to suggest that the NLC should move with speed to resolve land issues between entities and issues between the buyer and the entities that have sold. These are issues that have made this country to lose a lot of money which would have been used for the effective discharge of these corporations' functions.

Thank you, very much.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Next, we shall have Hon. Manje, Member for Kajiado North.

Hon. Joseph Manje (Kajiado North, JP): Thank you, Hon. Temporary Speaker for giving me this chance to contribute to this particular Motion on the Twenty Second Report on Audited Financial Statements for State Corporations. We create State corporations with particular objectives. One of the objectives is to try to open the country for development. Once that is done, State corporations should either be made private or the objective changed. The problem we have in the country is that we do not realise why some State corporations were started. Another issue that should be considered when establishing State corporations is security of the country by ensuring that the interest of the country is strategic, for example, when considering State corporations which are involved in security issues. These are the areas that should be taken into consideration. Having said that, we should make sure that money to State corporations is well guarded, accounted for and audited. The reason State corporations are not doing well in this country is because we have a tendency of doing the same thing. A State corporation is given money and within a short time, the money disappears and we are forced to refund the corporation. This is not the correct way. State corporations should be strategic and if not serving the purpose for which they were created, they should be made private.

When it comes to the number of State corporations, this should be guided by the specific objectives the country wants to achieve instead of establishing State corporations left, right, and centre. I also tend to think that the Government has no business doing business directly. When some corporations engage in business, the business should be left to businesspeople to manage them. The purpose of a State corporation is not profit making. That is the rationale behind starting State corporations.

We should also check the way people are recruited to State corporations. You will find that when a manager is put there, he tries to put his cronies and tribesmen and women such that the corporation takes a tribal line which is not good for the country. We should also consider the implementation of this Report. I tend to think that reports are not properly implemented and that is why we keep on having the same issues. In other jurisdictions like Uganda, police officers sit in the PAC to find out whether a CEO of a particular agency should be investigated. They take such CEOs from the meeting to police cells and the due process of the law starts. In our case, we come up with very good reports that recommend the EACC to take over and take the CEOs through the correct procedure. At the end of the day, this does not happen. We then keep on allocating finances to the same areas. In other countries, they attach the budgeting system to the accounting part. If you are a CEO and you cannot account properly for the money that was given to you, you are not given more money before you can account for the previous allocation. This is what we should do.

In general, we should try to change and ensure that our State corporations are run smoothly and prudently to compete with private organisations. I know there are some corporations that are doing well.

I support the Report.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Jessica Mbalu.

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Hon. Temporary Deputy Speaker, let it be on record that I was pressing to contribute to the next Order. However, I support the PIC Report.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mbadi, before I come to you, let me have Hon. Luyai Amisi.

Hon. Caleb Luyai (Saboti, ODM): Hon. Temporary Deputy Speaker, this was a request for the earlier contribution.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mbadi, before I give you the opportunity to speak, I want you to listen as one Member speaks. Let me give a chance to Hon. Thuku Kwenya.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker for this opportunity to speak on this Report. It is our Report because I belong to the PIC. I must say that it took us a lot of time to come up with this Report given the magnitude and the thoroughness that we had to accord all the State corporations in the Report. We observed several things and the one that was cutting across was the issue of land. Most State corporations have chunks of land for which they do not have title deeds. Many of them are in dispute and we recommended that the NLC fast tracks issuance of title deeds to State corporations because they are at risk of ending up in the hands of the people who have high appetite for public land.

The case study is the NHIF. They have a piece of Land in Karen where they wanted to do a resource centre, a hospital and bring up other developments. Even after the designs and the drawings were done, it was difficult for the Fund to develop that land because it was in dispute. It is quite a big chunk and its value is so high yet there are about four title deeds in different hands.

The other issue is impropriety in terms of procurement. The case study is the National Cereals and Produce Board (NCPB), which has become the benchmark of corruption and loss of funds. There was a case study of 40,000 metric tonnes of maize that was not delivered, but the vendor was supposed to be paid not less than Kshs0.5 billion from the coffers of the NCPB. It has become an issue and a shameful institution to talk about. From the recommendations that we

have given in this Report, we hope that going forward, any corporation that does not answer all the audit queries raised, should have their budget frozen so that they are incapacitated to do anything until they have cleared the air on all the issues that have been raised.

On State corporations on the energy sector, we found out that the Auditor-General has been outsourcing for services of audit. It is interesting that as much as the audit companies gave a clean bill of health to these parastatals, later on, some officers were being charged with corruption yet they had a clean bill of health. So, we have recommended to the Auditor-General to carry out the audits himself as opposed to outsourcing. Other case studies are the Kenya Electricity Transmission Company (KETRACO), the Rural Electrification Authority (REA), the Kenya Power Company (KPC) and the Kenya Electricity Generating Company (KenGen).

In conclusion, if State corporations are well managed and planned, they can be a source of funds whose surpluses can be channeled to the Exchequer and ease the burden of tax on the Kenyan populace.

Finally, it does not matter how many good reports you are going to generate from our committees and adopt in this House. If they are not implemented, it will be an effort in futility. Many reports and Motions have been passed in this House which are never implemented. We are suggesting that from every watchdog committee, we have an implementation subcommittee that is going to work with the Committee on Implementation to ensure that all our reports that are generated and adopted in this House are implemented within record time so that we can get value for whatever it is we are doing.

With those few remarks, I support the Twenty Second Report on Audited Financial or State Corporations. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. John Mbadi.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. First, I thank and congratulate this Committee for working diligently and hard to bring this Report to the House. At one point, I remember the House was a bit concerned that PIC and PAC reports were taking long. As the Leader of the Minority Party, I was told that chairs from my side were not bringing reports. I am happy that now we have very comprehensive reports. Looking at the two reports, you can see the kind of attention that has been given to them. However, since we are debating the PIC now, PAC will come later on and I hope I will have time to make my contribution to it. Let me confine myself to the PIC Report.

I start by mentioning that I was a Member of the PIC in the 10th Parliament and we had a lot of issues with State corporations in terms of prudent financial management. I am happy that a number of issues have been highlighted and more particularly PIC has focused on the major State corporations like the NSSF, the NHIF, KPC, Kenya Pipeline among others. I want to just urge PIC to continue working hard to update their reports so that all the parastatals are covered, even the small ones.

Looking at the reports, I have just noticed that from the 10th Parliament to date, we are still fighting the same problems of asset registers and title deeds in many parastatals. I remember we were pressing this parastatal to ensure that they have all the assets with ownership titles and that is still lacking. You know that if you own land without a title, you do not own it. So, I have seen that the NSSF among other State corporations are facing the same challenges they were facing then.

A lot of improvements have taken place in terms of managing the funds especially managing members' contributions, but more still needs to be done. However, the NHIF has

caught national attention at the moment and I expect the PIC to zero in on that State corporation to find out if we are losing money or not or whether these are mere allegations.

I want to speak about the Kenya Pipeline Company. Many staff who work in that parastatal have approached some of us with some disturbing information. Members will agree with me that it has been in the news for some time. I can see the Vice-Chair of the PIC, Hon. Ibrahim, is here. I ask the PIC and the Leader of the Minority Party to look carefully at this parastatal.

The information coming through is disturbing. We need to find out who between the management and the chairman of the board is telling this country the truth. Mr. Ngumi has been summoned to appear before the DCI to record statements on his role on the procurement of the Kisumu Oil Jetty. That is a matter that probably the chairman is trying to divert attention from by bringing up other issues. Those reports are mostly appearing in one local daily and covered by one specific journalist. It is clear to me that, that journalist is being used by somebody and the information we are getting is disturbing that probably it is the chairman who is sending this journalist to divert attention from his investigation because he is being investigated over the Kisumu Oil Jetty. He is diverting the matter to oil spillage.

I am not saying that there could be no spillage, but as the chairman, he should also tell us his role in this investigation. You cannot have someone being investigated for corruption being the one purporting to restructure that parastatal. I am aware that Joe Sang's term as the CEO is coming to an end in March. So, this could be a way of managing transition or trying to see how to manage the replacement of this CEO. If it is true that the management is the problem, why can the board not come up with clear policy guidelines as it awaits the changes that are likely to take place?

Creating perception at the moment through media coverage yet we know quite well that there are so many audit queries facing the same chairman, more particularly, is wanting. The information I have, which is given by those who are working in the parastatal is that the chairman, through the board, on this Kisumu Oil Jetty contract, insisted on the implementation of that contract even when it was clearly apparent that the Ugandan side was not ready. The information is that the chair was using what he calls presidential directive to implement the project. That matter has become an issue.

(Hon. Abdullswamad Nassir walked into the Chamber)

I can see the Chair has walked in. There are some board members and chairs of boards of parastatals and some CEOs who in the past have even looted State corporations disguising it as fundraising for political parties' campaigns. I think the PIC ought to look at the KPC properly. Let us see who between the management, the board chairman and the board in its entirety is involved in corruption and in mismanagement of resources.

When you see two groups fighting in the same organisation, it is certainly not for the benefit of Kenyans. This is basically people fighting for their own interests. I wanted to speak to this because I want PIC to look at the Chair of the Board and also the management of the Kenya Pipeline Corporation.

Kenyans know that KPC is a very important and key parastatal. We cannot just allow it to be mismanaged or run down by a few individuals. Some claiming to be helping Kenyans yet they are the same ones who are serving their own personal interests. The Senate was looking at this

matter and they invited the chairman and management of the KPC. The kind of exchanges we saw on television was not what you would expect from a serious State corporation.

Therefore, I want to congratulate the Auditor-General's Office because it has managed to speed-up auditing of not only Government ministries and departments, but also State corporations. We need to say kudos to them. If you have been here for a while, you have realised that in the past, we had cases where accounts were even in arrears for 10 years without the Auditor-General attending to them. At least now it is Parliament that has the load of ensuring that we are up to-date.

I have been looking at the Report and the Auditor-General's queries and I think this office needs to change tact a bit. There are some queries that need not find their way into our books at all. These are queries about reconciliations and later on we realise that the same organization...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Your time is over and I think the Clerk should have alerted you.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. It is okay, if my time is over. Maybe, I will make my contribution as we debate the PAC Report. Thank you, I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Before I get to my right, let me give a chance to Hon. Edith Nyenze.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I stand to support this Report on State corporations because they have a mandate and they should stick to it. I also support it because it is based on the Public Finance Management (PFM) Act. I also congratulate the Auditor-General for the good work.

State corporations have Acts and their operation should be based on these Acts and regulations. They should stick to the Acts, regulations, their strategic plans and procurement plans. They should also carry out performance contracting and with all these, we expect State corporations to be run well. However, most of them are not run well and according to the Report, some have not appropriated their funds the right way.

With checks and balances from the performance contracting and adhering to their strategic and procurement plans, we expect them to run well. We have some State corporations whose boards are not properly constituted. Others remain without chairmen or Chief Executive Officer for years, yet, we expect them to run well.

This Report has recommended that State corporation boards should be constituted within six months. I support this because without proper constitution of boards, we cannot expect them to run well. Therefore, I congratulate the Committee for this good Report. Also, with regard to

State corporations' land, I want to recommend that the NLC should give title deeds to public institutions. This should also include those which are not State corporations'. For example, we have noted some schools are built on public land and lack title deeds. Hospitals also lack title deeds. Therefore, I recommend that the NLC should move with speed and issue title deeds so that these institutions can have proper documentation.

Due diligence should be done. I know some State corporations which lost funds in some banks. Some had even invested their pension funds in some banks which went under. Therefore, before they invest and lose public funds, State corporations should do due diligence. Imagine somebody having saved their pension for years and that money is invested in some banks which goes under. This means they lost all their savings and that is very unfortunate. State corporations should do due diligence and invest well.

On the mandate of State corporations, I urge that investigations and research should be carried out to find out whether each State corporation is following their mandate. Maybe the Government is just putting a lot of money into some of these institutions and they are not carrying out their mandate.

Hon. Temporary Deputy Speaker, with those few remarks, I support the Report. I congratulate the Auditor-General for the good work. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall now have Hon. Joyce Chepkoech, Member for Bomet.

Hon. (Ms.) Joyce Korir (Bomet CWR, JP): Thank you, Hon. Temporary Deputy Speaker. Let me congratulate the Committee for the Report which is on the Floor of the House. This is a very crucial Committee because it deals with public investments in this country. The Report they have tabled is of great importance not only to Parliament, but to Kenyans at large.

Hon. Temporary Deputy Speaker, I beg to support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Rono Kipkogei. Give him the microphone.

Hon. Daniel Rono (Keiyo South, JP): Thank you, Hon. Temporary Deputy Speaker. I am geared to contribute on the Report by the PAC because I am a Member. However, from the outset, I support the Report by the PIC. I want them to be keener on parastatals. These are key Government institutions and we are left wondering why some have not obtained title deeds.

Thank you. I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): The last person on my screen on this one is Hon. Onyango. Hon. Onyango, before you start your contribution, Hon. Opiyo, you seem to have something.

Hon. Opiyo Wandayi (Ugunja, ODM): I was just reading the mood and I was tempted to invoke Standing Order No.95(1) that the Mover be called upon to reply. However, since you have given Hon. Onyango Koyoo the Floor, perhaps, he could finish first.

The Temporary Deputy Speaker (Hon. Patrick Mariru): I have seen there are two other Members who have expressed interest in the last one minute.

Hon. Opiyo Wandayi (Ugunja, ODM): There must be a closure.

The Temporary Deputy Speaker (Hon. Patrick Mariru): That the Mover be called to reply. Now that Hon. Onyango was on the Floor, please, proceed.

Hon. Onyango Oyoo (Muhoroni, ODM): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this very noble Motion. I want to say that the Auditor-General is doing a very good job. The essence of kick-starting parastatals in this country was to create jobs and generate revenue for the economy which would go a long way in helping the country in raising the financial muscle that we need. Unfortunately, because of political appointments which are done through political bigwigs, a lot of parastatals have been run down and areas that were targeted to raise money for the economy of this country have been run down thoroughly because of many unscrupulous parastatal heads.

The Report of the Auditor-General speaks loud to this and reports are made. Unfortunately, it is regrettable that many people who have been cast out in bad light or done more harm economically to this country have been left to walk scot free. If anything, many of them have been considered for other appointments and even high level appointments when the time comes. This is very wrong. It is high time the Government walked the talk of zero tolerance to corruption and made sure that actions are taken against all those who are adversely mentioned by the Auditor-General. I remember very vividly that in the last Parliament, in the last Auditor-General's Report, there was a report about mismanagement by various county governments. I can remember one of them because I come from Kisumu County. Some personalities sold land to the Kisumu County government and the Auditor-General found that it was unnecessary and the price was much higher than the value. To date, I have not heard that the people have been arraigned in court and that efforts are being made to recover the money. They are elsewhere. If you look at parastatals, there are fights everywhere. Ironically, those who should be serving in jail are the ones being considered for appointments and reappointments. We want the Government to walk the talk and ensure that people who have been cast in bad light, more so in terms of mismanaging various parastatals and there are adverse reports that reflect pilferages of Government money that we needed to finance various programmes, are brought to book. The State should walk the talk on corruption.

Otherwise, I take the opportunity to support this Motion. Thank you very much.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Opiyo had raised the issue that the Mover be called to reply, but Leader of the Majority Party, you really look like you need to contribute on this one. After that, I will get the mood of the House so that we can make progress. Let us have the Leader of the Majority Party. I will stick to that fully.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker, for that indulgence. Even last night, we said in the HBC that PIC and PAC reports are serious. In fact, they form the core mandate. Sixty per cent of the core mandate of the Assembly on oversight is in these reports. So, we should not treat it like the bribery report. It can only be at the same level with the gender rule principle this afternoon. It is a serious business.

However, I thank the Chair of the PIC for bringing the Twenty Second Annual Report of the Public Investments Committee. In doing this Report, the Committee looked at the Public

Procurement and Asset Disposal Act, the Public Finance Management Act, the International Public Sector Accounting Standards and the International Financial Reporting Standards to come to the conclusion of this report.

From the outset, we must highlight institutions and parastatals that had no audit queries. It must be made very clear. These are like the Kenya Power Company, the Centre for Mathematics, Science and Technology in Africa, the Competition Authority of Kenya, the Unclaimed Financial Assets Authority, the Nairobi Centre for International Arbitration, the Privatisation Commission and the Kenya Copyright Board. These institutions had no audit queries for the Financial Year 2014/2015 up to 2016/2017.

However, there are institutions that have audit queries year in, year out. Whether you change the CEO or the chairman of the board, they still have issues. The Geothermal Development Company (GDC) is one of them and another one is KenGen. Performance of contracted projects, for example, with regard to the project from Lessos to Tororo and the Nairobi Ring Project for KETRACO, the cases are under arbitration for over 10 years. The Government must put its house in order. They must come to a solution. You cannot arbitrate in infinity. There must be timelines. If you look at the GDC, there is the issue of unpaid corporation tax of Ksh724 million. This is unclaimed corporation tax. There is loss of land of the Kenya School of Law in Kilimani area intended for the principal's residence. The land for a principal's residence in Kilimani is missing. The DCI, the EACC and the DPP need to pick this Report the moment the House approves it. Do not look for people through text messages. Get Parliament reports. Look at the Kenya School of Law and the National AIDS Control Council advances to constituency AIDS coordinating committees. All that is missing. You know we must fight corruption. We either fight corruption all of us together or you tell us you are massaging. If you read this Report of the PIC - I am sure if you look at the PAC Report, it is the same - there are damning allegations and damning fraud. Serious corruption has taken place and as we speak, people are in office and they cannot account for the resources that they were given on behalf of the people of Kenya.

I looked at the NSSF on the Hazina Project. I think the Chinese company asked for billions, but I am happy the Committee has decided that the only amount that can be paid is the one that is based on the valuation by the Ministry of Public Works. The Report talks about Hazina Plaza in Mombasa and the leasing and renovation issues. A number of issues have been raised. There is the issue of irregular disposal of undeveloped land in Mavoko. The title is superimposed bearing the name Mr. Kassim Ramji. How can the NSSF land be owned by an Indian? The PIC Reports are serious. The DCI must pick these people and ask them what is going on.

There are also issues of stalled projects like the Hazina Trade Centre and the Nyayo Estate in Embakasi. If you go to the Kenya Railways, you will find something very interesting happening. There is illegal allocation of land to private parties like the three acres in Limuru and the 0.7 acre in Mombasa.

Even Radisson Blu Hotel is on land belonging to Kenya Railways Corporation. That is why I wonder when people talk about Weston Hotel. Nearly all the five-star hotels in Nairobi are built on Government land. Why do you only flag out Weston Hotel? The Crowne Plaza Hotel and the Radisson Blu Hotel are on land belonging to Kenya Railways Corporation. Serena Hotel used to belong to some other people. I was told that when I was very young. The Intercontinental Hotel land is hived off from Uhuru Highway. Let us not be selective. Why are you after Weston Hotel? If you want to talk about Weston Hotel, get a hold of the history of Radisson Blu Hotel.

(Hon. (Ms.) Peris Tobiko interjected)

Hon. Tobiko, you are a pastoralist and I am your patron. When your patron is speaking, you do not interrupt him.

The Kenya National Library Service has been constructing its headquarters since 2007, when I became a Member of Parliament. Why has it not been completed? There is also the Jomo Kenyatta Foundation.

The Chair and the Committee have done a wonderful job. When a Committee produces such a Report, its recommendations are geared towards other investigative agencies. Parliament does not have the capacity and the technical know-how to investigate and bring those people to book. Once we pass this Report, let it not remain in the shelves and gather dust. Let the Committee on Implementation and the Office of the Clerk write to the DCI. It is not about a few allegations such as I gave somebody Kshs10,000 and another lady Kshs15,000 in the toilet. The doors of the toilet were open. That is how I heard the story. That is irrelevant. The problem in our country is that we deal with petty crime. We deal with *boda bodas*.

This Report shows that 20 per cent of the Budget of the Republic of Kenya has been stolen. I challenge the leaders of the National Super Alliance (NASA) on the other side that despite the “handshake” - which is good for Kenya and has brought stability - you must play your oversight role. If you are the Chair of the Public Accounts Committee or the Public Investments Committee, even if we drink tea together, in your Committees, you must protect public resources. Those two watchdog Committees are respected in every Parliament across the world. You should not be like the County Public Accounts and Investments Committee of the Senate. We know what goes on there. Governors go there and they are “cleaned”. It has become a “cleaning chamber”.

The Reports by Hon. Nassir and Hon. Wandayi are serious. Those of you who have been given the opportunity by Kenyans to be in the Opposition should not let the Kenyan taxpayers down. Those of us who are in the Jubilee Party will support the President in the war against corruption. All of us together - both sides - let us make sure that those responsible for playing around and pocketing resources meant for the citizens of this country are held accountable.

We gave advice in the House Business Committee that because of the voluminous work of those two Committees and other Committees, parliamentary Committees should form sub-committees that will work closely with the Committee on Implementation to track and report to the Committee on the status of the implementation of their recommendations. After the Report is approved, Hon. Nassir should follow up on it. Form a small sub-committee that will work with the Committee on Implementation to make sure that the men and women who are indicted are brought to book.

Institutions whose audited accounts are above board and have complied with the law must also be recognised. Parliament must write a letter to them. That can help them in their performance appraisal and motivate them.

If you give me one minute, the father of the Chair of PIC, the late Shariff Nassir, was a Kenya African National Union (KANU) hawk. May his soul rest in peace. I am sure wherever he is; he never thought his son would be in the Opposition and the Chair of PIC. This is how roles change. His father was a serious KANU minister. If you played around with Mzee Moi, you would face the consequences. Ten or 15 years down the line; his able son is now the Chair of

PIC. He and his Committee are doing a very good job and I am sure the House will agree with them.

Look at the NCPB. In the 2015/2016 Financial Year, they irregularly procured 40,000 metric tonnes of maize at Kshs552 million that were never executed. They have huge liabilities of millions and billions of shillings. Parliament has indicted such an institution. You cannot allow such an institution to solve the problem of maize farmers in Kenya.

With those many remarks, I support the Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, Hon. Members. I must seek the mood of the House in light of what Hon. Opiyo had raised on a point of order that the Mover be called upon to reply. I want to establish the mood of the House.

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

Let us have the Mover.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you very much, Hon. Temporary Deputy Speaker. This is a very proud moment. I would like to reply on the same. I will take a few minutes but with your indulgence, and as per the rules of the Standing Orders, I would like to donate some minutes to both my...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Chairperson. In this circumstance, you cannot. The circumstances under which you were called to reply do not allow you.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you very much, Hon. Temporary Deputy Speaker. It would have been an honour for my Whip to contribute on the same. As per the Standing Orders, the Speaker is always right. I hope that with the few minutes that will remain, you will indulge me on the same.

Meanwhile, I note that this is a very proud moment not just for me, but for the entire Committee. I applaud the effort of the Committee Members. I see a number of them in the House. Nothing would have given me more joy and honour than to Chair such an important Committee that has very committed Members of Parliament, including our clerks and the resource team that Parliament has availed to this Committee.

As a Committee, we feel that there is need for us to be informed of what is currently happening in most State corporations. We do not want to be used as a rubberstamp in any of the goings-on. That is why when we have an issue like that of KPLC which had been given a clean bill of health, this Committee opted to conduct a special audit on the transformers and tokens.

As the Leader of the Majority Party has rightfully put it, there are also issues of KETRACO and Geothermal Development Company. We are now asking the Office of the Auditor-General to come up with a proper cost-benefit analysis. It will show us the financial implications of the delays. Over and above that, we are saying that we will pay a certain percentage on top, but we are now seeking to know the repercussions. If there is no power line that has been built and on this other side there is power which is being generated and being lost, what are the total financial implications on that and who is liable for it? We do not want to be told that since a project has been finished, let us just close our eyes and it goes. We cannot allow Kenya to move in that direction.

Hon. Temporary Deputy Speaker, the issue of the NHIF is sickening. The thought behind it is that we need universal healthcare. However, the billions that are being given to an institution

like NHIF are being misappropriated. If people will not be held accountable and go to jail to serve maximum sentences, there is no need for us to sit here. There is no need for us to debate this matter and tell Kenyans that we are executing our constitutional right. That is the reason the Committee is now looking at working hand-in-hand with the investigative bodies. We now want to see the issues which have been raised and add more meat to the skeletons of all those things that have been happening. One of them is the issue of Government insurance. What exactly transpired? What is currently going on with the fake payments?

There is the issue of Excisable Goods Management System (EGMS) stamps in Kenya Revenue Authority (KRA), which is something that is affecting every single Kenyan. You can imagine every single bottle of water which is being consumed and every single excisable item except motor vehicles is affected by this. This Committee is currently going through their EGMS. I want to thank the whistle blowers out there. There are many Kenyans out there and I want to thank them and appreciate the kind of respect and response that we got in this very Committee. They came and gave us a lot of information. One of them was that there could be at least 1,000 containers that have been unaccounted for and that were meant to have left the Port of Mombasa to four other countries, but they never reached there. There has been an issue as to what happened and where the containers were. When we asked the Office of the Auditor-General to look into it, we ended up being told that it is not even 1,000 containers. The Auditor-General confirmed that it could get to 4,000 containers. That is another report that is upcoming.

There is also the issue of Hazina Towers. If this Committee had not intervened, today, Kshs6.8 billion would have been paid to a contractor who was on site. If this Committee had not intervened at the right moment, this country would have ended up paying an extra Kshs6 billion today. There was a court case. What caused it? Who was at fault? People need to be held accountable. There is also the issue of Nyayo Estate where people ended up signing a contract without seeking authority from the Nairobi City Council, which decided it does not want to do anything with it.

As my Leader, Hon. Mbadi, has rightfully put it, there is the issue of Line Five in the Kenya Pipeline Company. We held a sitting yesterday and we were going through the audit report. We were getting into the details. I want to give a glimpse of what is going to transpire. I know sometimes I say that future generations will use this statement as a past tense. The level of conniving and scheming that is being done by some individuals in this country to steal for their own self-interest can make the devil take a seat and clap at the ingenuity of some people in this country. I am saying this without any remorse.

There is also the issue of following up on our recommendations. I want to congratulate Hon. Wandayi who is about to move his own Report. We have recommended that oversight committees should have sub-committees that will work hand-in-hand with the Committee on Implementation. We do not want to take over the role of the Committee on Implementation. But we want institutional memory to be there, so that our Members can liaise with them. That way, we will not have issues coming back and forth into our reports on an annual basis.

Before I conclude, the Leader of the Majority Party mentioned my late father. My apologies because this is a bit emotional. My English has been jumbled up. Yesterday marked 13th years since he left us. I am truly hopeful that wherever he is, he is looking upon all of us collectively and saying that he is proud of the sons and daughters in this very National Assembly. Before I sit, I would indulge that the Question should not be put right now for obvious reasons, but to be postponed until the next Sitting.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, we will not put the Question for that particular Order.

(Putting of the Question deferred)

Before we get to the next Order, what is it Hon. Junet Sheikh?

Hon. Junet Nuh (Suna East, ODM): I want to contribute to the next Order.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Are you registering interest to speak to the next Order but using the intervention route? That is noted. Before we get to the next Order, the Speaker had earlier given permission for us at some point to re-visit Order No. 5 on Papers because the Chair of the Departmental Committee on Finance and National Planning, Hon. Limo, had certain Papers to lay on the Table of the House. I will take the liberty to give him this chance to lay the Papers and then we can go to the next Order. Hon. Limo.

PAPERS LAID

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Departmental Committee on Finance and National Planning on its consideration of the following Bills:

- (i) The Insurance (Amendment) Bill, 2018; and,
- (ii) The Government Contracts Bill, 2018.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next Order.

MOTION

ADOPTION OF PUBLIC ACCOUNTS COMMITTEE REPORT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Chairperson, Public Accounts Committee (PAC), Hon. Opiyo. You have the Floor.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Public Accounts Committee on the Examination of the Financial Statements for the National Government for the Financial Year ended 30th June 2015, laid on the Table of the House on Tuesday, 14th November 2018.

Hon. Temporary Deputy Speaker, at the outset, my Committee is extremely grateful to the Office of the Speaker and that of the Clerk for the support the Committee received throughout the process of collating evidence and writing this Report. Their invaluable support has made this Report possible. It is also worth noting that the PAC Report for whose adoption I am moving is not just any other Report. Article 203(3) of the Constitution is very clear that once this Report is adopted by the House, it will form the basis for allocation of national revenue to the two levels of Government. It forms the basis of sharing national revenues between the two levels of Government. Therefore, this is a very important moment in the House.

The PAC Report that I am moving now covers nearly all Ministries, State departments, commissions and independent offices. This Report is for the Financial Year 2014/2015. As I

move it, it is also important to note that my Committee is committed to presenting before the House the subsequent report that will cover the 2015/2016 Financial Year, God willing, come February 2019.

Coming back to this Report, there are certain points that I wish to reiterate and this is from the experience the Committee has gone through. Budget absorption is a big issue. Year in, year out, this House appropriates funds for development and recurrent expenditure purposes in various Ministries, State departments, commissions and independent offices. Those agencies invariably do not absorb those funds to the fullest extent and this has a big impact on the completion of projects. As we speak, we have a number of projects throughout the country that are yet to be completed on account of the fact that the funds appropriated by this House were not released by the National Treasury.

The second issue is the Exchequer releases. Agencies, Ministries and State departments face the problem of either Exchequer late releases or complete failure to release the funds from the Exchequer. It therefore makes a joke of this House's work in terms of passing the Budget and appropriating funds to those departments and agencies. So, something needs to be done. If for sure given the country's capacity to collect revenue we are not able to support projects, then it should be made clear from the outset at the time of budget-making rather than dumping money in the Ministries in theory and yet in practice, the money is not there.

Thirdly, and this is the core of the issue in this Report - I urge my colleagues to read it. It has more than 650 pages – it details a lot of issues on how public money is managed once it has been released to the Ministries, agencies and departments of Government of Kenya. It is important for Members to take time to read the Report for them to contribute from a point of knowledge.

What comes out clearly and it cuts across as a running thread is the wanton or wastage of public funds. You may call it corruption. Indeed, it is outright theft. It is plain theft found in most of the departments, commissions, Ministries and independent offices. Some of the misuse or wastage of public funds or corruption stems from the fact that this House is sometimes very quick to pass Supplementary Budget Estimates without proper scrutiny. One of the avenues through which public funds are siphoned is the practice of bringing Supplementary Budget Estimates late in the day and hurriedly passing it thereby giving those people an opportunity to misuse public funds.

One of the biggest problems is that of pending bills. If you look critically at the issues raised in this Report concerning pending bills, you will find that they have become a very good avenue. How? Once a Ministry, department or commission accumulates pending bills, and this is done basically towards the end of a financial year, immediately a financial year comes to an end, the pending bills are rolled over to the next financial year because, in most cases, they are treated as the first charge and you will find that they are settled without giving ample time or room to scrutinise them. Therefore, if there were malpractices or irregularities in the manner in which the pending bills were incurred, you will have no opportunity to stop their settlement. So, this is a very big issue that needs to be addressed by this House.

For what I have called corruption which is actually theft, there is clear evidence in this Report that departments, Ministries or commissions that engage in mega procurement projects have a corresponding high level of wastage of public funds. So, procurement is a very proper avenue for entrenching corruption.

One of the methods through which money is stolen through procurement is in the manipulation of quotations. I will explain by use of an example of the National Police Service

and National Prison Service Comprehensive Group Life Insurance Scheme. If you look at the procurement of that insurance scheme, you will be shocked. Here is a case where in the first place, the tendering was restricted. You wonder why a tender for supply of a basic service such as insurance is restricted. That is the first instance. The tendering process was restricted, which is clearly against the law. If you look at the Public Procurement and Asset Disposal Act, even of 2005 before it was amended in 2015, there are very clear guidelines as to when you can resort to either restricted tendering or direct procurement. This guideline was clearly violated. After restricting the tendering process, amongst the companies that were selected to participate in the process, the lowest bid was from a known company, namely BRITAM, which placed a bid of Kshs650 million. This contract was eventually awarded to a company called Pioneer Insurance Company, whose bid was a whopping Kshs1.7 billion. The reason being advanced for disqualifying the lowest evaluated bidder is that the tender document was not duly completed, and that the format of the form of tender had been violated by not stating the capacity of the signatory. The second one is that the bid document required that the person signing the form of tender indicates his or her capacity in the organisation.

Section 64 (2) (b) of the Public Procurement and Asset Disposal Act, 2005 as was applicable then, allows for correction of errors of oversight that do not affect the substance of the tender. This lowest bid was being disqualified on technicality yet the law itself clearly provides that technicality should not be a basis for disqualification if it does not affect the substance of the tender.

When we interrogated this matter, we were told that BRITAM, which was the lowest bidder, had issues with their documents. We asked them why they did not make an effort to go to them and ask them to make corrections. No answer was forthcoming. More importantly, we were told that, perhaps, the reason they were not ready or not in a hurry to make corrections was because they had under-quoted. How can BRITAM underquote or fail to understand the scope of the work they were quoting for when they were bidding for all the companies in the insurance sector in this country? It tells you that there was a clear determination to ensure that this particular contract was awarded to a company with the highest possible bid for obvious reasons.

You can go on and on and you will see that this wanton theft of public funds was not restricted to the police or prisons insurance cover scheme. It was all over and we have documented in this Report graphically all the instances where public funds were misappropriated by officers, some of whom must be serving in public service. We have named them.

What is critical, as I conclude this submission, is that this House must find a way forward. The Auditor-General has done his bit and he continues to do it year in, year out. He has been documenting such cases of wanton theft of public funds. The PAC has also done its bit. By going through this evidence, by examining it, and by compiling this Report, we have made specific recommendations in specific instances and, again, named specific officers. My prayer is that once the House, in its wisdom, adopts this Report, the agencies that we have recommended to take up those investigations would move with speed and expeditiously deal with those matters so that we bring them to a close.

Finally, and this is very important, in 2015, His Excellency President Uhuru Kenyatta came here during one of the State of the Nation addresses and presented to the full House a list of cases that were under active investigation by the EACC. He tabled before the House a list of cases and names of officers who were being investigated and directed that those officers should step aside until the investigations were completed. Indeed, a number of officers stepped aside. Some of them were eventually allowed to resume work since the investigations did not find them

culpable. A number of them did not come back. In order for this House to support the President in the fight against corruption... We must commend the President for his resolve to deal with this monster called corruption. This House, in approving this Report, should make it clear that any person who has been adversely mentioned, and who has been recommended for further investigation by either the DCI or the EACC, should do the most logical thing – step aside and give room for the investigation to be completed. If they continue to stay in office, it will be very difficult for the investigations to head anywhere.

With those many remarks, I beg to move and ask my very able Vice-Chairperson of the Committee, Hon. Jesscia Mbalu, to second.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Chair, who did you say is replying? Yes, Hon. Jessica Mbalu, please. You have the Floor.

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I rise to second the Report on the Examination of the Auditor General's Report on the Financial Statements for the National Government. This is a Report by the Public Accounts Committee.

I must start by thanking and congratulating the very able Chairperson, Hon. Opiyo, who has led us very well with our team of Members. I join the Members in congratulating those who are Members of that Committee. They sat down and did very good work. The work is being seen in this voluminous document PAC has come up with.

The Committee also wishes to thank and reiterate what the Chair has said - to thank the Office of the Speaker, the Office of the Clerk, the Office of the Director of Committees and the staff for the assistance.

What the House should know and note is that we had over 76 sittings. We burnt the midnight oil to complete this Report. For the 2015/2016 Financial Year, we are at about 75 per cent through. As the Chair said, we will very soon be reporting to the House on the Financial Year 2015/2016.

This Report as has been moved will benefit the country. We will be able to use it to disburse money to the counties on the basis of Article 203 of the Constitution. It uses the latest approved revenues as the basis for allocating funds to the counties.

I am sure the relevant MDAs will also be required to read it and see what they must improve in the coming years. I must congratulate the Office of the Auditor-General. They must receive a very important mention for their diligence and professionalism. The Committee purely relies on Reports of the AG. The PAC serves after we take evidence from the accounting officers to confirm the comments of the Auditor-General's annual Report. The Committee also reports on major irregularities that we establish. We make recommendations on necessary corrective actions. Very important to note is that PAC has, on several occasions, come across very mischievous accounting officers. They sometime do not appear before the Committee as we indicate or summon them. They give us excuses. Others come unprepared. We have made recommendations on how those accounting officers should conduct themselves in future when they are summoned by PAC. It is not just PAC but other Committees. This is pursuant to the National Assembly's Parliamentary Powers and Privileges Act (No. 29 of 2017). That is so that we can make a statement on them.

The PAC examines financial matters that have already happened. It may not be of much use because we detect crimes after they have happened. I urge the Departmental Committees to tighten their oversight screws on the implementation of programme-based budgets; and to call

for what we call *suo moto* investigation whenever a wave of corruption is detected. We must stop corruption before it happens.

The recommendations of the House are not implemented in an organised or systemic manner. The Cabinet Secretary of the National Treasury and other accounting officers should be compelled to give full reports on measures taken to implement the resolutions of the House.

This is in the Committee Report and we have said that three months after the adoption of this Report, there must be implementation of the recommendations. You are aware that, as the Public Accounts Committee, we unearthed a lot of fraud or symptoms of fraud. However, the EACC and the Directorate of Criminal Investigation DCI take long and they do not handle those cases. I wish that this time round, such investigating agencies would be at the forefront to handle those Reports as urgent Reports and work on them so that we do not kill the good work of PAC, PIC and other oversight committees. You are aware that the first National Youth Service scandal was unearthed by PAC. I had the pleasure to have served in the last PAC and some of our recommendations are now being used.

As the Chair reiterated, we had issues that rose from the audit queries and most of them cut across every Ministry and every State Department. Sometimes, we have been asking ourselves whether those are errors of commission or omission when we have issues such as gross under-expenditure, pending bills and outstanding imprest. We are aware that we have qualified staff in Ministries, yet we find small mistakes that can be dealt with by a small entity.

We had gross under-expenditure which was around Kshs192.6 billion. The accounting officers attributed this budget mainly to delays in the Exchequer issues, delayed disbursement of donor funds and persistent systematic challenges such as the Integrated Financial Management Information System (IFMIS).

Issues of outstanding imprest were common in most of the Ministries and Departments. For the financial year ending 30th June 2015, the outstanding imprest was totaling to Kshs117.55 million which ought to have been recovered before 30th June, 2015, yet they were not recovered.

On the issue of pending bills, the Committee observed that during the year ending 30th June, 2015, the number of Ministries and State Departments did not settle bills amounting to Kshs42 billion. That is a high figure on public funds.

On statement on outstanding public debt, that has been stated very well by the very able Chair. We have also had issues of maintenance of accounting records. The Committee noted that maintenance of accounting records including cash books and bank accounts across a number of Ministries and State Departments during the year under review were not kept. Other issues were challenges in the IFMIS. This is the elephant in the room. Some of the issues of procurement and issues of funds were being attributed to IFMIS challenges.

The report is voluminous and Members should read it through. We came up with some recommendations and I wish that the relevant bodies such as the DCI and the EACC could take this matter seriously. The accounting officers in the National Treasury and Planning and the Commissioner-General of Kenya Revenue Authority must demonstrate efforts of collecting and accounting for tax revenues. The other recommendation that the Committee came up with is that the accounting officers must, at all times, ensure that documentation relating to financial statements is submitted to the Auditor-General pursuant to the provisions of Section 68(2) (1) of the Public Finance Management Act...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Jessica, kindly second.

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Just one minute to second. Hon. Temporary Deputy Speaker with all the resolutions, findings and recommendations in the voluminous book, this is the report that I call upon the Members to read and so, I second.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Hon. Mbaya you must freeze.

(Question proposed)

Hon. Members, we have several notices for Members who have registered amendments for this. I will get one or two Members then I will give them a chance so that the House has another opportunity to discuss and debate the amendment. Before I give the first Member who has an amendment, let me have the Member for Ol Jorok

Hon. Michael Muchira (Ol Jorok, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Report. I am proud to be part of the team that prepared this Report. I thank the Chair and Committee Members, not forgetting our committee clerks who burnt the midnight oil to ensure that this Report is ready. As the Hon. Leader of the Majority Party said previously, PIC and PAC form part of the most important committees in this National Assembly.

These committees need to be taken seriously in terms of budget allocations to ensure that we do our work properly. As we were preparing this Report, we experienced various challenges which probably contributed to the delay in tabling the reports. We had issues of accounting officers not appearing on the scheduled days and even when they appear, they would delay in providing the necessary supportive documents as required. However, we managed to prepare this Report. As Hon. Members will see, there are serious economic crimes that have been committed by some departments. Just to mention a few, we realised the issues of pending bills is a serious issues that is cutting across all departments. Some are genuine and others are being misused by the accounting officers. Almost 90 per cent of departments have an issue with pending bills. The issue of legal fees ought to be looked into. You find that in some cases, the AG engages the legal services directly without involving the relevant departments. Some cases are just handled casually and the Government ends up losing. Sometimes, we get huge awards against the Government and huge legal fees that are unpaid.

The issue of IFMIS needs to be looked into. Almost all accounting officers have issues with IFMIS and it is time to see whether IFMIS is serving the purpose that it was supposed to serve. Probably, one of the recommendation that we have made as a Committee is to ensure the National Treasury conducts an independent audit to establish whether IFMIS is serving its purpose.

As we were doing our field study, we noticed that some projects especially those by the Judiciary were done without undertaking a cost-benefit analysis. You found a big court house was built using a lot of money but looking at the cases refereed to that court, they are very few. In other instances, there was delay of payment to contractors. This was despite them having finished their work and the Ministry of Public Works issuing certificates. We asked ourselves why? We thought probably, they just wanted to frustrate the contractors so that they could award the tender to a contractor of their choice.

Finally, there are many issues but I will just mention a few. Another big issue we need to look at is Government land because a lot of it lacks title deeds - be it schools, prisons and even

Judiciary. This is something that the NLC and the Ministry of Lands needs to look into. We need to secure our land and give ownership documents so that it is not grabbed.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Junet Sheikh.

Hon. Junet Nuh (Suna East, ODM): Thank you, Hon. Temporary Deputy Speaker. I beg to move:

THAT, the Motion be amended by inserting the following expression immediately after the expression “2018”-

“Subject to –

- (a) deletion of the Committee recommendation contained in paragraph 395.2 of the Report and substitution therefor with the following new recommendation-
“The Auditor-General should, within three months after adoption of this Report, undertake further audit in order to establish the circumstances in which restricted tendering was adopted in the construction of a model county office in Embu by the State Department of Environment and Natural Resources during the Financial Year 2014/2015”;
- (b) deletion of the Committee recommendation contained in Paragraph 395.5 of the Report and substitution thereof with the following new recommendation-
“The Auditor-General should within three months after the adoption of this Report, undertake further audit on the propriety of using restricted tendering for fencing projects at various meteorological projects by the Department of Environment and Natural Resources during the financial year 2014/2015.”
- (c) deletion of the Committee recommendation contained in paragraph 395.7 of the Report, and substitution thereof with the following new recommendation-
“The Auditor-General should, within three months after the adoption of this Report, undertake further audit on the propriety of contracts to various suppliers to supply seedlings to various destinations by the State Department of Environment and Natural Resources during the Financial Year 2014/2015.”

The import of this amendment is that those are matters that required further scrutiny by the Committee. I have sought the indulgence of the Chair of the Committee that, there were documents which were supposed to be supplied to the Committee but they lacked sufficient time. So, we want to address this matter in the subsequent Report conclusively, so that the Auditor-General can do further audit as directed by the Committee in their findings. So, that is the import of this amendment. I request Dr. Eseli to second the amendments.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Simiyu Eseli.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I wish to second the amendment by Hon. Junet because it is within the Committee in the sense that new information coming in will need further audit review. This is because there is an implication that those metrological establishments are considered as security installations. So, the Auditor-General needs to relook at it and this will be in the next Report which we will submit to the House.

Hon. Temporary Deputy Speaker, I beg to second.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the Question now is not on the Report. It is particularly on this proposed amendment. I would like to get...

Hon. Members: Put the Question.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Is it the mood of the House? Order, Members! I will give one or two Members and then we shall make progress. I will give the Floor to one Member from either side. I will start with Hon. Keynan and then I will get one from the left.

Hon. Adan Keynan (Eldas, JP): Thank you, Hon. Temporary Deputy Speaker. As a matter of procedure, we are debating the Report as amended by Hon. Junet. I take this opportunity to thank Members of this particular Committee led by the indomitable Hon. Wandayi for bringing a very concrete Report.

However, these reports have always been there. The PAC is as old as this Parliament. We have always generated reports but it is high time we really appreciated why the framers of our Constitution and our Standing Orders decided to have critical committees called PAC and PIC. In other jurisdictions, you only have PAC. In the Kenyan context, we have PAC and PIC and right now we have the Special Funds Accounts Committee. If you go to Germany, they have PAC and the Budget Committee.

There are critical issues that have been mentioned here. One is the institutional mechanism that this particular unique and very important Committee uses in auditing Government ministries' accounts. There are two critical institutions. One is the Office of the Auditor-General. In particular, I want to mention the Office of the Auditor-General. This Office must be strengthened if we really want to get value for our money. This office must be supported so that they can get experts in different fields because this is an ICT and technology era. This is one thing that has been lacking. Therefore, I urge Members here that, if we really want to get value for our money, please empower the Office of the Auditor-General. That is the most effective way of holding Government institutions to account.

Secondly...

Hon. T.J. Kajwang' (Ruaraka, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Keynan. What is your point of order, Hon. T. J Kajwang'?

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Speaker, we are on the amendment. Let us use our time correctly. We only have one hour to debate this Motion and already...

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is your point of order, Hon. T. J Kajwang'?

Hon. T.J. Kajwang' (Ruaraka, ODM): My point is the Member is irrelevant because he is actually contributing to the main Motion yet he should be contributing to the amendment. This is what Members will be doing – taking advantage of contributing to support the amendment when in fact they are contributing to the main Motion. We have been lining here to contribute to the main Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, just as I had said, what is now on the Floor is the amendment proposed by Hon. Junet.

Hon. Keynan, are you done?

Hon. Adan Keynan (Eldas, JP): Yes, Hon. Temporary Deputy Speaker. I do not want to challenge my friend but I have a problem with that interpretation. I thought what was before us was the Report of the Committee as amended.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Keynan! I have already given direction on that one. It has not been amended. It is currently on the Floor.

Hon. Adan Keynan (Eldas, JP): Hon. Temporary Deputy Speaker, what Hon. Junet has said is critical. It is important. It is a good amendment. It informs, enriches and gives value to the Report. I support that amendment. Nothing stops me from contributing to the Report.

On that particular amendment, I appreciate the stature and thinking of Hon. Junet as an astute legislator. This amendment is a product of the Committee. That is what I am told. That means it enriches the Report which is very good. I support the amendment and hope that the other Members will support it because I wanted to contribute to the main Report.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. T.J. Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): I support the amendment.

The Temporary Deputy Speaker (Hon. Patrick Mariru): I will give an opportunity to one or two other Members. Order, Members! I can tell from the interest that Members will get a chance to speak.

Let us have Hon. Kimani Ichung’wah.

Hon. Kimani Ichung’wah (Kikuyu, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the amendment by Hon. Junet.

I have to state categorically that we must desist from the idea that the DCI and EACC are the hallmarks of morality and ethical behaviour in this country. Other independent offices like that of the Auditor-General must also be given their due powers and mandate in line with the Constitution. The Report is a product of the Auditor-General’s work. Most of the audit questions and queries raised by the Auditor-General are then reviewed by PAC and PIC, as Hon. Opiyo Wandayi’s Committee has done.

It is not lost on us that the Office of the DCI and the EACC are being used for other ulterior motives in this day and age. I would be very careful before asking the DCI and EACC to pick up a matter that has not been conclusively concluded by the Office of the Auditor-General for investigations, as if we are drawing culpability on certain people even before establishing the real facts. It is only fair, as Hon. Junet says that the Auditor-General is first given an opportunity to investigate just like it happens in the auditing profession. When there are questions raised to management through management letters following the work of an auditor, the management is given the first opportunity to respond. In the subsequent year’s audit, the auditor also has a right to give the management an opportunity to show what corrective measures they have taken. What Hon. Junet is proposing is not just right, but should happen in normal audit processes.

Therefore, I strongly support the amendment that the Auditor-General is given an opportunity, three months after the adoption of this Report – which is basically in subsequent years – to go back and check what has been done since then. If nothing has been done, you can further recommend the involvement of the DCI and the EACC. Otherwise, we should forestall. Even MPs, especially those whose National Government Constituencies Development Fund (NG-CDF) accounts are before Public Accounts Committee, should be very careful before rushing to the DCI and the EACC in an age where some of those institutions are being used for ulterior political motives.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, it is 1.00 p.m. I want to remind you that what is on the Floor and what will be on the Floor next time this Order is scheduled by the House Business Committee will be the amendment by Hon. Junet. After that is dispensed with, we will revert back to the Committee's Report as amended or as the decision of the House will be at that time.

Hon. Members, the time being 1.00 p.m, this House stands adjourned until this afternoon, Wednesday, 28th November 2018 at 2.30 p.m.

The House rose at 1.00 p.m.