

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 27th February 2019

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: We may start. Order Members, there are two communications that relate to the business coming a little later. Therefore, both communications will be issued at the appropriate time. Let us proceed.

PAPERS LAID

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House today Wednesday, 27th February 2019:

The Annual Reports and Financial Statements in respect of the following institutions for the Financial Year 2017/2018:

- (i) National Police Service Commission.
- (ii) Teachers Service Commission.
- (iii) National Gender and Equality Commission.
- (iv) Public Procurement Regulatory Authority, and,
- (v) The Kenya Ports Authority.

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2018, and the certificates therein:

- (i) The University of Nairobi Enterprises and Services Limited.
- (ii) Drought Resilience and Sustainable Livelihood programme by the Ministry of Agriculture Livestock, Fisheries and Irrigation.
- (iii) Regional Pastoral Livelihoods Resilience Project by the Ministry of Agriculture, Livestock Fisheries and Irrigation.
- (iv) Strengthening of Fertiliser Quality and Regulatory Standards in Kenya Project by the Ministry of Agriculture, Livestock, Fisheries and Irrigation.
- (v) Rice-based Market Oriented Agriculture Promotion Project by the Ministry of Agriculture Livestock, Fisheries and Irrigation.
- (vi) Agricultural Sector Development Support Program by the Ministry of Agriculture, Livestock, Fisheries and Irrigation, and,
- (vii) Standards and Market Access Programme by the Ministry of Agriculture, Livestock, Fisheries and Irrigation.

I thank you Hon. Speaker.

Hon. Speaker: Let us have the Member for Saku.

Hon. Ali Rasso (Saku, JP): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House today Wednesday, 27th February 2019:

Report of the 50th Session of the ACP Parliamentary Assembly and the 35th Session of the African Caribbean and Pacific European Union (ACP-EU) Joint Parliamentary Assembly held in Brussels, Belgium from the 13th to 20th June 2018.

Report of the 51st Session of the ACP Parliamentary Assembly and the intersession meeting of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 9th to 11th October, 2018.

Report of the 52nd Session of the ACP Parliamentary Assembly and the 36 Session of the ACP-EU Joint Parliamentary Assembly held in Cotonou, Benin from 25th November 2018 to 5th December 2018.

Thank you, Hon. Speaker

Hon. Speaker: Very well. Let us have the Chairperson of the Public Accounts Committee.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Public Accounts Committee on its examination of the Report of the Auditor-General on the Financial Statement for the Independent Electoral and Boundaries Commission (IEBC) for the year ended 30th June 2017.

Hon. Speaker: Next Order.

NOTICES OF MOTIONS

REPORTS ON SESSIONS OF ACP-EU

Hon. Ali Rasso (Saku, JP): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, this House notes the Report of the Kenya Delegation to the Sessions of the African Caribbean and Pacific Parliamentary Assembly and the African Caribbean and Pacific European Union (ACP-EU) Joint Parliamentary Assembly laid on the Table of the House on Wednesday 27th February 2019 as follows:

Report of the 50th Session of the ACP Parliamentary Assembly and the 35th Session of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from the 13th to 20th June 2018.

Report of the 51st Session of the ACP Parliamentary Assembly and the Intersession Meeting of the ACP-EU Joint Parliamentary Assembly held in Brussels Belgium from the 9th to 11th October, 2018.

Report of the 52nd Session of the ACP Parliamentary Assembly and the 36 Session of the ACP-EU Joint Parliamentary Assembly held in Cotonou, Benin from 25th November 2018 to 5th December 2018.

Thank you, Hon. Speaker.

Hon. Speaker: Very well, Chairperson of the Public Accounts Committee.

ADOPTION OF PUBLIC ACCOUNTS COMMITTEE REPORT

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Accounts Committee on its examination of the Report of the Auditor-General on the financial statements for the Independent Electoral and Boundaries Commission (IEBC) for the year ended 30th June 2017, laid on the Table of the House on Wednesday, 27th February 2019.

I thank you.

Hon. Speaker: Hon. Captain Ruweida Obo.

ESTABLISHMENT OF EFFECTIVE DIABETES CARE SYSTEM

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that the prevalence of diabetes in the country has been on the increase with approximately 458,900 cases reported in Kenya according to the International Diabetes Federation Report of 2017, representing 2 per cent of the total adult population; deeply concerned that many people with diabetes continue to lose their lives each year due to lack of awareness of the disease, inability to afford management of the condition and the expensive medication; noting that people living with diabetes can live longer and lead comfortable life if they receive the right medical care and support to help them manage the disease; further noting that there remains inadequate funding for the implementation of the effective strategy for the prevention, detection and management of diabetes thus hindering Kenya's achievement of the Sustainable Development Goal 3 and Vision 2030; recognising the importance of early diagnosis of diabetes, aiding treatment, monitoring treatment progress, monitoring recovery and preventing life threatening and expensive complication, this House urges the Government to institutionalise diagnostic testing for diabetes in work places and community settings, provide for education, prevention and subsidised routine diabetes screening and treatment and put in place measures to ensure an effective diabetes care system at all levels of health care.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Didmus Barasa.

DEVELOPMENT AND IMPLEMENTATION OF REGULATIONS ON COMMUTER FARES

Hon. Didmus Barasa (Kimilili, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that road transport is the most widely used means of transportation in Kenya; further aware that *matatus*, motor omnibuses and buses provide service to millions of people a day and are the backbone of Kenya's public road transport services; cognisant that the National Transport and Safety Authority Act is mandated by law to among other things, come up with conditions as it may consider fit for the purposes of ensuring that the fares imposed for the carrying of passengers are reasonable and ensure fair competition within the transport industry; concerned that companies, associations or Savings and Credit

Co-operatives (SACCOs) under whose umbrella the said public service vehicles (PSVs) operate, and who are required to prescribe fares for its members tend to take advantage of the non-existence of regulatory policies in the sector thus prescribing exorbitant fares which puts a lot of strain on customers; further concerned that for a long time, commuters have suffered at the hands of PSVs crew who on many occasions increase commuter fare on whimsical grounds including changes in weather; this House resolves that the Government develops and implements regulations prescribing the amount of fare to be charged by PSVs for their services to protect customers from exploitation and volatility of the PSV services.

Thank you, Hon. Speaker.

Next Order!

ORDINARY QUESTIONS

Question No.055/2019

STATE OF NAKURU-NJORO-MOLO ROAD

Hon. Speaker: First Question is by the Member for Molo Constituency, Hon. Francis Kuria Kimani. The Member is not present.

Question No.056/2019

PROTECTION OF EACC OFFICIALS AGAINST ATTACKS

The next Question is by the Member for Kamukunji Constituency. This Question, at his request is to be deferred because he is out of the country on official business.

(Question deferred)

The next Question is by the Member for Isiolo County, Hon. Jaldesa Rehema.

Question No.057/2019

STATUS OF IMPLEMENTATION OF THE HIGH COURT JUDGMENT ON BOUNDARY DISPUTE

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you, Hon. Speaker. I rise to ask the Cabinet Secretary for Lands Question No.057/2019.

(i) What is the status of implementation of the High Court judgment of 6th June 2017 on Constitutional Petition No.511of 2015 regarding the boundary between Isiolo and Meru counties?

(ii) What action has the Ministry and the National Land Commission taken to resolve this boundary dispute?

Hon. Speaker: The Question is referred to the Departmental Committee on Lands. The next Question is by the Member for Runyejes, Hon. Eric Muchangi Njiru.

Question No.058/2019

STATUS OF CONSTRUCTION OF KYENI-KATHANJURI-KARURUMO ROAD

The Member not being present, we move to the next Question by the nominated Member (Prof.) Jacqueline Oduol.

Question No.059/2019

POLICY OF NATIONAL COUNCIL FOR CHILDREN SERVICES ON SAFETY OF CHILDREN

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Speaker. I rise to ask Question No.059/2019. The Question is addressed to the Cabinet Secretary for Labour and Social Protection.

(i) What action is the Cabinet Secretary taking to ensure that children in need of care and protection are placed in “family-based” care such as foster homes, adoption guardianship or kinship care as opposed to children’s homes which have been mushrooming, and in some cases, for reasons that are not in the best interest of children?

(ii) Could the Cabinet Secretary provide a list of all duly registered children’s homes in the Country, indicating their location in terms of constituencies and counties, and whether they are administered by Kenyan nationals or foreigners?

(iii) What policy direction exists in the National Council for Children Services to safeguard children and ensure they are not stolen, trafficked or abused by duty bearers and care givers in hospitals, homes, schools, families and religious institutions?

Hon. Speaker: Very well. The Question is referred to the Departmental Committee on Labour and Social Welfare. The next Question is by the Member for Kinango, Hon. Benjamin Dalu Stephen Tayari.

Question No.060/2019

ADJUDICATION OF LAND IN KINANGO CONSTITUENCY

Hon. Benjamin Tayari (Kinango, ODM): Hon. Speaker, I rise to ask the CS for Lands the following Question:

(i) Could the Cabinet Secretary explain how the adjudication process at Maji Ya Chumvi area of Kinango Constituency was done and how the following parcels of land were adjudicated: L.R. Nos. Kinango/Maji Ya Chumvi/Plot No. 2, 3, 67, 68, 69, 70, 275, 358, 365, 366, 367, 423 and 424?

(ii) Could the Cabinet Secretary further explain why the title deed for land reference number Kinango/Maji Ya Chumvi/Plot No.2 has not been returned to the Registrar of Lands as requested?

Hon. Speaker: That Question is referred to the Departmental Committee on Lands.

Hon. Members, allow me to recognise students from Bishop Ndingi from Bureti Constituency in Kericho County and Pupils Reward Scheme (PURES) group which is countrywide, who are in the Speaker's Gallery. I also recognise the following in the Public Gallery: Students from Chogoria Boys High School, Maara Constituency, Tharaka Nithi County; Koelel High School, Gilgil Constituency, Nakuru County; and Njora High School Mixed, Kigumo Constituency, Murang'a County.

You are all welcome to observe the proceedings of the House. Next Question is by the Member for Kiambu County, Hon. Gathoni Wamuchomba.

Question No.061/2019

MEASURES TO REGULATE IMPORTATION OF EGGS

Hon. (Ms.) Gathoni Wamuchomba (Kiambu CWR, JP): Hon. Speaker, I rise to ask the CS for Agriculture, Livestock, Fisheries and the Blue Economy the following Question:

(i) Could the Cabinet Secretary provide details on the quantities of eggs imported into the country for the period 2017/2018 indicating the countries of origin and the firms/companies licensed to import eggs and what criteria is used in the licensing of such companies.

(ii) What is the country's egg production level *vis-a-vis* consumption level?

(iii) What measures is the Ministry taking to regulate importation of eggs with a view to protecting the local poultry farmers?

Hon. Speaker: That Question is referred to the Departmental Committee on Agriculture and Livestock. Next Question is by the Member for Mathare.

Question No.062/2019

NON-PAYMENT OF MEDICAL BILLS IN HEALTH INSTITUTIONS

Hon. Anthony Oluoch (Mathare, ODM): Hon. Speaker, I rise to ask the CS for Health the following Question:

(i) Could the Cabinet Secretary state how many patients are currently held at national and other private health institutions for non-payment of medical bills?

(ii) How many bodies of patients who died during treatment are being held in national and other private mortuaries for inability to settle hospital or mortuary fees?

(iii) What is the total amount owed to those health facilities in respect of patients both alive and dead, and what is the Ministry doing to deal with the accumulation of such cases?

(iv) Is the Cabinet Secretary aware that some health institutions have detention rooms for defaulting patients? What steps are being taken to deal with this vice?

Hon. Speaker: That Question is referred to the Departmental Committee on Health. Next Question is by the Member for Kilifi North, Hon. Owen Baya.

Question No.063/2019

STATUS OF PROJECTS FUNDED THROUGH EQUALISATION FUND

Hon. Owen Baya (Kilifi North, ODM): Hon. Speaker, I rise to ask the CS for National Treasury and Planning the following Question:

(i) Could the Cabinet Secretary explain the status of all projects funded through the Equalisation Fund for the Financial Year 2017/18 in Kilifi County, stating the list of projects, amount disbursed and their stages in regard to completion?

(ii) Could the Cabinet Secretary further state how much is expected to be disbursed before the end of the current financial year 2018/19 for Kilifi County, and by when?

(iii) Could the Cabinet Secretary provide details on whether public participation will be conducted to identify the projects in Kilifi County?

Hon. Speaker: That Question is referred to the Departmental Committee on Finance and National Planning.

Hon. Members, at their request, the Question by the Member for Runyenjes is deferred, the Member having communicated his inability to be present in the House. So is the Question by the Member for Molo Constituency who is also out of the country on official duties. Those two Questions, just like the one by the Member for Kamukunji, are deferred.

Question No.055/2019

STATE OF NAKURU-NJORO-MOLO ROAD

(Question deferred)

Question No.058/2019

STATUS OF CONSTRUCTION OF KYENI-KATHANJURI-KARURUMO ROAD

(Question deferred)

The Member for Kangundo appears to have an intervention. What is your intervention, Hon. Muli?

POINT OF ORDER

FAILURE TO GET ANSWERS FOR QUESTIONS ASKED BY HON. MEMBERS

Hon. Fabian Muli (Kangundo, Muungano): Thank you, Hon. Speaker. I rise under Standing Order No.42A on the matters of these Questions. We need to understand whether this criteria set by Standing Order No.42A is serving the purpose or not. We are asking very important Questions in this House, but some of them are not answered and they are repeated in this House. This Standing Order No.42A...

Hon. (Dr.) Robert Pukose (Endebess, JP): This is not the next Order.

Hon. Speaker: The Member had placed an intervention. Proceed. Do not listen to the Member for Endebess.

Hon. Fabian Muli (Kangundo, Muungano): Thank you, Hon. Speaker. The Questions which are coming to this House are on matters which are very important to this country, but some of them are subjected... Standing Order No. 42A(6) gives one office to determine whether

the Question has to proceed or not. It looks like when we ask these Questions, they still do not proceed to get the answers. That is why I am getting concerned because even the Questions we have asked have never got answers. The same Questions are being repeated in the House.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Muli, it is clear when a Question has not been answered, the chairs of the committees are expected to understand the Standing Orders so that they can fix other dates themselves. I am not too sure whether the chairpersons are really applying the Standing Orders. They are at liberty to reschedule the Question to some other date convenient to the committee. In fact, it is very appropriate when the committee is sitting and it has quorum for the chair to set another date for the CS or whomever to appear before the committee and respond to the Question. If it is Question requiring an oral answer, then the chairperson should be at liberty to set another date. The Question does not have to come back to the House. That is a better way of doing things because whoever it is that the ministry or department may have sent to the committee, then goes back to their offices knowing that they will be expected to appear on the date that is set by the committee.

On the efficacy or otherwise of this particular method, the Committee on Procedure and House Rules has scheduled a meeting on 14th March 2019 to discuss, among other things, whether this procedure is adding value or not and recommend a way forward. So, we cannot just say now we stop because the procedure is already there in the Standing Orders. Even this particular procedure was adopted following the experience that the previous House had when Questions were just directed to the chairpersons of committees. We found that the better thing is that we improve that former system by requiring that the Question be read out publicly so that a Member is known to have asked the Question and then the Committee prioritises it. That is why this business is referred to the committee because it knows how much work it has on which dates and then it will prioritise.

A more substantive response will come after the meeting of the Procedure and House Rules Committee when it sits and gets a brief from the Table Office. In the meantime, I see the Member for Kisumu West also wishes to weigh in.

Hon. Olago Aluoch (Kisumu West, FORD-K): Thank you, Hon. Speaker. You have given the guidance that I was referring to. In the last amendment to the Standing Orders,...

(Loud consultations)

Hon. Speaker: Order, Hon. Members! I need to hear what the Member for Kisumu West is raising.

Hon. Olago Aluoch (Kisumu West, FORD-K): Hon. Speaker, you have alluded to the Standing Orders. The last amendments to the Standing Orders that introduced Question Time required that answers would be given by Cabinet Secretaries (CSs) in committee sittings. The Hon. Member is concerned that he does not hear answers on the Floor. I thought that was his concern and you have explained it.

Hon. Speaker: Hon. John Olago Aluoch is fully aware that we have an occasion to discuss this issue. This House will need to discuss this issue. Article 125 of the Constitution provides that a House of Parliament or any of its committees may summon any person to give evidence or information or answer questions before it. What does that mean? Houses of Parliament sit in plenary in the respective Chambers. When the Constitution, the supreme law of the land, provides that a House of Parliament or any of its committees... We will forget about the

committees because we have committee rooms. But when a House of Parliament is given the power to call or summon anybody to appear before it to give information or evidence or answer Questions, where is that person supposed to be, specifically in relation to the Chamber? That is the issue we need to determine as a House.

I am sure many of you have had occasion to discuss and perhaps read about the debates that have gone into some of the presidential systems and more particularly, within the Congress of the United States of America, where they have argued that the Floor of the House is so sacred that it is only for the people's representatives. You cannot mingle fellows who are of some other breed with the people's representatives. If the House of Parliament in our Kenyan Constitution is given power to call a person, where would that person give the information or answer the Questions from? Is the Floor of this plenary so sacred as not to require the presence of non-Members? That is the question. Under the Constitution, you can only invite a visiting head of state or such other dignitary with the permission of the Speaker or the Head of State into the hallowed Floor so that Hon. John Mbadi does not mix with people he does not know. That is the issue. It is a difficulty presented by those practices. It is up to the House to determine, one way or the other, whether in appropriate cases, you can dispense with that rule of requiring strangers not to be in the House, especially if you want strangers to give information or answer Questions. That is food for thought for the Procedure and House Rules Committee. I thought Hon. Olago Aluoch is a member. I think it is Hon. T.J. Kajwang' who is a member. It is an issue that the House will need to make a decision on, one way or another.

If what Hon. Olago Aluoch said is true, that he has not seen the people who answer Questions, then I have sympathies for him. I can only sympathise with him. No more. You have not given me power to waive the requirement of non-strangers appearing here without your leave. Hon. Fabian Muli, you can research on this. You could help the House in making a decision on what should happen. Those are our rules. On one hand, what you are raising is quite pertinent. More importantly, it is the power given to the House in Article 125 of the Constitution. When you invite a person to come and give evidence, where is he supposed to be? On the benches or stand at the door? Can we allow a stranger to come to the Dispatch Box? If the House so determines, the Speaker will humbly comply. It has to be the House to make that decision. I hope we have not confused you further, Hon. Muli. I understand what Hon. Olago Aluoch was saying.

Very well. Members, we can now move on with business. I can see there is a level of excitement that is unusual. I suppose it is for good measure.

Let us proceed. Next Order.

BILL

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

(Hon. Aden Duale on 20.11.2018)

(Debate concluded on 21.11.2018 – Afternoon Sitting)

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. I am glad we are finally putting the Question on the long overdue Constitution of Kenya (Amendment) Bill.

From the outset, this is a Bill for our daughters, sisters and mothers. I will be proud once we pass it. Gender inequality remains a major barrier to human development in Kenya. Girls and women have, however, made major strides since 1990. They have not yet gained gender equity. The disadvantages facing women and girls are a major source of inequality. All too often, women and girls are discriminated against in health, education, political representation and the labour market with negative consequences for development of their capabilities and freedom of choice. Our sisters, daughters and mothers should, however, never be held down by the chains or the prisons of cultural bias on leadership. Our sisters, daughters and mothers should never be held down because they belong to that gender. For us to get economic emancipation, we must bring them to that level of equity.

Hon. Speaker, the women who are our mothers, daughters and sisters should never be held down by the chains of poverty of economic, political and social marginalisation. We have to put an end to this. Once this Bill is passed, it will change the narrative, and break the chains and the iron bars on the gate of prison against women empowerment. Stand to be counted as a House which changes this narrative. We must do that today.

The passage of this Bill will tell the world our determination towards empowering our sisters, daughters and mothers to participate in elective positions. Great nations like Germany and United Kingdom (UK) are led by women. The Bill is therefore one great step towards building our own great nation. It embraces women participation and political leadership. Time is ripe for us to have our Theresa May and Angela Merkel.

Finally, the Constitution of Kenya (Amendment) Bill, 2018 seeks to implement the provisions of Article 81(b) of the Constitution. As you may be aware, the Supreme Court of Kenya issued an Advisory Opinion, No. 2 of 2012, in 2012. It observed that the rights under Article 27(6) and (8) of the Constitution could only be fully realised using the legislative measures. This Bill is, indeed, the legislative mechanism upon which the two-thirds gender rule will be achieved and realised.

With those many remarks, I beg to reply.

(Loud consultations)

Hon. Speaker: Order, Members. Member for Kajiado North and Member for Gatanga, please take your seats. Majority Whip, you can take your seat. You have done as much as you could.

Hon. Members, this is a momentous day. I want to give a Communication to avoid confusion in the House. Hon. Members do not understand the procedures. Let me first take this opportunity to introduce two guests who are seated in the Speakers' Row: Chief Administrative Secretary (CAS), Hon. Rachel Shebesh, and *Mama* Ida Odinga. They are welcome to observe the proceedings of the House.

(Applause)

COMMUNICATION FROM THE CHAIR

VOTE FOR THE SECOND READING OF THE
CONSTITUTION OF KENYA (AMENDMENT) BILL)

Hon. Speaker: Order Members. As you all know, unlike in ordinary Bills, the Constitution has fixed a definite threshold in this particular Bill. Therefore, I may not put the Question as we normally do. Allow me to give the following Communication regarding this Second Reading of the Constitution of Kenya (Amendment) Bill, National Assembly Bill, No. 4 of 2018.

Hon. Members, as you are all aware, the House is proceeding to take a vote on the question of the Second Reading of the Constitution of Kenya (Amendment) Bill, National Assembly Bill, No. 4 of 2018 this afternoon, as provided for in Article 256 of the Constitution. Article 256 of the Constitution provides that a Bill to amend the Constitution shall be passed by the House, if it is supported by not less than two-thirds of all the Members of that House at the Second Reading.

For Clarity, Article 256(1)(d) of the Constitution states:

“A Bill to amend this Constitution-

(d) Shall have been passed by Parliament when each House of Parliament has passed the Bill, in both its second and third readings, by not less than two-thirds of all the Members of that House.”

Hon. Members, you may also be aware that on 17th October 2018, I guided the House on the procedure for voting on a similar matter during the Second Reading of the Constitution of Kenya (Amendment) (No. 2) Bill, National Assembly Bill No. 5 of 2018, by the Member for Kiminini, Hon. Chris Wamalwa. For avoidance of doubt, allow me to further explain the procedure as follows:

- (i) To ascertain the Members present, I will cause the Division Bell to be rung for 10 minutes;
- (ii) At the end of 10 minutes, the doors shall be locked and the Bar drawn. No Member shall enter or leave the House after this stage;
- (iii) I will then request all Members present in the Chamber to log out of the system;
- (iv) During this log out step, I will require Members without their cards to stand by the public servants benches to be recorded manually by the Clerks-at-the-Table and continue staying there until the end of the voting process;
- (v) Members who have their cards will have 60 seconds to log into the system;
- (vi) Members without cards will be recorded manually;
- vii) The number of Members with cards shall be displayed on the screens. All the number of Members recorded manually will be tallied by the Clerks-at-the-Table;
- (viii) The total Members present as displayed on the screens and those recorded manually will be tallied;
- ix) If not less than 233 Members are in the House, the House shall proceed with the voting. If there are less than 233 Members, voting shall not proceed. If there are 234 or 233 Members, you can vote..

Hon. Members, to vote electronically, the following will happen:

- (a) I will request all Members to log out of the system;
- (b) I will thereafter request Members to log into the system as explained;
- (c) Members who do not have their cards will be standing by the public servants benches. Their votes shall be recorded manually by Clerks-at-the-Table. Those voting in favour of, against or abstaining from the Question shall continue staying there until the end of the voting process;

(d) I will thereafter put the Question for the Second Reading of the Constitution of Kenya (Amendment) Bill, National Assembly Bill, No. 4 of 2018;

(e) I will then allow the system to take count of the Members present for a period of 60 seconds;

(f) Thereafter, Members will have a period of 60 seconds to vote;

(g) All Members shall cast their votes by pressing either the “Yes,” “No” or “Abstain” buttons. No Member shall fail to vote either of the two options or record their abstention;

(h) As voting is going on, the results of the electronic vote will be displayed on the screens;

(i) The results of the electronic voting as appearing on the screens and votes recorded manually shall be tallied.

(j) After the tally, I shall forthwith announce the results and guide on the next course of action, depending on the results of the vote taken.

The House is accordingly advised.

Hon. Members, before I put the Question for the Second Reading, I direct, at this moment, that the Division Bell be rung for 10 minutes.

(The Division Bell was rung)

Order, Members! I appreciate that it is important to lobby each other but take your seats.

I direct the Serjeant-at-Arms to lock the doors.

Members who may be anywhere outside of the Chamber are now locked out. No Members shall enter or leave. The House as already directed.

As you all know, our system is not able to count voices. This is not a matter of “ayes” or “nays”. This is actual voting because as a House, we have been misunderstood by a number of people. Those Members present, please log out of the system. Serjeant-at-Arms draw the Bars.

(The Bars were drawn)

Hon. Members, I still can see some names in the machine. Please remove your cards from the system. Hon. Shakeel Shabbir, Hon. Fabian Muli and Hon. Buyu Akinyi, your cards still appear. In addition, every Member should check whether the machine where they are is working.

Members without cards and those with cards that are not working are here.

(Hon. Jimmy Angwenyi walked to his seat)

(Laughter)

The Member for Kitutu Chache North! He might collapse. I will require that every Member who has a card to log in. You have 60 seconds to do that. We need to see those numbers on the screens. The card for the Member for Dagoretti North does not appear to be working. Please walk up here.

The system should be showing the numbers now. Mine is showing.

(Hon. (Ms.) Esther Passaris spoke off record)

Order Members! Take your seats. You cannot lobby up to midnight. Member for Limuru, take your seat.

Hon. Members, as per the electronic votes, we have 134 Members. Those Members who came for manual voting were 22. But I have also been informed from the system administrator that eight of the systems were not working which brings the manual voting to a total of 30. The total number would come to 164.

(Loud consultations)

Hon. Members, we have to be absolutely sure of the numbers. Given that I am aware that the system is undergoing some upgrade, it is quite possible that not everybody or every particular gadget was captured properly. Therefore, I will direct that Members remain seated so that we have a manual head count.

(Applause)

For efficiency, I am advised that there will be one officer for every row so that... Hon. Members, I cannot do some of those things that are done in villages about beginning to read out names because there are some Members, as we all know, who are out of the country on official duty. So, the reason for which you may want us to start reading names, it is never done that way anywhere. This is a Parliament. Let us just get an officer for every row and do quickly. Clerk, please deploy your officers.

(Manual headcount was done)

(Hon. Richard Onyonka spoke off record)

These are members of staff. If you cannot have faith in them, then you might as well close down the entire institution. Why would anybody want to mislead?

(Loud consultations)

Member for Sirisia, we said that during this time, please stop walking around. We said that you remain seated so that we can finish quickly. There is no vote being taken; we just want to know how many of us are present. If even that is an issue, then you must doubt very many things. You must even doubt that today is Wednesday afternoon.

Order Members. Order Members. It is just as good that we repeated this physically. The manual headcount has given a result of 174 Members present.

(Loud consultations)

Hon. Members, there was a difference of 10. This is just to confirm a point which was raised by the Member for Nairobi, Hon. Esther Passaris, that at her place, the system was giving her the indication that she could vote yet it was not possible to vote from there. This is the problem of the gadgets. That now is the total number of Members present.

As per my direction, if the Members present are less than 233, voting shall not proceed. It, therefore, means I cannot put the Question because if we do so, however loudly someone shouts, it will be an exercise in futility. The net effect of this is that the Bill is lost.

(The Constitution of Kenya (Amendment) Bill, 2018 was lost)

We proceed. Unlock the doors and open the Bars.

(The doors were unlocked and Bar opened)

Hon. Member: On a point of order, Hon. Speaker.

Hon. Speaker: What is your point of order?

(Several Members walked out of the Chamber)

Order Members. Members withdrawing allow us to transact business. Hon. Members who are making their way out, do so quickly so that we can proceed with business. Members who are going out, I will ask the Serjeant-at-Arms to ensure that you are ejected faster than you are doing. You will be assisted to exit quickly.

Is that the Member for Sirisia? Member for Sirisia, are you okay in the head?

(Laughter)

Hon. Members, before we go to the next Order, I wish to give this Communication.

COMMUNICATION FROM THE CHAIR

GUIDE ON CONSIDERATION OF PROPOSED AMENDMENTS TO THE INSURANCE (AMENDMENT) BILL

Hon. Members, before we proceed to the next Order, being the Committee of the whole House, I wish to issue the following guidance which relates to consideration of the proposed amendments to the Insurance (Amendment) Bill (National Assembly Bill No.21 of 2018).

As you are aware, Article 114(2) of the Constitution provides that if, in the view of the Speaker, a Motion makes provisions for a matter listed in the definition of 'a money Bill', the Assembly may proceed only in accordance with the recommendation of the relevant committee after taking into account the views of the Cabinet Secretary responsible for Finance.

Further, Standing Order No.133(5) provides that no amendment shall be permitted to be moved if the amendment deals with a different subject or proposes to unreasonably or unduly expand the subject of the Bill.

In this regard, Hon. Members, my office has received several proposed amendments to the Insurance (Amendment) Bill, 2018, namely, from Chairperson of the Departmental Committee on Finance and National Planning and four individual Members. Some of these amendments make provisions for matters listed in the definition of 'a money Bill' pursuant to the provisions of Article 114(2) of the Constitution and Standing Order 114. Other amendments also propose to deal with a new subject or propose to unreasonably or unduly expand the subject of

the said Bill within the provisions of Standing Order 133(5). I, therefore, wish to guide the House as follows with regard to the various amendments that were received through my office.

Hon. Members, having considered the proposed amendments by the Chairperson of the Departmental Committee on Finance and National Planning, and those by the Member for Endebess, Hon. (Dr.) Robert Pukose, I found the amendments to be admissible as they were in compliance with both the Constitution and the Standing Orders.

Having said that, I wish to pronounce myself on the question of admissibility of amendments proposed by the following three (3) Members-

(i) Firstly, the Member for Gatundu South (Hon. Moses Kuria) will notice his proposed amendments are missing from the Order Paper, and that, indeed, it is very deliberate. For the information of the House, the Member was proposing to insert a new clause immediately after Clause 12 to amend the Insurance (Motor Vehicles Third Party Risks) Act. For those who may not know, it is in Chapter 405 of the Laws of Kenya, a totally new subject from the amendments in the Bill. Clearly, the said proposed amendments were going to unreasonably and unduly expand the subject matter of the Bill within the meaning of Standing Order 133(5).

Therefore, I did direct the Clerk yesterday to omit the said amendments from today's Order Paper. However, the Member is at liberty to introduce a separate Bill in the manner contemplated under Standing Order 114, urging the House to legislate on the matter. Such a proposal would definitely be subjected to pre-publication scrutiny and public participation, among other processes.

(ii) Secondly, the Member for Kikuyu (Hon. Kimani Ichung'wah) is proposing to amend Clauses 3 and 10. The amendments to Clause 3 are admissible. However, with regard to the proposed amendments to Clause 10 seeking to delete Section 156 of the principal Act which provides for advance payment of premiums, you will notice a disclaimer has been made in the Order Paper. For ease of reference, these are the proposed amendments to new Section 156(3) and (4) for which the words "subject to Standing Order 133(5)" are indicated.

The Member is seeking to introduce a requirement that the Cabinet Secretary shall, by regulations, specify the categories of brokers and agents, the kind of business and capital requirements they may transact on credit with insurers, and specify the amount of the guarantee necessary against the volume of insurance business each broker undertakes. Further, the Member is seeking to introduce capital requirements and the related conditions for transaction of insurance business by brokers and agents. I find that these are entirely new matters which would then require public participation in furtherance to Article 118 of the Constitution.

It is my considered opinion, therefore, that the said proposed amendments deal with a different subject matter and will unreasonably and unduly expand the subject matter of the Bill within the meaning of the provisions of Standing Order 133(5). Therefore, the Committee of the whole House shall not consider the proposed amendment to Clause 10 regarding insertion of the proposed new Section 156 (3 & 4) of the principal Act as proposed by the Member. However, the Member is also at liberty to introduce a separate Bill in the manner contemplated in Standing Order 114 asking the House to legislate on the matter.

(iii) The last proposed amendments are by the Member for Mathioya (Hon. Peter Kihara), who has proposed to insert a new clause immediately after Clause 10. The amendment proposes to introduce a new section immediately after Section 156 of the principal Act regarding procurement of insurance services by the Government and public entities. For the information of the House, the amendments seek to bar the Government and other public entities from procuring

insurance directly, by requiring them to go through intermediaries, such as brokers and agents, thereby denying the Government and public entities direct access to an insurer.

I am of the considered opinion that the said proposed amendment makes provisions for a matter listed in the definition of “a money Bill” and is subject to the provisions of Article 114 of the Constitution. Further, the proposed amendments will unreasonably and unduly expand the subject matter of the Bill within the meaning of the provisions of Standing Order 133(5).

In addition, the proposal may offend the spirit of Article 227 of the Constitution which requires that when a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective. Therefore, the Committee of the whole House shall not consider the proposed amendment to New Clause 10A as proposed by the Member.

Nevertheless, the Member is also at liberty to introduce a separate Bill in the manner contemplated under Standing Order 114 asking the House to legislate on the subject. Such a legislative proposal also undergoes public participation among other processes, and would also be subjected to the test of conformity with the Constitution.

Hon. Members, that is, therefore, the fate of the amendments that were received through my office on the Insurance (Amendment) Bill (National Assembly Bill No.21 of 2018), which is due for consideration now. I urge the Committee of the whole House and, indeed, the Chairperson, to also be vigilant and ensure that all the proceedings in the Committee stay within the requirements of the Constitution and the Standing Orders.

I thank you, Hon. Members.

Yes, Hon. Ichung’wah.

Hon. Kimani Ichung’wah (Kikuyu, JP): On a point of order, Hon. Speaker. I rise on Standing Order Nos.90 and 114 as read together with Article 122(3) of the Constitution. I stand well guided on my amendment and all the other proposed amendments. I will be taking up that challenge to introduce the matter you have so ruled in your Communication, which would open up issues that are beyond the scope of this particular Bill. I am sure Hon. Kimaru and Hon. Moses Kuria are also well guided.

However, on Standing Order No.114, on money Bill, you have made your position clear and we are well guided, moreso on the amendment by the Member for Mathioya. However, on Standing Order No.90, last year you made a very clear Communication to this House. You reminded us that we are called to this House as Members to what you said is a greater calling. Indeed, even in the prayer that you open this House everyday with, you say:

“Almighty God, who in your wisdom and goodness have appointed the offices of leaders and parliaments for the welfare of society and the just government of the people, we beseech you to behold with your abundant favour, us your servants, whom you have been pleased to call to the performance of important trusts in this Republic. Let your blessing descend upon us here assembled, and grant that we treat and consider all matters that shall come under our deliberation in so just and faithful a manner as to promote your honour and glory, and to advance the peace, prosperity and the welfare of our country and of those whose interests you have committed to our charge.”

Hon. Speaker, I want to pick up the words, “and of those whose interests you have committed to our charge.” Our Standing Order No.90 also speaks to this. Article 122(3) of the Constitution also speaks to the matter of voting in Parliament. If you allow me, the Constitution is clear that on voting in Parliament Article 122(3) states:

“A Member shall not vote on any question in which the Member has a pecuniary interest.”

That is further expounded by Standing Order No.90 on declaration of interest. It clearly states that:

“(1) A Member who wishes to speak on any matter in which the Member has personal interest shall first declare that interest.”

It goes further to say that:

“(2) Personal interests will include pecuniary interests, proprietary interests, personal relationships and business relations.”

This is also as spelt out in Article 122(3) of the Constitution.

I rise because of the particular amendment that was proposed by my good friend, the Member for Mathioya. In as much as you have guided that he is at liberty to bring it as a substantive Bill in the future, I want to challenge him and probably ask whether this amendment was rightly before the House even to have been published in the Order Paper. In view of whether the Member for Mathioya had conformed to the Constitution and our own Standing Orders as stipulated in Standing Order No.90 to declare interests, to the best of my knowledge, the Member for Mathioya is in the business of insurance brokerage. When we are called, as you communicated last year and as stipulated in the Standing Orders and the prayer you open the House with every single day, we are called to the performance of important trusts and we should always act in the best interests of the people whom we have been called to represent. We cannot, and should never, if we are to hold this House with the honour that has been bestowed on us by the people of Kenya, use the Floor of this House to advance personal business and business interests. It is not only immoral and unethical, but it falls flat on the face of the provisions of the Standings Orders and the performance of those important tasks that we have been called upon to advance on behalf of our people.

Therefore, I beg you to guide the House as to whether the Member for Mathioya, first, had declared interest. Secondly, I will challenge him because he is seated right behind me, to go on record and state whether he had declared his interests in this matter. Even as he advances this particular amendment - because you have given him the leeway to introduce a Bill in future - it will be important for Kenyans and particularly the people of Mathioya to know whether their Member is advancing his personal business using the Floor of this House or whether he is advancing the interests of the people of Mathioya and Kenya under whose charge he has been called to represent in this House.

In as much as you stated, we are at liberty to bring these substantive Bills, but it is important that even as we bring legislative proposals to the House, we should do so in good faith and advance the interests of those people whom we have been charged to represent and not bring our business interests or our relationships with people out there. Therefore, I beg that you offer guidance and ask the Member for Mathioya to, indeed, tell us whether he was advancing personal business interests or it was in the interests of the people of the great republic.

I am happy I was also going to stand on Article 114 of the Constitution and Standing Order No.114 as the Chair of the Budget and Appropriations Committee because this particular amendment had not been considered by the Committee. The import of this amendment would have been great in terms of the money Bill effect because it had not been considered by the Budget and Appropriations Committee.

Hon. Speaker, it is good and I thank you that even before we went to the Committee of the whole House, you raised the issue of Article 114 of the Constitution and guided us appropriately. Thank you, Hon. Speaker.

Hon. Speaker: Maybe, we do not need to discuss this too much because I have already ruled that the proposed amendment is not admissible. Let us have Hon. Mbadi for one minute, so that we do not take too much time.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. I agree with the point of order by Hon. Kimani Ichung'wah that if you have a personal interest as spelt out under Standing Order No.90, you need to declare it. However, I thought Hon. Kimani Ichung'wah has jumped the gun. Even if this matter was admissible, the Standing Order is very clear that a Member who wishes to speak on any matter in which the Member has a personal interest shall first declare that interest.

I have not seen the Member for Mathioya standing to speak on this matter. If he stood to speak, then, he would have been challenged if Hon. Ichung'wah has information that the Member has interests, whether pecuniary, proprietary or any other personal interests. I think we need to understand this Standing Order clearly that when you rise to speak, if you have interests, you are required to declare. By the way, there are cases where Members have been challenged previously to declare their interests.

I remember even in the 10th Parliament, I challenged the current President of the Republic of Kenya to declare his interest and he dutifully rose and declared his interest in the financial sector before he addressed the matter that we were canvassing. I just hope that Hon. Kimani Ichung'wah has raised this matter in good faith because I really do not understand why it is coming at this time.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, earlier on, there was an issue raised by the Member for Kangundo and I did advise him that the Procedure and House Rules Committee is scheduled to have a meeting on 14th March 2019. There are a number of matters for which there is provision in the Standing Orders and some in the Powers and Privileges Act 2017, if you can remember the provisions clearly. We need to harmonise these provisions clearly. If you read the Act of Parliament, it seems to suggest that there should be a register of interest. There ought to be a register, so that even before you come to speak here, we already know. If we are dealing with a matter of polygamy, perhaps you could register what your situation is. This is a matter touching on a Member.

(Hon. Maoka Maore spoke off record)

Hon. Speaker: No, Hon. Maore. I think the Member who has been mentioned should be given the earliest opportunity before we can hear anybody else. Let me give this chance to the Member for Mathioya.

Hon. Peter Kimaru (Mathioya, JP): Thank you, Hon. Speaker, for giving me this opportunity. From the outset, I want to say that I am most obliged. We will do exactly what you have told us in the interest of everybody. The remarks by Hon. Ichung'wah are most extraneous. Really, it is bringing this matter to a very narrow path. In Kenya, we have more than 200 insurance brokers and more than 2,000 insurance agents. This is the lot that I was trying to talk for. We have seen a lot of cases where brokers and agents have been left out in the tendering

process of insurance business. I was trying to speak for this particular lot so that we do not, at any time, segregate anybody in the tendering process, just as you directed.

Hon. Speaker, as you directed, I am most obliged. This is a matter that we will be looking into, so that it can be sorted in the right manner. I think the Public Procurement Oversight Board should also look at the interest of everybody in the industry because we want to ensure we can be able to expand the uptake of insurance in this country, which still remains at around 4 per cent.

Hon. Speaker: This was not business. We are spending valuable time. I was not aware of any interests, but I have considered the matter on the basis of the strict requirements of Article 114 of the Constitution on money bill effects. Hon. Members, why is it that you do not want to appreciate your own? It does not matter whether you say “point of order” or raise one finger, like the Member for Suna East, you have one minute each. I assume the finger means one minute.

Hon. Junet Nuh (Suna East, ODM): Hon. Speaker, the issue I wanted to bring to your attention is that Hon. Kimani Ichung’wah has raised a very substantial issue. This is a House of records and evidence. He has not given us any record that shows that the Member of Parliament for Mathioya is an insurance broker. So, we cannot take his word on the face value. He has not substantiated and this House cannot debate rumours, innuendos and propaganda. Is the Member in order to mislead the House that there is a Member of Parliament who is an insurance broker when he is not? He is a new Member and he has not denied, but I know it is out of experience. He did not know what to do. Hon. Speaker, do not give a chance to Hon. Wamalwa because he also has conflict of interest. He is the brother-in-law of the Member for Mathioya.

(Laughter)

Hon. Speaker: Hon. Members, you are going in the wrong way. The Member for Mathioya said there are over 200 insurance brokers. He did not say that he is not one. You know the Member for Mathioya is a well-schooled Member. He has agreed to introduce legislation.

(Hon. Kimani Ichung’wah spoke off record)

Hon. Speaker: There is nothing to substantiate. Nobody has challenged you to substantiate. The person who could have challenged you to substantiate is the Member for Mathioya. Those others are raising other issues. Mathioya Constituency is in Murang’a County. So, the Member for Murang’a County thinks that this is a village matter. Let us hear the Member for Murang’a.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Speaker, thank you very much. While I want to appreciate that this is not a village matter, we are here to represent the people. I do not think Hon. Ichung’wah’s statement was good. This is a Member of this House. He is a first time Member of Parliament who also deserves to be guided by a senior Member, who is a second term Member of Parliament, who also went unopposed. However, for him to stand here and try to tell the nation that the Member of Parliament for Mathioya did not come to represent the people, but came to represent his own interest, I think it is in very bad taste. Sometimes we make some comments that backfire on us. Members of the public lynch this House saying that we come here to represent our own interest. This is a very good example, but there is another platform. Hon. Speaker, you already made a ruling on the matter. Why did Hon. Ichung’wah come back and again say the same?

I want to say something here, that the agents and even the people who are in the insurance sector, need to be represented in this House. If he is the Member who came to represent them, why not? I think he already made his point. He has a chance to bring another law if he needs to, but Hon. Kimani Ichung'wah, be your brother's keeper. If he is on the wrong, approach him and tell him. I do not think it was in very good taste.

Hon. Speaker: Now for fairness, let me hear the Member for Suba North. It will be one minute.

Hon. (Ms.) Odhiambo-Mabona (Suba North, JP): Thank you, Hon. Speaker. I will speak for one minute. I also almost got married in Murang'a and so, I have an interest in this matter. That aside, I am just wondering, because we want to set standards and what Hon. Ichung'wah has raised is very important. The other day, I was being asked to declare my interest because over 10 years ago, I worked in the children's sector on an issue of children. Should all the people in this House who have children declare their interest when there is a matter on children? Should all the lawyers declare their interest when all the laws come before this House? I think that is something that this House should think very seriously about and give us very careful and guided direction.

Hon. Speaker: Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, Article 75 of the Constitution talks about conflict of interest. We cannot wish that statement under the table. The Standing Orders are very clear. In fact, if you are in a committee where a matter you have an interest in is being discussed, you excuse yourself. The case of Hon. Millie Odhiambo was not about having children. It was to do with the Child Welfare Society. She had a history of working with children's organisations. She came back to the House and went on record that she had left that institution a long time ago and is no longer there.

We are Members of Parliament. We cannot use our privileged position as per Article 75 of the Constitution to expound our own interests. For example, I am a cattle trader. If that matter comes to the Floor, I would declare my interests. You declare your interest before the matter is substantively discussed. I agree with Hon. Junet that Hon. Ichung'wah and the Member for Mathioya both owe this House an explanation. Hon. Ichung'wah must give evidence, otherwise, he cannot accuse his colleague. The first thing the Member for Mathioya should have done is to declare his interest that he is not an insurance broker.

Whether there are 1,000 or 10,000 insurance brokers is not our business. The insurance brokers appeared before the Departmental Committee on Finance and National Planning and presented their documents. They appeared before the Committee as an institution. You need to give a chance to Hon. Ichung'wah. He cannot get away with this. He cannot! Hon. Kimaru is a good friend of mine and if he had an interest in insurance, he should have asked another Member to propose that amendment, but not him. You must direct Hon. Ichung'wah. He cannot go home. He must tell us which insurance brokerage it is. He cannot leave the House today, otherwise, he should withdraw his statement.

Hon. Speaker: It now looks like this is a debate. I can see the Member for Marakwet East has really been struggling.

Hon. Kangogo Bowen (Marakwet East, JP): Thank you, Hon. Speaker, for giving me this opportunity to also say something about what Hon. Ichung'wah has said.

Hon. Ichung'wah is right, especially when quoting sections of the Standing Orders to do with declaring interest. That one is right. Hon. Ichung'wah was totally wrong when he went to the extent of saying that the Member of Mathioya is representing his own personal interests in

insurance brokerage. He is wrong. The Member for Mathioya, under Article 95 of the Constitution, has a right to legislate in this House. We are obliged by your Communication about his amendment. The amendment was good. Tenders of insurance normally state that only underwriters can apply. The Member was proposing that brokers be considered in that tendering process. That was a good amendment and you approved it. We will follow your Communication, but we must rebuke Hon. Ichung'wah. He must substantiate and give the name of the brokerage firm that the Member is running because it is wrong. He personalised that Communication.

Hon. Speaker: So that we do not flog a dead horse, Hon. Ichung'wah, are you able to substantiate?

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Speaker, as Hon. Sabina said, I can now say I am a seasoned Member of this House having served in the last Parliament and now serving in this House as the only unopposed Member of Parliament in the last elections.

I am alive to the provisions of Standing Order No.91 on responsibility of statement of facts. I cannot be frivolous. I cannot state anything that is not a matter of fact and Hon. Junet knows that. I said that we should not use the Floor of this House to advance our business interests. I challenged the Member for Mathioya, who is here, to state his interests. It is important for Members to understand the genesis of my point of order. It portrays negatively on us as a House and as Members, when we are perceived to be using the Floor of this House to advance our business interests.

It is instructive that the Member for Mathioya has in a way confirmed that he is advancing the interests of over 200 brokerage firms in this country. He has not in any way challenged me. I have been challenged and I asked the Member for Mathioya to state for everybody to hear whether he has any interests in any insurance brokerage company in this country. I want to state, as a statement of fact, that in the documents I will table here, the Member for Mathioya holds shares and is a director of Utmost Insurance Brokers. The Member for Mathioya is in this House. The challenge I put to him was so simple.

In your other life as a magistrate, Hon. Speaker, you always ruled that there were lawyers who abused the court process. In the same parlance, as Members, we might be abusing our legislative processes in this House. Therefore, the Standing Orders state that before you speak on a matter, you must declare interest. Even before you table a legislative proposal, as the Leader of the Majority Party said, you must declare interest, particularly pecuniary and proprietary interest. On this matter, I dare say that the Member for Mathioya has both a pecuniary and proprietary interest in insurance brokerage business in this country. He was obligated, as a matter of ethics and morality, to uphold the dignity of this House and not the dignity of the Member for Mathioya.

I will table these documents which I got from Sheria House, that Peter Kimaru Kihara of P.O. Box 28269-00100 is a shareholder and director of Utmost Insurance Brokers. I will table the documents.

(Hon. Kimani Ichung'wah laid the documents on the Table)

(The Speaker consulted with the Clerk-at-the-Table)

(Loud consultations)

Hon. Speaker: Hon. Members, some of you are claiming to be doing your second term. Somebody has laid documents. I have to ascertain whether they are admissible. You are just shouting about points of order. Which one is which? The documents appear authentic. I am not a certifying officer. This is the problem. I am very careful with what I say. I am not a document examiner. Does Hon. Kimaru want to say anything on this matter or we can let it rest? Does the Member for Mathioya want to say something? You can even look at the document.

Hon. Peter Kimaru (Mathioya, JP): Thank you, Hon. Speaker. From the outset, I want to say that my interest in Utmost Insurance Brokers Limited is not in question. I am not denying it. Secondly, I declared that interest even in Parliament. When I introduced this particular clause, I consulted our legal team in Parliament and they told me that I can introduce it because I am not doing it for purposes of my personal business.

(Applause)

I am saying that all brokers and agents should be allowed to participate in all insurance tenders as per the laws that are set by the Public Procurement and Asset Disposal Act. It is wrong for Hon. Ichung'wah to insinuate that I am fighting for my personal interest. I ask you to protect me from him.

Thank you, Hon. Speaker.

Hon. Speaker: The Member has already said that his interest in Utmost Insurance Brokers Limited is a matter that he declared when he came to Parliament. I do not see any other Member who will say anything of value. He has said it. Hon. Members, I had already ruled that the proposed amendments will not be considered by the Committee of the whole House, and that the Member is at liberty to introduce legislation other than through this Bill. The Bill will go through the normal processes of pre-publication scrutiny, public participation and consideration for money Bill effects. That is what I have said. When the proposals are brought to me, those are the standards I apply. I have already said that there are some money Bill aspects which are contained in his proposed amendment. This amendment has not gone through that process where the Departmental Committee on Finance and National Planning was dealing with the Insurance (Amendment) Bill.

Hon. Kimaru has said that he will take up the matter that way. To those of you who are still raising your hands to say something, there is nothing to be addressed. Let the matter rest there. Hon. Kimaru has already indicated that he will move in the direction that he has been advised by the Chair. There is nothing else. He is not even complaining. I can see that so many of you want to comment. Hon. Wamalwa wants to cry more than the bereaved. It may be traditional in your constituency to cry more than the bereaved, but in this particular instance, we will not allow you to do that. You can see that the bereaved is laughing, but you are crying.

(Laughter)

Let us proceed.

Hon. Ngunjiri Wambugu (Nyeri Town, JP): I want to seek your guidance, Hon. Speaker.

Hon. Speaker: What do you want to seek guidance on? Let us hear the Member for Nyeri Town. What is the guidance you are seeking?

Hon. Ngunjiri Wambugu (Nyeri Town, JP): Thank you very much, Hon. Speaker. I am seeking your guidance. Based on what Hon. Ichung'wah has proposed, as a first time Member of Parliament, I am scared because he is suggesting that if you are in an industry or you represent it, you cannot raise an issue that is related to it.

The Member for Mathioya has stated that he had declared his interest. It is on record in Parliament. I do not understand at what point he needed to be attacked like this. He said that it was on record in Parliament that he has interests in Utmost Insurance Brokers Limited.

(Loud consultations)

Hon. Speaker, protect me. Does it mean that moving forward, if you are a doctor or a lawyer and there is a law that you need to suggest amendments on that relates to that industry, you cannot raise it because you are in that industry? That is the guidance I am seeking, Hon. Speaker.

Thank you.

Hon. Speaker: It is very clear. Hon. Members, Hon. Kimaru has already said that the matter of his interest in that particular industry or profession is not in dispute. However, that does not also mean he cannot speak on a matter to do with insurance brokerage on the Floor of the House. What Hon. Kimaru and Hon. Wambugu would be advised to do is that if you know that you have some pecuniary interest on a matter... For the trade unionists who are here, there is something that needs to be addressed. They sit in committees and pick information from there and then they go to do their trade unionism using it. Those are the kinds of things that bring conflict.

Most of the trade unionists can pay to be put in the Departmental Committee on Labour and Social Welfare. So, it becomes very complicated. It is a matter that I will address soon. It does not mean that when you are doctor, you cannot speak here on matters to do with the practice of medicine. The worst case would be an area that you do business and you are likely to benefit in some monetary terms. You may speak, but it would be inadvisable to vote in that kind of matter because you will be voting to give yourself some pecuniary advantage. People are not told not to do business. There are those who sell alcohol. If we tell bar owners not to speak here, this House will be without Members. We are not saying that a Member cannot speak on a matter that they have engagement in. Let us not flog this matter further. We are flogging a dead horse because the Member for Mathioya said frankly that he has an interest there. He declared it when he came to Parliament.

All we have said in this Communication is that the proposals he has should go through the normal House processes. We have not said that he cannot bring amendments. He can bring them. There is no general ruling required in this matter. Hon. Members, you have so much business to transact. When you come here, you need to have eaten some salt a bit, so that the salt around this place does not harm you.

Hon. Maoka Maore (Igembe North, JP): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Maoka Maore, what is your point of order?

Hon. Maoka Maore (Igembe North, JP): Hon. Speaker, I seek your intervention, not for today, but to combine with what you have alluded to. If a Member has declared his interest on a matter, what happens next? You need to tell us what happens next. A Member cannot just declare interest and proceed to participate in the legislative process for a matter you are conflicted. I seek your indulgence to issue a statement explaining the next step in terms of

whether a conflicted Member does not participate in the voting process. After a Member is conflicted, he sits down or recluses himself. That is what it means.

Hon. Speaker, we need your guidance over what happens after a Member declares interest on a matter or is conflicted in a matter.

Hon. Speaker: I will give direction on that because it is a matter that has had too many complaints raised because of Members appearing at various committees in which it appears quite obvious that their appearance is purely to advance certain causes other than legislative. I am not saying the Member Nominee 001 should not discuss matters provided for in Article 100 of the Constitution. They can vote as long as they have declared whatever interest if any in a matter.

Let us go to the next Order.

(Hon. Benjamin Washiali spoke off record)

Hon. Washiali, it is about 5.00 p.m.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE INSURANCE (AMENDMENT) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order Members. We are in Committee of the whole House to look at the Insurance (Amendment) Bill, National Assembly Bill No.21 of 2018.

(Several Hon. Members walked out of the Chamber)

Hon. Members, those walking out of the Chamber, do so quietly and give time to others to transact the business of the House.

Clause 3

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair of the Committee, we have two amendments on this clause. We will start with the one by the Chair of the Departmental Committee on Finance and National Planning.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 3 of the Bill be amended in the proposed New Section 5A by —

(a) deleting subsection (1) and substituting therefor the following

subsection—

(1) Where an insurer is part of a group, the Commissioner may direct the principal officer to provide any information necessary for effective group-wide supervision.

(b) inserting the following subsection immediately after subsection (2) —

(3) In this section, “group” means an entity carrying on any other business in addition to insurance business.

The amendment is meant to ensure that the principal officer of an insurance group is duly authorised to provide information whenever required by the commissioner. This will bring order, so that at any time the commissioner is looking for information, he will not get it from any officer of the insurance company. He should get it only from the principal officer.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Osotsi, do you want to speak to this? Member for Mvita, do you want to speak to this? He is absent. Let us have the Leader of the Majority Party. Since we have an amendment by Hon. Kimani, let me give him the Floor since it has implications on his amendment.

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): What is your point of order, Leader of the Majority Party?

Hon Aden Duale (Garissa Township, JP): We should first dispose the amendment by the Chair, then the one by Hon. Kimani will follow.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is what we wanted to hear from him. Now that Hon. Kimani is not in, I will put the Question.

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

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With that amendment carried, 5(1) and (5) have fallen.

I now give Hon. Kimani a chance to move his amendment.

Hon. Kimani Ichung’wah (Kikuyu, JP): Hon. Temporary Deputy Chairlady, with the Chairman of the Committee’s amendment on Clause 3 carried, I drop mine on the understanding that I will move the others from (2) to (4).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You will move (2), (3) and (4).

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

THAT, the Bill be amended by deleting the proposed new section 5A and substituting therefor the following new section-

Power of the
Commissioner on

group-wide supervision (2) Subject to subsection (1), where the group is a regulated entity, the Commissioner shall request the information through the respective regulator.

(3) The information required under subsection (1) shall be limited to information necessary for safeguarding the policyholders' interests.

(4) The provisions of the section shall not limit the Commissioner from requesting for information relating to a group's capital adequacy levels or any other relevant information.

The import of the amendment is that where in a group the regulated entity, for instance, an insurance company or if it is a bank, the respective regulator, be it the Insurance Regulatory Authority in the case of an insurance company or the Central Bank of Kenya in the case of a bank, the regulator shall request for the information.

(Question of the amendment proposed)

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, this amendment is good and I support it. We need to protect the policy holders' interests. We need to safeguard their interests. What this amendment means is that the Commissioner may direct the principal officer to provide all the necessary information for effective supervision. It is important because when I pay a lot of money for my insurance, either for my expensive car, house or business, the interest of the policy holder is important so that the regulator is put on notice.

I beg to support.

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

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

(Clause 3 as amended agreed to)

(Clauses 4, 5, 6, 7, 8, and 9 agreed to)

Clause 10

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 10 and substituting therefor the following new clause-

10. The principal Act is amended by repealing Section 156 and replacing it with the following new sections—

Advance payment
of premiums

156. (1) No insurer shall assume a risk in Kenya in respect of insurance business unless and until the premium payable thereon is received by him or is guaranteed to be paid by such person in such manner and within such time as may be prescribed, or unless and until a deposit, of a prescribed amount, is made in advance in the prescribed manner.

(2) Where an insurer engages or, is approached by an intermediary intending to transact insurance business and receive premiums for that insurer, the insurer shall enter into a contract with the particular intermediary.

(3) A contract made between an insurer and intermediary under subsection (2) shall contain such mechanisms or terms as to guarantee that the premiums received by the intermediary are remitted to the insurer.

(4) A premium collected by an intermediary or a cheque received by an intermediary shall be deposited with, or dispatched and received by the insurer within thirty days of receipt by the intermediary.

(5) An intermediary who contravenes subsection (4) shall be guilty of an offence and shall pay a penalty equivalent to twenty percent of the unremitted premiums on each contravention, payable to the Policy Holder Compensation Fund.

(6) A director or employee of an intermediary who contravenes subsection (4) shall on conviction be liable to a fine not exceeding one hundred thousand or to imprisonment for a term of three months or to both.

(7) The Cabinet Secretary may make regulations to give effect to this section.

The import of these amendments is to bring order to the insurance industry in terms of the conflict which was arising from the proposed amendment. The proposed amendment by our Committee will ensure that the interests of the insured is taken care of. That the premium will be paid and delivered by the intermediaries to the insurance companies. Two, it will also take care of the interests of the intermediaries, that upon meeting their responsibilities of getting the insurance policies and getting business to the insurers, they are also properly remunerated through commissions on time. This one will ensure that insurance companies do not fail to remunerate the intermediaries.

Therefore, these amendments, which we have listed, will bring in order and ensure that all the covers are as intended. That way, no one will suffer. The insured will get the cover, the insurance company will get the business and the insurance intermediaries will get their commission. So, it is a middle ground and it ensures everybody is happy in the industry, including the policy holder.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, this is a very important amendment. It makes it clear how an intermediary does business with you and how he relates to the underwriters, so that in the event I used an intermediary and my car is damaged in an accident, then the insurer or underwriter will pay me back. There is a feeling among the people of Kenya that sometimes the intermediary will not remit that money to the insurer. Intermediaries only rush to the insurer when they hear you had an accident. So, this is a very good interpretation.

Secondly, it also says that the underwriters must always pay the intermediary timeously and efficiently. So, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member for Seme, Nyikal Wambura.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I also support this amendment. Insurance is a big industry. Big insurance companies operate as they do. Intermediaries are a good link between insurance companies and the people. Where intermediaries work well, it makes it easy for the insured to pursue the matter. The risk that intermediaries may not pay is taken care of. In fact, this was the main issue in this Bill. The Chairman has done a good thing.

I support it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Marakwet West, I can see you want to contribute.

Hon. William Kisang (Marakwet West, JP): Thank you, Hon. Temporary Deputy Chairlady. I support this amendment. It is very important because sometimes intermediaries may receive cheques in their names and refuse to remit the cheques to the insurer. In case of any issue on claims, insurance companies may refuse to pay the claims because the intermediaries, like agents or brokers, may not have submitted the premium to the insurance company. So, this is a very good amendment.

I support.

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Since we had proposed amendment by Hon. Kimani Ichung'wah, the position is that it falls. Yes, Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): The part of Clause 10 by Hon. Ichung'wah is one of those the Speaker ruled should not even be discussed.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We are getting to that, Leader of the Majority Party. For the purpose of record, sub-clauses 1 and 2 have fallen for Hon. Kimani Ichung'wah because the proposed amendment by Hon. Limo has been carried. On sub-clauses 3 and 4, the Speaker made a ruling on this and so, they will not be moved.

(Clause 10 as amended agreed to)

(Clause 11 agreed to)

Clause 12

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 12 of the Bill be amended in the proposed Section 204A in subsection (1) by inserting the word “written” immediately after the words “lodge a”.

The purpose of this is to ensure that complaints arising out of the Insurance Act are lodged in a written form. It was just saying “complaint is lodged”. We thought it is better to specify, so that the evidence is on record.

(Question of the amendment proposed)

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

(Clause 12 as amended agreed to)

New Clause 7A

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move;

THAT, the Bill be amended by inserting the following new clause-
7A. Section 87 of the principal Act is amended in subsection (2) by inserting the words “or email or other electronic or telecommunication mode” immediately after the word “post”.

The import of this is to include the new forms of communication in the advent of technology. We are now proposing to introduce the use of email and other telecommunication modes instead of relying on traditional post office where they could post your policy. They can now email or use any other communication means to reach the insured people. So, we are introducing new ways of communication.

I beg to move.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be
read a Second Time, proposed)*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Marakwet.

Hon. William Kisang (Marakwet West, JP): Hon. Chair, I rise to support this amendment. In the past, we had only one way of communication by post office, but technology in the recent past has brought about communication by email or signing electronically, which have now been recognised by banks. Currently, if you want to renew your driving licence, they send it via email. You do not have to get the physical driving licence renewal from the National Transport and Safety Authority (NTSA). I support the amendment because this is the way to go and post office is no longer there.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added to
the Bill, put and agreed to)*

New Clause 10A

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 10-

10A. The principal Act is amended by inserting the following new section immediately after section 156-

Payment of
intermediary
insurance
commission

156A. (1) An insurer shall pay an intermediary

insurance commission within thirty days of receipt of premiums.

(2) An insurer who contravenes this section shall be guilty of an offence and shall pay a penalty equivalent to twenty percent of the unpaid intermediary insurance commission on each contravention.

(3) A penalty under this section shall be paid into the Policy Holders Compensation Fund.

This amendment is meant to recognise the fact that we had earlier on introduced a new arrangement where insurance intermediaries are supposed to remit premiums within 30 days, failure to which there were some penalties which followed. We also thought of introducing this new clause to manage the issue of insurance commission, which is payable to the intermediaries. Therefore, this amendment sets out that insurance companies should pay insurance intermediaries within 30 days and also specifies the penalties which will be meted on insurance companies which fail to pay the commission to the intermediaries. This will ensure that there is give and take within the industry.

I beg to move.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be
read a Second Time, proposed)*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I want to support this. It makes it neat and clean. There was fear that intermediaries may not pay, but equally, insurance companies may fail to pay the intermediaries. This new clause makes sure that intermediaries are paid and it even brings the penalties to it. It makes Clause 10 complete and neat.

I support.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added to
the Bill, put and agreed to)*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, we had communication from the Speaker on the proposed amendment by Hon. Peter Kihara, which is guided by Article 114 of the Constitution. Therefore, it will not be moved.

New Clause 11A

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 11-

11A. Section 119 of the principal Act is amended by inserting the words “or email or other electronic mode”.

This amendment is close to the one that I moved earlier, which was introducing the new forms of communication especially with the growth of technology. We are just introducing the words “email and other electronic mode” for the purpose of communication.

I beg to move.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be
read a Second Time, proposed)*

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chair, I want to support this New Clause 11A. It goes with what we had earlier. Many times, we find that these are not in the law and people can take advantage of it. Where it provides the old ways like the post office and you do not include this, people can say that they were not given the information. This is a good introduction of a new clause.

I support it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Bumula.

Hon. Mwambu Mabonga (Bumula, Independent): Thank you, Hon. Temporary Deputy Chairlady. I wish to support this amendment because in most cases, some handwritten documents have a lot of issues. At times, people do not read some of the hand writings. I have had a lot of challenges whenever I want to make some demands from the insurance. They always have all the reasons to give you, but if it is electronic and all of us are embracing modern ways of communication, we can put it in the law and it is going to make communication and other errands more effective.

I support.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added to
the Bill, put and agreed to)*

Clause 2

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 2 of the Bill be amended —

(a) by deleting the definition of the term “insurance fraud”;

(b) by deleting paragraph (b) and substituting therefor the following paragraph—

(b) in the definition of “insurance business” by inserting the following new paragraph immediately after paragraph (d)—

(e) micro-insurance business;

(f) social insurance schemes.

The justification for this is that we are introducing the definition of “insurance fraud”. Two, we are also including two other businesses in insurance, which is microinsurance, to deal with lower population, and social insurance schemes, which will cover businesses which are not currently covered under the IRA.

I beg to move.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a separate amendment by Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT, Clause 2 of the Bill be amended—

(a) in paragraph (a) by inserting the following definitions in the proper alphabetical sequence—

“independent agent” means a person who not being a salaried employee of an insurer or reinsurer and in consideration of a commission solicits or procures insurance business for one or more insurers, brokers or insured persons;

“tied agent” means a natural person who not being a salaried employee of an insurer or reinsurer and in consideration of a commission solicits or procures insurance business for a single insurer or single insurance group and owes a fiduciary duty to the insurance company or insurance group.

(b) by inserting the following new paragraphs immediately after paragraph

(b) —

(c) by deleting the definition of the term “broker” and substituting therefor the following new definition—

“broker” in relation to an insurer or reinsurer means a person:

(a) who carries on the business of arranging contracts of insurance whether or not the business is the person’s principal business or is carried on in connection with any other business;

(b) who is not the employee of the insurer or reinsurer;

(c) who is not appointed, under a signed agreement as the agent for the insurer for the purposes of receiving money due to the insurer from the insured or from the insured to the insurer; and

(d) whose fiduciary duty is to the client.

(d) by deleting the definition of the term “intermediary” and substituting therefor the following new definition—

“intermediary” means a broker, an independent agent or tied agent.

The amendment seeks to create clarity in the definition of the term “agent”. As it is, the Act just defines the term “agent”, but does not create clarity or distinguish the different types of agents who currently exist in the market, being an independent agent or a tied agent. The inclusion of the term “independent agent” is also important as independent agents are agents who do not work for a single insurer, but for many. This will ensure that insured persons are not being confined to products from one insurer and insured persons will certainly have a variety to choose from. On the other hand, independent agents have the freedom to decide which insurers they want to work with. Tied agents are agents working for one insurance company. This also advantages a person who can choose to be a tied agent. This allows for specialisation on products to be offered to insured persons by the tied agent as he or she gets to learn one company’s products, policies and guidelines.

The justification for the amendment on the definition of broker is that it broadens the definition of the term as the manner in which the Act currently defines the term is limiting. The justification for the Part (d) amendment is that it broadens the definition of the term “intermediary”. The manner in which the Act currently defines the term is limiting and does not take into cognisance the existence of independent and tied agents as types of agents.

Thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Makali Mulu, Member for Kitui Central, do you want to speak to the amendment? No. Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, it sounds very innovative and good, but I would have wanted to get the comment of the Chair of the Committee because this is an extensive amendment. It is change of definition where you have large business of agents and now, we are classifying the agents. So, I may have wanted to hear the comments of the Chair on the import of this, other than the proposer of the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair of the Committee on Finance and National Planning, do you want to comment on the proposed amendment by Hon. Pukose? The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): As much as I agree with Hon. Nyikal, the Chair’s views are not mandatory in the Committee of the whole House, but for tidiness, he wants to hear the Chair.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is why I asked the Chairperson whether he wants to make a comment on this. Do you want to make a comment on this? He does not seem interested in making a comment. I, therefore, move to put the Question.

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

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

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Hon. Jessica (Ms.) Mbalu): Hon. Members, that marks the end of the proposed amendments. I, therefore, call upon the Mover of the Bill to move for reporting. Hon. Limo.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Insurance (Amendment) Bill (National Assembly Bill No.21 of 2018) and its approval thereof with amendments.

(Question put and agreed to)

(The House resumed)

The Temporary Deputy Speaker (Hon. Mariru): Chairperson.

REPORT

THE INSURANCE (AMENDMENT) BILL

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Insurance (Amendment) Bill (National Assembly Bill No.21 of 2018) and approved the same with amendments.

Hon. Isaac Ndirangu (Roysambu, JP): Hon. Temporary Deputy Speaker, I beg to move that the House does agree with the Committee in the said Report. I also request Hon. Duale, the Hon. Leader of the Majority Party, to second the Motion for agreement with the Report of the Committee of the whole House

Hon. Aden Duale (Garissa Township, JP) seconded.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, since we must have the requisite numbers to proceed from here, we will put that Question in the subsequent sitting. In that case, we get to the next business.

Next Order.

MOTION

ADOPTION OF REPORT BUDGET POLICY STATEMENT 2019/2020

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chairperson of the Budget and Appropriations Committee. He was just here. Leader of the Majority Party, you seem to know where he is. He was here a minute ago. Obviously, it has been a busy and tight afternoon. I guess some Hon. Members are stepping out to 'refuel'. Hon. Chairman, we obviously know that it has been a busy afternoon but you have the Floor.

Hon. Kimani Ichung'wah (Kikuyu, JP): I had rushed for a cup of tea.
Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Policy Statement and the Debt Management Strategy for 2019/2020 and the Medium-Term, laid on the Table of the House on Wednesday, 27th February 2019.

Hon. Temporary Deputy Speaker, the Budget Policy Statement (BPS) is a policy document that sets out the road to strategic priorities and policy goals that will guide the national and county governments in preparing their budgets for the financial year and over the medium term. The strategic direction of the BPS should be informed by the policies outlined in the various Government policy documents, including Vision 2030 and the medium-term plans, ministerial and sectoral strategic plans as well as the Big Four Agenda. The growth strategy revenue and expenditure proposals in a particular financial year should take into account the current state of the global and domestic economy, including the outlook of the various macro-economic variables.

In reviewing the BPS for the Financial Year 2019/2020, the Budget and Appropriations Committee considered the linkages between the policies outlined in the BPS and the broader policy documents, the realism of the macro-economic framework and whether the expenditure proposals are adequately funded. The Committee examined the alignment of the expenditure proposals with the medium-term strategic priorities of the Government as provided for in the Big Four Agenda to establish whether the outlined policy interventions meet the national development needs as well as the allocation of resources.

The Committee is concerned that the key drivers of the economic growth are facing significant downsize risks that would hinder the country from achieving its growth objectives. Agriculture is still heavily reliant on rainfall. The Committee further noted that existing projects like the Galana Kulalu Irrigation Development Project, and distribution of certified seeds and fertilisers, have so far not enhanced food production mainly due to poor implementation of these projects. It is instructive to note that this particular year, farmers in the North Rift, South Rift and other maize-growing areas of the country are yet to benefit from subsidised fertilisers. Even the coffee farmers for whom we set aside Kshs1 billion for fertiliser subsidy in last year's Budget are yet to benefit from that input. This leads to the question as to whether there will be enhanced food production in the current season, knowing that a number of these farmers will be planting in March.

Hon. Temporary Deputy Speaker, it is also instructive to note that the manufacturing sector continues to face challenges like shortage of capital, raw materials, skilled labour and inadequate access to finances in addition to a number of regulatory challenges. Competition in the services sector continues to be limited by factors such as high labour costs. Infrastructure projects continue to face delays in implementation, which in turn delays returns on investments. Sustaining an economic growth of higher than 6 per cent requires concerted efforts to enhance efficiency in the use of public resources. This calls for adoption of up-to-date technology and innovation and enhancement of labour productivity through tailor-made training as well as efficient implementation of budgets.

Hon. Temporary Deputy Speaker, it is right to note that the Government has made efforts by investing heavily in the Technical Vocational Education and Training (TVET) institutions to train skilled labour that will be useful in the manufacturing sector, in agro-processing as well as in the services sector.

However, it is crucial to note that more efforts need to be put in this area. Indeed, the Chair of the Departmental Committee on Education, Research and Technology did pitch strongly for enhanced resources towards TVET.

Hon. Temporary Deputy Speaker, the Committee also observed that the Central Bank of Kenya has eased the monetary policy in the past to support economic activity. However, credit to the private sector has not increased significantly; it was estimated to have remained below 5 per cent against a target of 8.8 per cent in 2018. Accessibility of credit by the private sector is important for the economy as it ensures continued expansion of businesses and creation of employment, which then increases revenue for Government. It is instructive to note that about two years ago, this House effected the interest rate capping law but, in our very humble view, it is probably time to look at how we can treat this law to ensure that we do not continue to lock out the private sector from accessing credit and thereby stifling economic growth and consequently record falling revenues.

The foreign exchange reserves have performed exceptionally well in the last one year one; and at 5.5 months of import cover, they remain an adequate buffer for short-term foreign exchange shocks. This performance is driven by strong growth in Diaspora remittances as well as tourist receipts and increased tea and horticultural exports. As a result, the shilling has remained stable against the major currencies, and the current deficit has narrowed to an estimated 5.2 per cent of Gross Domestic Product (GDP) in 2018 from a high of 6.3 per cent in 2017. It is instructive to note that these foreign exchange remittances from the Diaspora are not a very reliable source of foreign exchange because any external shocks will negatively impact on our economy.

Therefore, we implore the National Treasury and the Government to enhance efforts, especially in the tourism sector. Also the agriculture sector, especially tea, horticulture and coffee should also be supported because they are foreign exchange earners for our country; for us to have a more sustainable flow of foreign exchange reserves, other than the over-dependence on Diaspora remittances.

The fiscal consolidation is one of the key objectives in the 2019 BPS. This entails enhancing growth of public expenditure as well as revenue collection. While this is commendable, the challenge will be in maintaining contractionary fiscal path given the prevailing expenditure pressures. The Government has to fully commit itself to maintaining lower expenditures. This means remaining within the ceilings provided in the BPS. Therefore, not presenting Budget Estimates that indicate higher expenditures than what was agreed during BPS as has been the outcome of previous BPSs.

I want to re-emphasize this point, that year in, year out; we adopt a BPS that sets ceilings for different Ministries, Departments and Agencies (MDAs) in Government. However, eventually at the end of April, we get estimates that are outside these BPS ceilings. Therefore, in a way distort the fiscal policies that were set out in the BPS. I want to ask the National Treasury to endeavor this year, in view of these fiscal considerations, to put efforts to ensure that the estimates they table before this House by 30th April this year conform to the ceilings that have been set out in this BPS.

Indeed, I want to confirm to the House that the Committee endeavored to ensure that we do things in line with the ceilings that were provided for in the sectoral hearings. I participated in the sectoral hearings that the National Treasury carried out and I can confirm that we did in line with the ceilings. Public participation and sectoral hearings were conducted at the Kenyatta

International Conference Centre (KICC) earlier at the beginning of this year. Indeed, all sectors were represented and were able to engage and pitch for the ceilings they had been given.

This House should note that lower than expected economic growth performance will inevitably lead to revenue underperformance. This has been one of the main reasons for expenditure re-adjustments in the course of the year through the two Supplementary Budgets we do every financial year. As a result, policies and projects approved at the BPS level, as well as through the budget estimates, end up either being poorly implemented or not implemented at all. This then raises concern on the credibility of the budget process.

It is instructive to note that this year, as happened in the last financial year, we have missed on our revenue projections. When we underperform in our revenue raising measures we invariably interfere with the projects that were projected to be implemented in the course of a financial year. That is why you find a lot of stalled projects across the country in different sectors of our economy. We are calling upon the National Treasury, and particularly KRA to ensure that the revenue projections set out are indeed achieved.

The Committee was concerned that every year we never meet our revenue targets. In as much as we do not meet them we will have budgeted and allocated expenditure to whatever revenue projections we have. Therefore, any time that we fall short of our revenue projections, we have to come back and have, at least, two Supplementary Budgets every financial year. Already, we had done one last year in October. We are bound to see a second one coming this Session.

The projected revenue performance will be under-pinned by ongoing reforms in tax policy and revenue administration. Some of the reforms include enhanced scanning to detect concealment and increased efficiency in cargo clearing through procurement of additional scanners and fully integration of all scanners. There should be use of Regional Electronic Cargo Tracking System (RECTS) to ensure that goods reach the desired destination and to avoid dumping. There is use of third party information to identify non-compliant property developers and ensure they are included in the tax-base and detection of non-compliance through iTax data matching.

The Committee is very concerned that these reforms that have been referred to in the 2019 BPS have also been referred to in previous BPS documents. But, there has never been a Report on the progress achieved so far; or how much will be raised specifically through these reforms. Indeed, we mentioned this to the National Treasury when they appeared before us yesterday morning. We are very concerned that these tax reforms seem to be a song sung every year and put in black and white in the BPS documents. But in reality, at the end of the day, we do not see any results.

I think this is a challenge that we have put to the National Treasury. I want to ask the Chair of the Departmental Committee on Finance and National Planning to ensure that, at least, this year they take KRA to task on the revenue projection they have given for this year. They should ensure that money is allocated to KRA to implement all the tax reforms they have stipulated here. They should report back to this House through the Departmental Committee on Finance and National Planning the results of these reforms in terms of showing how well we are able to achieve our revenue targets.

We have also made it clear to the National Treasury and KRA that as much as they seem to have over-projected their revenues - they were emphatic that indeed, they have put KRA to task to meet these revenue targets. However, we have insisted in our recommendations that any additional revenue that is raised should not be appropriated to more expenditure in line with the

fiscal policy consideration within this BPS. But, any additional revenues raised should go towards reducing our budget deficit and, therefore, help us in managing our debt levels.

In the county financial management and vertical division of revenue for 2019/2020, the Committee held consultations with the Council of Governors (CoG) and the Commission for Revenue Allocation (CRA). We raised a number of concerns which I now wish to highlight, top among them being development spending allocation where many counties are not able to allocate the statutory minimum of 30 per cent of their budget to development expenditure.

Personnel emoluments in many of our counties are very high and the issue of pending bills. I think many of our Small and Medium Enterprises (SMEs) have suffered because of pending bills. These are being held by our county governments and they are almost to the tune of Ksh108.9 billion in the Financial Year 2014/2015 and Ksh70.9 billion in 2015/2016. The CoG indicated that the pending bills are as a result of poor cash transfers from the National Government. In some instances, funds are released one week towards the end of the financial year, making it difficult for counties to absorb these funds.

However, on engagement with the National Treasury, they affirmed that in as much as there are usually delays in exchequer releases, at least, there is not a single financial year they have not remitted all monies. Therefore, it is a challenge for our county governments to ensure they are able to settle their pending bills. Indeed, they need to conform with the law because pending bills constitute the first charge every financial year. Therefore, all our county governments need to ensure that they comply with this particular provision in law.

The other issue we raised is illegal procurement of goods and services which results to single sourcing, disregard of procurement rules and regulations, flouting laid down procedures and acting in disregard of procurement processes. You will see that both the Director of Criminal Investigations (DCI) and Ethics and Anti-Corruption Commission (EACC) have indeed moved to stem some of these habits within the county governments. There are a number of county officers being pursued by the investigative agencies and some hopefully, will be charged in courts of law.

Proliferation of county public funds is an issue we also raised. There is also failure by county governments to post their financial transactions in the Integrated Financial Management Information System (IFMIS), leading to inaccurate presentation of financial statements and failure to capture all correct financial positions of the counties. This may lead to undisclosed local revenue collections and hence revenue leakages.

It is instructive to note that many of our county governments, especially what is called their own source of revenue, are collecting revenues and not fully disclosing what they are raising locally. There are also a lot of leakages. We have proposed to the National Treasury to work with the county governments to have a system where they can track own source of revenues even with the county governments.

The other issue we raised was the absence or ineffectiveness of internal audit committees and an asset register in line with the PFM Act and the County Governments Regulations of 2015. County governments are required to keep a register of all assets and liabilities inherited from defunct local authorities and assets and their value acquired under their administration. This is important since a lot of assets inherited by our county governments from the defunct municipal and county authorities are not traceable. Without a proper assets register, we will not track where these assets are and whether they are giving value to the people of Kenya and the people in those particular counties.

On the vertical division of revenue for 2019/2020, in the 2019 BPS, the total sharable revenue is projected at about Kshs1877.18 billion out of which Kshs1561.42 billion will be allocated equitably to the national Government and Kshs310 billion as an equitable share to the county governments.

In addition, the total conditional grants allocation to counties is Kshs61.6 billion of which Kshs38.71 billion is from development partners. This should be from the World Bank Urban Support Programme. This brings the total proposed allocation to counties for the Financial Year 2019/2020 to Kshs371.6 billion relative to the 2018/2019 total of Kshs376.4 billion.

Hon. Temporary Deputy Speaker, we shall soon be publishing an amendment to the Division of Revenue Act 2018 seeking to share in the austerity measures that we had in the national Government, under Supplementary Budget I, for our county governments. In that amendment, we also seek to be amending a particular section of the Division of Revenue Act that stipulated that any shortfalls in revenue will be borne by the national Government. This will enable sharing on pro-rata basis, any shortfalls in revenue between the national Government and the county governments.

I will move to the Medium Term Debt Management Strategy (MTDS) for 2019/2020, which proposes a borrowing framework of 38 per cent, external borrowing, and 62 per cent domestic borrowing, to finance the national budget deficit. External debt will be financed through concessionary finance to the tune of about 26 per cent, semi concessional finance at 8 per cent and commercial finance at 4 per cent. The Committee has reviewed the MTDS and makes the following observations:

1. The country is facing significant debt refinancing pressure;
2. There is a variation between the deficit financing, as indicated under the BPS and the MTDS. Therefore, you would note from the BPS, it proposes to finance the deficit through external financing to domestic at the ratio of 47 per cent to 53 per cent and the MTDS utilises the ratio of 62 per cent of external financing and 38 per cent for internal financing.
3. Commercial debt is set to continue to grow as a result of the deviations in the MTDS deficit management structure. The MTDS indicates that commercial debt should only make up 4 per cent or about Kshs12.26 billion total external borrowing whereas the BPS' target is set at 47 per cent, which is about Kshs207.8 billion.
4. The current PFM regulations place Net Present Value of debt to GDP limit of 50 per cent. This has been breached by 9.9 per cent and is set to remain so for the rest of the medium term. Other ratios that have breached their thresholds include debt service to revenue ratio and debt service to export ratio.

Hon. Temporary Deputy Speaker, it is instructive to note because the issue of debt has been a very touchy subject in this country, that we have expressed our concern to the National Treasury that our debt serviceability ratios are not very promising in terms of how much money we raise in terms of revenue and how much of that revenue will repay our debts. We have implored upon the National Treasury to ensure that we are able to enforce our fiscal consolidation to an extent where we do not have a very huge fiscal deficit. It should be financed through borrowing or to significantly push KRA to deliver on increased revenues. That is why we are emphatic that any additional revenues should not go towards additional expenditure. Any additional revenues that KRA will generate should go towards reducing our fiscal deficit and, therefore, reducing the amount of borrowing that we are doing.

The National Treasury seems to be very confident that we are still within a lot of international ratios like the NPV to GDP ratio, an international threshold. However, it is our humble view, as a Committee, that if we are to sustain our debt levels, we must generate adequate revenues to be able to pay our debt from the revenues that we raise locally so that we do not get into a debt cycle where we will be borrowing from Peter to pay Paul. In the course of the year, we will be reviewing, and we have asked the Chair and the Departmental Committee on Finance and National Planning to put KRA to task because we cannot sustain our debt repayments, if we do not deliver on our revenue projections.

As I mentioned, this particular year, at the end of December which is the end of the first half of the financial year, we had a shortfall in our revenue projections as was projected in the BPS last year. In our estimates tabled last year for this current financial year; we do hope that KRA has made efforts to bridge the fiscal deficit. Indeed, it overshoots what was projected. We are looking at a situation where we will not be able to implement all the development projects and, therefore, we also stifle the growth of our economy and the investment in our development expenditure, which drives the growth of our economy. If the economy does not grow, revenues do not grow.

The other concern that we did express is that our revenues do not seem to be in tandem with the growth of GDP. We are told our GDP is growing at an average of about 6 per cent, but our revenues are not growing in tandem with that growth in GDP. It is instructive to note that in any growing economy, tax revenues should also be growing as the economy grows. Therefore, it points either to very serious systemic or institutional weaknesses within the tax collection system in KRA or very serious leakages within the tax collection system in KRA.

5. The MTDS 2019/2020 is prepared on the premise that fiscal consolidation will occur in the medium term despite previous experience of lack of commitment towards this end.

We cannot get out of the debt cycle, if we do not at one point envisage and purposely plan for a balanced budget in this country. When you seek to be financed by a bank, one of the first things that any banker will ask you is a cash flow statement. What the bank looks at within that cash flow statement is to see that in as much as you are in need of borrowing now, at one point in the future, you will be in a position where your cash flows are balanced and your revenues and expenditure are balanced, and you would even be able to surpass your expenditure at one point or the other. That is why we have said that for us to be able to have proper debt sustainability, we must have clear policies that will see that this country at one point... It is something that has been done in the past.

In the first years of President Kibaki's regime, they were able to give this country a balanced budget. When the late Hon. Mwiraria was finance minister, we were able to have a balanced budget. We are only saying that it is, indeed, possible to do that today and we are asking the National Treasury to work towards having a balanced budget so that we do not continue in this process of borrowing.

6. Similar to the 2017 BPS and the MTDS 2018, MTDS 2019 overlooks the importance of listing the projects, both ongoing and earmarked, by sector to be implemented using debt in the medium term. Further, the MTDS should have included a detailed debt servicing information on related projects and the status of their implementation.

It is important because we have made resolutions in this House that when we go out to borrow, let us show Kenyans that we are doing so to finance this and that project. We are not borrowing to repay debt or finance our recurrent expenditure. That is why we have overemphasised the point that we must at some point look at a balanced budget in this country.

Item No.7 talks of the numerous policy recommendations from the departmental committees. We speak to various issues that were raised by the various departmental committees. I do not want to tire Members by going through all the proposals by the departmental committees and the recommendations they made as they submitted to the Budget and Appropriations Committee. They were very many. We were able to pick a number which we have also proposed to the National Treasury to implement.

One of the issues that was raised by a number of departmental committees, and I have in mind the Chair of the Departmental Committee on Health, was stalled projects. You remember about two weeks ago, the Leader of the Majority Party tabled a list in this House of all the stalled projects in the country. We have emphasised to the National Treasury that hopefully, as we move towards the estimates in April, we will see a number of those stalled projects as among those things that will be implemented. The Chair of the Departmental Committee on Health submitted to us a number of projects to the tune of about Kshs600 million which have since stalled. We hope that they will be included and given priority in line with the President's directive that there be no new projects until we complete all the stalled projects.

Other issues that we have noted and raised as mentioned is the issue of pending bills that need to be cleared as first charge by MDAs of the national Government. County governments need to prioritise the payment of pending bills to ensure that we are not holding a lot of our citizens' money in Government.

The Big Four Agenda is something that we had spoken to. As we said in last year's BPS Report, we did not see a clear policy framework on the implementation of the Big Four Agenda or even a clear mechanism of allocating resources towards it. I had mentioned concerns where we had not seen deliberate efforts to regenerate our manufacturing sector. Other than policy directions that have been spoken to in the BPS, there is no deliberate effort to allocate resources to the Big Four Agenda. At least a portion of the money being raised through the Sports Fund that is before this House will go to Universal Healthcare (UHC). We have not seen any deliberate efforts to put a lot of money into the Big Four Agenda. Agriculture is still grossly underfunded. If we do not want the Big Four Agenda to be a pipe dream, the Government must provide a matrix that can assist in tracking how resources are allocated to all the Big Four Agenda items, be it UHC, affordable housing or food production.

The legislature also needs to be very vigilant in evaluating Government policies. A case in point is the Digital Literacy Programme where we are seeing shifting policy from tablets to building of computer labs and providing laptops. It is instructive to note that the Government has already committed resources to the buying of tablets. The change in policy may result in loss of public funds if we are to shift towards building computer laboratories. It is also important to note that five years ago, when we were debating the issue of the Digital Literacy Programme, a number of Members of this House expressed their concerns and indicated that it would have been better for Government to consider building computer laboratories and equipping those laboratories in our schools rather than the provision of tablets. Five years down the line, we are seeing efforts to try and change that policy. It, therefore, becomes a concern. We only ask as the Budget and Appropriations Committee that when our MDAs appear before the departmental committees, either for BPS or in our routine work of oversight of the ministries in Government, we should offer a proper scrutiny of policies. I want to assure the House that the Parliamentary Budget Office, which has very good officers, is very ready and willing to assist all our departmental committees to offer meaningful scrutiny of all these policies so that we do not find ourselves in problems in the future.

As I finish, let me re-emphasise the issue of over-estimation of revenues. We have expressed concerns that the realism of our revenue projections in this BPS may not be very good. We raised this issue with the National Treasury and have had an opportunity to scrutinise the strategic plan of the KRA that was recently launched. We have expressed our concerns both to the National Treasury and on this Floor to officers at KRA. As we said to the National Treasury, we cannot continue running away from the problem that we are facing at KRA.

It will be foolish of us to run away from a problem that we can clearly see exists. We have a problem at KRA which we insist must be fixed if we are to realise our revenue projections. Failure to realise those revenue projections yet we have already appropriated them to expenditure will mean that we will only be expanding our fiscal deficit and will have to go and borrow again. That is what I want to emphasise. Whether it is an institutional, systemic or leadership problem at the KRA, the Government has no option but to fix whatever ails it to ensure that we realise our revenue projections for us to move towards a balanced budget, sustain our debt levels and service all our borrowing. That is not to say that we should not borrow. We should borrow but do so responsibly and with a clear vision in sight that at one point we will move this economy towards a balanced budget where we do not have to borrow to finance our living standards or means of living.

Therefore, with those very many remarks, I beg to move. My Vice-Chair is now announcing to me that he is here. I had looked around and I did not see him. He was timing. I wish to request that he seconds this Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Who is your Vice-Chair?

Hon. Kimani Ichung'wah (Kikuyu, JP): My Vice-Chair is the seasoned Member for Eldama Ravine, Hon. Moses Lessonet.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Lessonet, Member for Eldama Ravine, you have the Floor.

Hon. Moses Lessonet (Eldama Ravine, JP): Thank you very much, Hon. Temporary Deputy Speaker for this opportunity. I am a senior MP. Hon. John Mbadi and I and others who are doing their third term are senior MPs. The rest are just MPs. Maoka Maore is also a senior MP having come here severally. Kimani Ichung'wah is working very hard. Very soon he will be a senior MP.

Thank you very much for this opportunity to support this BPS. I will only be complementing all the remarks made by the Chair, Hon. Kimani Ichung'wah. First, for avoidance of doubt, the BPS is different from the estimates.

Hon. Temporary Deputy Speaker, the departmental committees and the MDAs took this Budget Policy Statement as if it was the Budget Estimates. They went into very minute details of projects. The BPS, just like its wording, is about policy. For example, it is on revenue collection, debt and above all, the intention of the Government on how to spend the revenue collected. That is where the ministries and departmental committees took the opportunity and drove an agenda, as if these were Budget Estimates.

The Budget Estimates will be brought in April and they will be interrogated thoroughly by this House, departmental committees and the respective ministries. Considering our level of the Gross Domestic Product (GDP), which is a middle income economy; economists tell us that we should collect more revenue than we are collecting now.

Hon. Makali, a serious economist, will confirm that shortly. You have heard from the Chair, Hon. Kimani Ichung'wah that we told the National Treasury to find out why we are not collecting as much revenue as we should. We do not want to doubt the GDP figures because they

were confirmed by other institutions, including World Bank Group and International Monetary Fund (IMF) that we are truly a middle income economy. Therefore, we should be collecting ordinary revenue which is close to Kshs2trillion. As the Budget and Appropriations Committee, that is one item which we took up with the National Treasury. They need to make sure that we collect all the revenue that is possible. It is possible that some monies are lost somewhere whether in the collection system, collection methods or because most of our payments have gone digital. We settle our payments through Mpesa and other online payments which the KRA officials do not detect for purpose of revenue collection.

There is an issue of stalled projects in Kenya like in many constituencies. Let me start with the National Government Constituencies Development Fund (NG-CDF). We have stalled projects worth Kshs7billion in the NG-CDF. The new Members of Parliament who came in this Parliament and those who came in the last Parliament have, in one way or another abandoned the projects. I am talking about projects which were started but were not completed.

A Member came in and found a classroom at foundation and reallocated the money to another project. Another one came and found a laboratory incomplete and decided to move on into a new project. They do not touch projects of their predecessors. Stalled projects cut across all Government departments whether it is in security, defence, infrastructure or water. The public works officials told us how much we need to complete all the stalled projects in Kenya. We need billions of shillings which we want them prioritised. We want stalled projects to get the first charge on the budget in the future.

All departmental committees should take cognisance of this. Whenever they are interrogating budgets of any line ministry, first of all, they should make sure that stalled projects are prioritised, so that it does not become money down the drain. This should be money that should go into good use for exactly the intended purposes.

There are also pending bills. There are projects which are complete but they have not been paid for fully. If you want to find out very quickly about pending bills, visit the county governments, especially where there was change of leadership in the last General Election. We are aware that pending bills in county governments are around Kshs100billion. Just like stalled projects, we are emphasising that they should also be prioritised when payments are made.

We have spoken about public debt. We are not saying that we do not want the Government to start any new projects. We want it to work smart. We want to see Public Private Partnerships (PPP). When I talk about PPP, I am not talking about the example of the Jomo Kenyatta International Airport (JKIA). There are viable projects in Kenya which the private sector is ready and available to deliver. We are calling upon the National Treasury which has a fully fledged department to engage the private sector. If you go there, you will see very prominently the PPP office. However, if you interrogate them on the projects they have succeeded to midwife into private sector for the past five years, you are not likely to find any. Obvious, you will see projects like building hostels in Kenyatta University or Jomo Kenyatta University of Agriculture and Technology (JKUAT). They will tell you that they have succeeded to bring the private sector to construct hostels at JKUAT and Kenyatta University. It is true that the private sector has built hostels, but that is a very easy project for the university.

We have not seen any creativity by the National Treasury in rolling out PPP. When I talk about that I look at the Nairobi-Nakuru Road. I do not go to Kisumu and so, I do not know whether we need the private sector to construct the road up to Kisumu. When I was a young accountant, I used to travel from Nairobi to Nakuru in less than two hours 10 years ago. It takes us three-and-a-half hours to travel from Nairobi to Nakuru now.

We need PPP to roll out that road. We are more than ready to pay toll charges on that particular section of the road. That is one area which we are calling upon the Government to be very serious about so that we do not go the easy route of going to a commercial bank to get a loan for a project which the private sector can do. If we do that, we will get into trouble like the one we have read in the newspapers today. Those dams should have been constructed by the private sector.

With those few remarks, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Many Members have registered interest to speak. I shall be guided by the rota. We shall start by the Leader of the Minority Party, Hon. John Mbadi.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the Budget Policy Statement and the Debt Management Strategy for 2019/2020. When in the 10th Parliament we proposed that a BPS should be submitted to this House for debate and adoption, we expected certain things to happen. We expected a policy document that annually would set out overarching policy goals that would guide budget decisions on key programmes to be funded and how resources to fund them would be raised. That is the bare minimum we should see when we interrogate the PBS. It was our expectation that this would be a serious document that would provide the status of the implementation of the national agenda outlining key programme outputs, outcomes and challenges they face, if any.

Any Government worth its salt is supposed to have clear key programmes, outputs and outcomes within which we should be gauging how we are performing. That is why this document became necessary. The House can recall that when the former President, His Excellency Mwai Kibaki and the former Prime Minister, His Excellency Raila Odinga launched Vision 2030 in 2008, we had a lot of hope that through this vehicle the country would grow into a rapidly industrialising middle-income nation by 2030; a country which would have quality life and its citizenry and a clean and secure environment. We were to grow our economy, what we were told, by not less than 10 per cent annually. But for the last five years, if you look at the figures that are reported from the National Treasury, we have had our economy growing at an average of about 5 per cent and many times less than that.

My review of the BPS reveals that there is no serious effort to identify what we need to do to reach this target and recover on the lost time. If you take your time and look at the BPS, you will realise that the National Treasury is giving us routine pronouncements every year. There is no difference. In fact, I see it as a cut and paste document that is just used to entertain us and mislead this country that something serious is being done by the National Treasury to grow our economy and for the take-off. We have stalled as a country.

The BPS we have today, just like that of the previous year talks of resilience of our economy, an indicator of hopelessness and resignation to fate. When you start talking of our economy being resilient, it means you have resigned to fate and you have accepted that we are in a position of hopelessness. The National Treasury which we have charged with the single most important responsibility of guiding policy direction or spelling out policy direction of the country needs to observe that resilience of an economy cannot be stretched beyond certain limits.

The debt tolerance differs from country to country. Some countries can take more debt distress than others. Therefore, it is a lazy argument to continuously compare our debt tolerance to stronger economies like Japan. I agree with Hon. Kimani Ichung'wah on the figures and I will demonstrate that shortly. The National Treasury keeps mentioning that our economy is still capable of absorbing economic shock. That is actually misleading. Debt sustainability can only be achieved through taking painful decisions like expenditure cuts, controlling wage increases, increased tax, if it comes to that, which is very painful and above all, making corruption a very expensive venture.

Kenya has moved from where we talk about government officials taking 10 per cent from contractors. The recent revelation is that we are not taking less than 63 per cent from contractors. The figures that were being bundled just the other day; out of Kshs6.3 billion that was paid to an Italian contractor, Kshs4 billion came back to some individuals in this country. An amount of Kshs4 billion out of Kshs6.3 billion is 63 per cent of that money. What a shame! We have lost face as a country. Therefore, unless we do something about corruption and seriously so, in fact if you look at this BPS, there is no serious attempt even to come up with policy issues on how to fight corruption. We cannot fight corruption through *ad hoc* mechanical system of Directorate of Criminal Investigation (DCI) arresting people on Friday. Let them arrest people on Friday, but if there is no evidence these people are released then that becomes the end of it. We need serious policy direction on how to fight corruption. That can only come from the National Treasury.

If there is no economic growth, we cannot raise higher revenues. Again, there is a disconnect and that has been ably put out by the Mover of the Motion, between the growth in GDP and growth of our revenue. If you go down to look at the details, you will find it is caused by slow growth of income tax, something that should be straightforward. Either our companies are not making profits or we are not creating more job opportunities, which is the case. Our people continue to remain poor and even become poorer and even the youth cannot get jobs because of slowed economic growth. I see a sense of hopelessness.

My colleagues also experience it in constituencies among our youths because they cannot find jobs. In fact, they resort to us. Many Members here when they face election, and it happened to me in the last elections, the biggest question you are asked by the youth is how many of them you have employed, as if you are an employment bureau. That is because the youth have reached a level of hopelessness. It has resulted in high levels of insecurity mostly in urban areas, but it is soon spreading fast to rural areas.

There is talk about the Big Four Agenda. Just like Vision 2030, it raised our hopes especially the policy on expansion of manufacturing sector and achievement of food security. But, when we look at the BPS, it lacks serious strategies that will lead to creation of jobs through the expansion of the manufacturing sector. The Big Four Agenda, I dare say here that is a pipe dream. Let us not cheat ourselves. I have looked at the BPS; the so called Big Four Agenda is a pipe dream. There is no clear strategy to ring-fence resources which will go to the Big Four Agenda, in particular manufacturing and agriculture. The National Treasury must come up with a matrix for implementation and monitoring of the Big Four Agenda and this House must resolve that a matrix outlining key programmes and projects be submitted together with the Annual Estimates coming in April. Without that, we are lying to this country; there is no Big Four Agenda and we better tell the President as much. If he relies on this as his legacy, he is going to fail miserably.

The National Treasury lacks follow up mechanism to determine effectiveness and efficiency of previous intervention strategies to actualise Government policy especially on food

security. For example, the previous policy on food security was to come up with irrigated agriculture. We centred and based our hopes on the so-called Galana Kulalu Irrigation Development Project, which has turned out to be a fraud on the people of Kenya and the National Treasury has made no mention of the same. If you look at this BPS on food security and how the Government plans to actualise food security, there is irrigation, but no mentioning of 10,000 acres in Mwea to be irrigated for rice production and other interventions. They have forgotten about the Galana Kulalu Irrigation Development Project which has sunk over Kshs7 billion and the National Treasury has no courtesy of mentioning that to us. What about the dams that we are talking about which are riddled with corruption and were meant to provide food security for this country? That was one of the main agenda of building those dams. There is no mention of the same.

Parliament must also share in this blame. As the Leader of the Minority Party, I want to call upon the entire leadership of Parliament that we must now put more pressure on our departmental committees to change tack and focus more on monitoring and evaluation of implementation of projects. Why would we wait for some other agencies to tell us that Kshs6.3 billion was paid to some Italian who has taken off with our money, yet these dams are in our budget? The amounts are in the budget and no committee has mentioned that to this House. There is no report from the Departmental Committee on Environment and Natural Resources or the Departmental Committee on Agriculture and Livestock to tell us that Galana Development Irrigation Project has failed. Who will help this country if this House cannot come up with some of these reports? We may need to refocus our resources as a House to this and insist in committees tabling for discussing quarterly; or half yearly status reports on the implementation of projects.

As I have stated above, we develop policies but do not bother to monitor the implementation, yet sustainability of policy proposals is an integral part of development. For example, the digital literacy is an example of such a failed policy. We started with laptops, then we went to tablets, now we are talking about computer labs, yet we know very well that Members of Parliament had even made a recommendation that we should construct computer labs and adopted it, yet no follow up, hence we are where we are. We approve resources for implementation of programmes and so we have vested powers to call for forensic audit early enough to take restorative measures, otherwise, we will be lamenting like any other Kenyan who has no responsibility and powers.

As the Leader of the Minority Party, I want to ask again that the relevant committee should critically call to account among others, digital literacy programme, food security policy especially expenditure on irrigation and construction of dams, the leasing of medical equipment, the rural electrification programmes, just to mention but a few.

On the public debt, allow me to say the following: We need to learn from the experience of Greece. Greece had a National Treasury. Probably they also had a Budget Committee and IMF was there to police it. The parameters and figures that were being flashed around were looking very good, but we all know what happened to it. The net present value of debts as a percentage of revenue is 300. That is what is allowable. That is overstretching. When IMF and World Bank tell you that the maximum is 300, it is maximum beyond which you are in trouble.

In 2018, on debt services, we were already at 299.6 so we only have 0.4 left. Hon. Kimani Ichung'wah mentioned this without mentioning the figure – which we have overshot. The debt service to revenue ratio threshold is 30 per cent but in 2018, we were at 43 per cent and we project to be at 48 per cent in 2019.

Hon. Members, there is trouble and we are at the cliff. To reduce public debt and get out of this problem, we need to have a balanced budget and work towards a budget surplus. That is the bare minimum that we can give the people of Kenya especially where we are. National Treasury must adhere to the ceilings being approved today and more domestic mobilisation must be done to reduce public debt.

I remember when ODM was supporting the Finance Bill of last year we gave conditions that the public expenditure must be reduced. We must tighten the belt. For me, the theme for this next budget should be focused on efficiency and enhancing accountability.

At times of scarcity, everyone must feel the pinch. The Executive must become more efficient; Judiciary and Parliament must all be part of this effort. It is high time we demanded both effectiveness and efficiency in all arms of Government, Departments and State Agencies. No more room for wastage at all levels.

Just as when the bell rings for the Speaker to come to this Chamber, you religiously get ready to walk into the Chamber, In fact, I cannot remember any time we have waited here even for five minutes for the Speaker to come. It should be demanded of everyone. People getting access to proceeds of corruption must find it painful and risk venture.

As I wind up, I want to say that those who are not ready to deliver must be shown the door. The President must look at his Cabinet again. There is no room for socialites because I see some of them there. There is no room for celebrities, that so and so has been working. We have been hearing her voice in the radio or we have been watching him on television, we need to be digital so we want to bring them to the Cabinet, there is no need for public relations experts. We want to deliver as a country. No more talk. The President must crack the whip. Those Cabinet Secretaries who are behaving like socialites and those who are celebrities in the Cabinet must go and we have people who can perform.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, Leader of the Minority Party. Your point is made certainly because you had additional minutes based on the House resolution. The other Members who will speak after this will have a maximum of 10 minutes. That is not to say you must extinguish the 10 minutes, you can take less.

Hon. Mutunga.

Hon. John Mutunga (Tigania West, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute to the adoption of the Report on the Budget Policy Statement and the Medium Term Debt Management Strategy by the Committee.

I would like to declare that I am a Member of this Committee; very many issues were discussed and interrogated as it were. Looking at the entire Report and the discussions that went on, as the Chair of the Committee said, there is a misunderstanding between policy statement and estimates. This is because most of the implementers of various projects and programmes and those who run the business of the Government appeared to want more. We realised that in most cases, they were requesting for more money than was proposed in the BPS. The tendency to want more is something that is inherent when an opportunity arises.

I remember during the Chemistry lessons sometime back, there was a rule called Markovnikov's rule. It was a nucleophilic substitution rule which speaks about those who have will be given more. The Bible backs up this particular provision. It says that for them that have, more shall be given. It goes further to say that for those who may not have, even the little that they have will be taken away from them and it will be given to those who have more. It is no wonder most of the institutions requested for money and those who are not used to getting a lot of money have remained around the same bracket and some of them have been unable to make

their case as it were. Those are the ones I am referring to and they will have the little that they have going forward.

I stand from a point of investment. We cannot have growth of GDP without growth in revenues. Growth in revenue is stimulated by growth in investment. If we have no investment then we might not have revenue growth. The relationship is such that if we have no reserves then we might not have investments. Lack of budget surplus means that we may not have revenue to invest or have investment resources. Therefore, we may not have growth of the GDP.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Hon. Mutunga. What is it, Hon. Keter Kiptoo?

Hon. Alfred Keter (Nandi Hills, JP): Thank you, Hon. Temporary Deputy Speaker. I would like to make a suggestion. I know there is a resolution on matters of time where a Member can make their contribution in 10 minutes, but I would suggest that we agree on three minutes for a Member speaking so that more Members can speak to this.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. You know Hon. Keter; the House passes a resolution on such a matter. Every Member takes 10 minutes. You are not out of order. You are just persuading Members to take less minutes, but the Speaker cannot direct because he must follow the resolution of the House. Let us see whether the Members will be persuaded by your request.

Hon. Mutunga.

Hon. John Mutunga (Tigania West, JP): Hon. Temporary Deputy Speaker, I do not object to that particular provision as long as it does not affect me because I am already on the Floor.

I would like to point out a few issues that were raised on this particular report. One of them is the specific policy that is undertaken to increase or improve agricultural production, especially now that most of our agriculture is rain-fed. However, we can see some efforts in irrigation and to make it more sustainable for production in order to guarantee both food and nutritional security and also to produce raw materials for manufacturing.

As a country we cannot talk about industrialisation or manufacturing if we are not discussing manufacturing in the context of agricultural raw material turnover. It is the transformation of the agricultural raw materials that will help us as a country to industrialise because we may not benefit enough from other forms of industries. The greater majority of Kenyans are engaged in agriculture and unless we make our agriculture work, it may not be possible for us to achieve industrialisation. So, it will affect the achievement of the Big Four Agenda because it can only be driven, if we have raw materials in quantities that can be verified and can sustain a process for a long time in various parts of this country.

If you look at the agriculture sector which is the mainstay of this economy, it is given very little money. Even the BPS this time around is proposing that we shall even give less to agriculture. Last year, agriculture was number 11 in priority of this country, where priority is looking at how much has been given to a sector. That being the case, the few proposals that look like they are reasonable in terms of what agriculture can do, is basically developing more acreage so that we can expand the national irrigation programme to increase production and productivity. There is also proposal to increase the area and small holder irrigation. I would like to say that as country we need to go the way other countries have gone.

I would like to look at examples of some two countries that experienced a relevant placement as a country and one of them is Vietnam. Vietnam is coming out of small holder to more enhanced large scale as it were. Vietnam has people like ours, it is a developing country

like ours and has experienced all the problems that probably we have experienced. It has adopted the process of increasing their acreage through various forms of consolidation. If a BPS does not go the direction of increasing the raw materials and industries through some consolidation and taking up land that is idle, I think we are making a mistake and the Big Four Agenda may not be realised.

When I look at what is happening in the proposal under the Big Four Agenda especially the proposal on the food and nutritional security, the kind of proposals that are being made include supply of fertiliser which comes late, sometimes it is not even available to the farmers and strategic food reserve that is not having food security as strategic food reserve. We should ensure that we do not buy this food, we should produce it. On the other hand we are increasing on irrigation, but when I look at the manufacturing bit of it, I see some money being allocated to the development of leather industry. We are looking at textile development, modernisation of Rift Valley Textile East Africa Limited (Rivatex) and Kenya Co-operative Creameries. If I look at some of these things, I do not see the relationship between support for agriculture in terms of raw material production and support to these industries. I do not see money invested in cotton production so that Rivatex can wake up. Rivatex died because we lacked raw materials. Raw materials would have the industries developed and the infrastructure would be developed, but if there would be no raw materials to sustain those industries, moving over time there will not be development.

As a country, we must be thinking very seriously about job creation. This is one country whose greater proportion of the population is of the younger age group and who are a lot more enlightened. We have transformed almost all institutions that could be into universities. We are producing a lot of university graduates and discharging them into the market without jobs. We are transforming all these young people into job seekers. They have become professional job seekers. Without looking at the relationship between the rate at which we are investing in the productive sector – so that this sector can stimulate economic growth and create jobs for this young people we are sitting on a time bomb.

It is worse when people are educated. That is a point that we need to note as a House. We need to take some time off to discuss how to create jobs and how to compel the managers of the resources of this country to focus a lot more on investing in the productive sector other than investing in other sectors which do not necessarily lead to other investments.

My time is gone, but I would like to mention that there is one thing that we need to note, the scrutiny of the policies that we have as a country.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, your time is spent. Hon. Wamalwa, you will get a chance at some point, but before that, we must give this opportunity to Hon. Ogola Ochanda.

Hon. Gideon Ochanda (Bondo, ODM): Thank you, Hon. Temporary Deputy Speaker. As I rise to contribute to this, at the outset I want to say that we are living a lie as a country and as a nation. Our technocrats are lying to the leaders and the leaders are lying to the public. This is happening all over, and if we do not get to some corrective arrangement, we are not going anywhere. We cannot be told that the economy is growing and yet, our food is the highest priced in this region. If you look across all our borders, whether you are in Kiyunga, Moyale or Busia, everybody is going to buy food across the other side. Food is cheaper in Tanzania, Somalia where there is no government, in Ethiopia and Uganda. When we are talking of food security, what do we mean, when we are unable to have food in a manner that people can afford? If we

are talking about economy growing, we are not able to raise money. We are in the same traditional way of doing things.

KRA is one opaque entity that I have no idea when it interfaces with this Parliament. The Treasury shields KRA until you cannot see it anywhere in Parliament. This is happening against a situation where there could be certain little things that we see. I serve in the Committee on Regional Integration and that is how I got to know quite a bit of things that happen on our border stations and posts. In Malaba border, for example, KRA expects to get money from the customs but all of the staff there lives in the houses of smugglers. How can a smuggler in whose house you live, pay you customs duty the following day? It is impossible. And it is happening all over. So, there must be a very different way of looking at these things.

We should not be talking about changing our tax policy and many other things when the basic ones that are in our hands we are unable to manage. We are unable to collect money in Malaba. Why? What happens? Everybody crosses. You cross to Uganda when you want food, beer or fuel. What is left on the Kenyan side is just parking space. People come from Uganda to park on the Kenyan side because we do not charge them. When they park on the Ugandan side they are charged. So, trailers deliver things in Uganda then come to park in Kenya. You get a long queue of 5 kilometres of trucks on the Kenyan side because parking is free. How can we say that we are not generating money and yet these simple, little things are happening? Definitely, we are living a lie.

You are talking about the Big Four Agenda when in real sense you know you are borrowing. That is number one. Number two, you have projects that have stalled for ages and you have also given a directive that you are not doing anything new; you want to concentrate on the old projects. So, you want to concentrate on the old with a new policy. How will that work? How will you do it if your instructions are that you cannot do anything new? You want to go to the old to generate food and the old did not work. You want universal healthcare in the new and the old did not work. We are basically going round and round and cheating ourselves. It is really bad that this is happening. How will we achieve this when we are very clear that pending bills are all over each year? When we talk about stalled projects, even the list that was given by the Treasury does not have some of the biggest projects that have stalled. One is across here in Kariobangi: a big health facility that stalled.

You look through the list where they are talking about little irrigation projects that stalled in some communities, but they fail to list one that is so big and is in Nairobi. What is happening? Why is it that when you are looking for a list of stalled projects, Treasury takes a whole year? Who pays for these projects? I thought it is Treasury. It needs to know what it is paying today, what it is paying tomorrow and what it paid yesterday, such that when you are looking for information for a single day, you need to know exactly where we have reached with payments and what we have wanted to do and the much not yet paid. It is taking much time. Treasury must again negotiate with departments to tell them how much they have not performed in terms of projects. There is a big problem.

We are talking about issues of Recurrent Expenditure. For how long should we sing that in the counties, where there are clear policies and guidelines, that you cannot spend more than 70 per cent on Recurrent Expenditure and a governor comes to tell us very clearly that he has more than 100 illiterate drivers and he has had them for the last seven years and that he cannot sack them? What does that mean? And while he has 100 drivers, he employs more! When you visit counties, which have second generation governors, you will realise that there are four different Civil Service lines. There are service lines that were inherited from local authorities and they are

paid so highly because of the bargains that they had had before. That is exactly why they are saying a driver hired by the moribund authorities earns more money than a veterinary doctor who took seven years studying at the university. So, they are running four different, parallel Civil Service lines. The inherited staff from the local authorities, those from the line ministries by the time, then there are the hirelings of the first governors and the hirelings of the second governors.

Then we talk about the wage bill and we know this is happening. How comes somebody cannot come up and say we put a stop to this? We know very clearly that the ministries have offloaded what was in the provinces, districts and divisions downwards. How comes their wage bill or Recurrent Expenditure remains the same? What are we doing? If you have offloaded in that kind of arrangement—they offloaded staff, stationery to the counties—how come the same ministry or department that now only has staff and personnel in Nairobi still has the same or more cost in Recurrent Expenditure? There is a big problem.

Let me end at that because my vice-chair is trying to interrupt me very badly. He wanted to disrupt my flow of thought. What I am trying to say is that we are living a lie as a country. Everybody is very busy cheating the other. They have cheated our leadership and the leadership is cheating the entire country.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): To my right, Hon. Rindikiri.

Hon. Mugambi Rindikiri (Buuri, JP): Thank you, Hon. Temporary Deputy Speaker. I stand to accept the report from the Budget and Appropriations Committee. Just like everybody else has stated, we have serious issues and we cannot deny and we should not live in the world of denial anymore. I agree with the observations of the chairman that there is no policy framework specifically guiding the Big Four Agenda. That is a very serious matter.

We know the passion of the President, but what do we do? Everything requires money. If I were the President, I would have put it slightly different: that for food security we need water, fertiliser, trained agricultural extension officers and small value-adding factories. If there is no water and fertiliser, what are we going to do? There is a trend in the country of importing foodstuffs. We are being told that the country imports eggs. We have started importing fish and even vegetables from across the borders. The list goes on and on. On one side we are proud of what is happening but on the other side we know for a fact it might not happen.

There is no policy guideline on housing. That is a fact. We know it has to be done, but we need money. We are being told workers will contribute a certain amount of money, but the Government has not put a system in place that will manage the housing funds from employers and employees.

When it comes to the health sector, we ask ourselves which activities we are focusing on. It is not defined.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Rindikiri, I am afraid it is 7.00 p.m. I know quite a number of Members want to speak to this debate. The good news is that this does not end here. The item will come back again and Members will have sufficient time to prosecute and contribute on it.

Hon. Rindikiri, when this matter comes up again, you will have seven minutes to dispense with your submission.

Hon. Mugambi Rindikiri (Buuri, JP): Thank you, Hon. Temporary Deputy Speaker.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Thursday, 28th February 2019, at 2.30 p.m.

The House rose at 7.00 p.m.