

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 28th February 2019

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM PARLIAMENT OF MALAWI

Hon. Speaker: Hon. Members, I wish to introduce to you a delegation of Members of Parliament and staff from the Parliament of Malawi seated in the Speaker's Row. The delegation comprises of the following:

- (1) The Rt. Hon. Richard Msowoya, MP - Speaker of the Parliament of Malawi and Leader of Delegation;
- (2) Hon. Lobin Lowe, MP - Chief Whip, Malawi Congress Party; and,
- (3) Hon. Raphael Mhone, MP - Leader of the People's Party.

The delegation is accompanied by:

- (1) Mr. Joseph Manzi - Senior Assistant Clerk of Parliament;
- (2) Mr. Leonard Mengezi - Assistant Clerk of Parliament, Protocol; and,
- (3) Mr. Vitumbiko Chitaya - Personal Assistant to the Speaker.

The delegation, which is drawn from the membership of the House Business Committee, is in the country on a benchmarking visit to our Parliament specifically to share experiences and learn good practices with our counterpart committee and other offices of Parliament.

On my own behalf and that of the House, I wish to welcome them to the National Assembly this afternoon and wish them fruitful engagements during their stay in the country.

(Applause)

PAPERS LAID

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Quarterly Economic and Budgetary Review (First Half of the 2018/2019 Financial Year) from the National Treasury and Planning; and,

The Post-Election Evaluation Report for the 8th August 2017 General Elections and 26th October 2017 Fresh Presidential Elections from the Independent Electoral and Boundaries Commission (IEBC).

Hon. Speaker: Let us have the Chairman of the Departmental Committee on Finance and National Planning.

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

Report of the Departmental Committee on Finance and National Planning on Consideration of the Public Finance Management (Amendment) Bill, 2017.

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

NOTICE OF MOTION

RECRUITMENT AND REMUNERATION OF VILLAGE ELDERS

Hon. George Gitonga (Tharaka, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that village elders play an integral role in the functioning of the national Government at the village level by assisting chiefs and assistant chiefs in facilitating national Government services including promotion of education, handling security issues, solving disputes, promoting development initiatives and social services in their villages through the Nyumba Kumi Initiative; concerned that these officers discharge these important duties without any facilitation by the Government; acknowledging the need to appreciate and motivate these village elders for the services rendered; cognisant of the resolution of the House of 28th July 2016, urging the national Government to consider giving a monthly or annual honorarium to village elders as a means of appreciating their services and encouraging their dedication to the community; this House further urges the national Government to formulate and implement a policy on the criteria for recruitment and remuneration of village elders.

Hon. Speaker: Member for Baringo North, do you have an intervention?

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Speaker. I would like to support the Petition by my classmate, Hon. Murugara. This is a very important Petition. In the area where I come from...

Hon. Speaker: Sorry. Which petition?

Hon. William Cheptumo (Baringo North, JP): The Motion. Sorry, Hon. Speaker. I apologise.

Hon. Speaker: But he just gave Notice of Motion. It will be debated on a Wednesday morning.

Hon. William Cheptumo (Baringo North, JP): Hon. Speaker, I apologise.

Hon. Speaker: Member for Kitutu Chache South, do you also have an intervention? Member for West Mugirango, do you have an intervention?

Hon. Vincent Kemosi (West Mugirango, FORD-K): Thank you, Hon. Speaker. I seek your guidance on the Motion. If my mind serves me right, a similar Motion was tabled in the 11th Parliament. A good position would have been to find out how far the Committee on Implementation went with that Motion.

Hon. Speaker: If a similar Motion was debated and passed or rejected in the 11th Parliament, a similar Motion in substance can still be brought back to the House six months later, if a Member feels the House expressed or resolved itself inadequately. In any event, that was a Motion urging the national Government. The national Government was not in the Chamber. Perhaps it has not felt the urge. This Motion is also urging the national Government. The person being urged will tell us whether they will have been sufficiently urged this time to resolve or take any particular action.

It is also fair to appreciate that under the County Governments Act, there exists provisions for village administrators. Perhaps, one could see how to marry what the national Government is being urged to do and what is provided for in the County Governments Act within what is defined as village administration. Perhaps, it might be a matter of the other House and not this one to pursue with regard to matters of villages and village administration.

I can see the Chair of the Committee on Implementation wants to intervene.

Hon. Richard ole Kenta (Narok North, ODM): Hon. Speaker, that issue has been brought before us. We summoned the Cabinet Secretary (CS) in charge, Hon. Matiang'i and he sent the Principal Secretary (PS) and he talked about the same issue of urging. Unless it is concretised into law, there is nothing he can do because it also has budgetary requirements and we have not passed any money for that purpose. This Motion should be clearly thought-out before we say so-and-so should be forced to implement. This Parliament should do its work. We are blaming other institutions when we are the ones who have failed.

Hon. Speaker: Hon. Members, part of the reason I did not refer this to the Budget and Appropriations Committee is because I noticed that the Motion is merely urging the national Government. We passed the Motion on Private Members' Bills, so that we can spend more time making laws as opposed to urging people who are nowhere.

Let us have the Member for Igembe North. Just speak. Go to the next microphone.

Hon. Maoka Maore (Igembe North, JP): Hon. Speaker, the gravity of this Motion touches on every corner of this country. The wish of the House at that time seemed to be hanging because of the nature of the resolution. In your wisdom, I wish you could forward the Motion to the Budget and Appropriations Committee so that they can approve it - It has some financial implications - so that we do not get involved in this story of urging the national Government. This Motion is very important. Even if it is adopted, nothing will happen. We would have wasted a lot of public time debating it for the second time when it does not follow the right procedure and process.

Hon. Speaker: Hon. Members, the Member for Tharaka merely gave Notice of a Motion. I do not even understand what we are discussing. You can raise that matter on the particular date the Motion is listed for debate. As of now, the Motion has already been balloted by the House Business Committee.

The Member is right to stand in his place and give Notice of Motion, so that on the day it is listed for debate, you could get part of your National Government Constituencies Development Fund (NG-CDF) to pay the village elders if you think that is part of constituency development.

You can make a determination one way or another. For now, let us go into business. The Member is perfectly entitled to give Notice of Motion. He already came up with the Motion, it was presented before the HBC and has already been balloted. What remained was for him to give notice of it. There is nothing for us to discuss. I do not see any need for other points of order at this point.

Let us move to the next Order.

ORDINARY QUESTIONS

Hon. Speaker: The first Question is by the Member for Baringo Central, Hon. Joshua Kandie.

Question No.069/2019

INSECURITY IN BARINGO CENTRAL

Hon. Joshua Kandie (Baringo Central, MCCP): Thank you, Hon. Speaker. I rise to ask the Cabinet Secretary for Interior and Coordination of National Government Question No.069/2019.

- (a) Is the Cabinet Secretary aware that there have been increased cases of insecurity in Baringo Central Constituency?
- (b) What measures are being put in place by the Ministry to curb the increased cases of insecurity and harassment of *boda boda* operators by police officers?

Hon. Speaker: Very well. The Question is referred to the Departmental Committee on Administration and National Security to prioritise the appearance of the Cabinet Secretary responsible.

The next Question is by the Member for Kuresoi South, Hon. Tonui.

Question No.070/2019

MEASURES TO EXPEDITE ISSUANCE OF BIRTH CERTIFICATES

Hon. Joseph Kipkosgei (Kuresoi South, JP): Thank you, Hon. Speaker for giving me this opportunity to ask Question No.070/2019. I direct the Question to the Cabinet Secretary for Interior and Coordination of National Government.

- (a) Is the Cabinet Secretary aware that there is a crisis in the issuance of birth certificates in the country?
- (b) What measures has the Ministry put in place to expedite issuance of birth certificates?
- (c) Could the Ministry consider issuance of birth certificates at the sub-county level, in addition to deployment of mobile distribution facilities?

Hon. Speaker: The Question is referred to the same Departmental Committee on Administration and National Security.

Next is the Member for Taita Taveta County, Hon. Haika Mizighi.

Question No.071/2019

HUMAN-WILDLIFE CONFLICT IN TAITA TAVETA COUNTY

Hon. (Ms.) Haika Mizighi (Taita Taveta CWR, JP): Thank you, Hon. Speaker. I rise to ask Question No.071/2019. The Question is directed to the Cabinet Secretary for Tourism and Wildlife.

- (a) Is the Cabinet Secretary aware that the residents of Voi-Sagalla, Kajire Boghuta, Mwalungali, Kasighau, Ghazi Mwatate-Mwalu Fau, Msorongu, Kwamnengwa, Kamtonga, Wusi-Kashamba and Ngerenyi in Taita-Taveta County have incurred loss of lives and properties due to human-wildlife conflict?
- (b) What measures is the Ministry putting in place to contain the human-wildlife conflict and further, compensate the residents for lives lost and properties damaged?

Hon. Speaker: The Question is referred to the Departmental Committee on Environment and Natural Resources. Next Question is by the Member for Central Imenti.

Question No.072/2019

ISSUANCE OF TITLE DEEDS TO RESIDENTS OF KIAMURI “B”

Hon. Moses Kirima (Central Imenti, JP): Thank you, Hon. Speaker. My Question is directed to the Cabinet Secretary for Lands.

- (a) Is the Cabinet Secretary aware that Kiamuri “B” area in Central Imenti Constituency has been declared an adjudication area for the last ten (10) years?
- (b) When will the title deeds be issued to residents of Kiamuri “B” in Central Imenti Constituency?

Hon. Speaker: The Question is referred to the Departmental Committee on Lands. The next Question is by the Member for Kirinyaga Central.

Question No.073/2019

LACK OF QUALITY EDUCATION FOR LEARNERS WITH SPECIAL NEEDS

Hon. Munene Wambugu (Kirinyaga Central, JP): Thank you, Hon. Speaker. I rise to ask Question No.073/2019, which is directed to the Cabinet Secretary for Education.

- (a) Is the Cabinet Secretary aware that Mukinduri, Kianjege East, Kangaita and Kiranja Primary schools in Kirinyaga Central Constituency, have been allocated a special unit class, but lack basic facilities necessary to provide quality education?
- (b) Is the Cabinet Secretary further aware that there is no institution that offers secondary education for students with special needs in Kirinyaga County?

- (c) What measures is the Ministry putting in place to ensure high enrolment, retention and transition rates of special needs learners in both primary and secondary schools?

Hon. Speaker: The Question is referred to the Departmental Committee on Education and Research. Next, is the Member for Kitui County, Irene M. Kasalu.

Question No.074/2019

STUDENTS DENIED KCSE CERTIFICATES DUE TO FEES ARREARS

Hon. (Dr.) Irene Kasalu (Kitui CWR, WDM-K): Thank you, Hon. Speaker. I rise to ask Question No.74/2019 directed to the Cabinet Secretary for Education.

(a) Is the Cabinet Secretary aware that some students in public secondary schools in Kitui County have been denied their Kenya Certificate of Secondary Education Certificates due to school fees arrears contrary to Section 10(1)(b) of the KNEC Act 2012?

(b) What measures is the Ministry putting in place to ensure that the affected students with fees arrears in Kitui County are issued with their certificates?

Hon. Speaker: The Question is referred to the Departmental Committee on Education and Research. Hon. Members, before we proceed, let me recognise the presence, both in the Speaker's Gallery and Public Gallery, of students and pupils from the following institutions: St. Mary's Gataka Mixed Secondary School, Mbeere South Constituency, Embu County; Co-operative University, Langata Constituency, Nairobi County; Mbaikini School, Mwala Constituency, Machakos County; Ikuu Boys High School, Chuka/Igambang'ombe Constituency, Tharaka Nithi County; Marurui Primary School, Roysambu Constituency, Nairobi County, Sekenani Primary School, Narok West Constituency, Narok County and finally, Glory Learning Centre, Embakasi East Constituency, Nairobi County.

They are all welcome to observe the proceedings of the National Assembly this afternoon. Leader of the Majority Party.

STATEMENT

BUSINESS FOR THE WEEK COMMENCING 5TH TO 7^H MARCH 2019

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, pursuant to Standing Order No.44(2)(a), I rise to give a Statement on behalf of the House Business Committee for the business beginning Tuesday, 5th March 2019.

The Committee met on Tuesday this week at the rise of the House to prioritise business for consideration. Next week, the House is scheduled to consider the following Bills at Second Reading, if they are not concluded today:

- (i) The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.13 of 2018).

- (ii) The County Governments (Revenue Raising Process) Bill (National Assembly Bill No.24 of 2018).

The House will also consider two Bills which are in the Committee of the Whole House. They are:

- (i) The Kenya Accreditation Service Bill (National Assembly Bill No.17 of 2018).
- (ii) The County Governments (Amendment) Bill (Senate Bill No.11 of 2017).

I, therefore, urge all Members who may have amendments to these Bills to provide the same or submit them to the Office of the Clerk for further processing.

Hon. Speaker, next week, we also expect the Departmental Committee on Administration and National Security to submit its report on the approval hearing of the nominees to be appointed as chairperson and members of the National Police Service Commission. This will enable the House to consider the matter within the statutory timelines given by the Act. The House will further consider the Report on the Disbursement of Funds to the National Government Constituencies Development Fund (NG-CDF) if not concluded today.

In accordance with the provision of Standing Order No. 42A(5) and (6), I wish to convey that the following Cabinet Secretaries are scheduled to appear before the following committees:

- (i) The Cabinet Secretary for Tourism and Wildlife will appear before the Departmental Committee on Environment and Natural Resources on Tuesday, 5th March, to answer Question No.010/2019 from Hon. Kipsengeret Koros.
- (ii) The Cabinet Secretary for Lands will appear before the Departmental Committee on Lands on Tuesday, 5th March 2019, to answer Questions No.008/2019 and 027/2019 from Hon. Anthony Oluoch and Hon. Caleb Amisi respectively.
- (iii) The Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation will appear before the Departmental Committee on Agriculture and Livestock on 5th March to answer Questions No.011/2019 and 023/2019 from Hon. Gabriel Kago and Hon. Kipsengeret Koros, respectively.
- (iv) The Cabinet Secretary for Public Service, Youth and Gender will appear before the Departmental Committee on Labour and Social Welfare on Thursday, 7th March to answer Questions No.004/2019 and 032/2019 from Hon. Kipsengeret Koros and Hon. David Gikaria.

Finally, the HBC will reconvene on Tuesday, 5th March 2019 at the rise of the House to consider business for the coming week. I now wish to lay this Statement on the Table of the House.

Thank you, Hon. Speaker.

(Hon. Aden Duale laid the Statement on the Table)

Hon. Speaker: Next Order!

REPORT OF COMMITTEE OF THE WHOLE HOUSE
ON THE INSURANCE (AMENDMENT) BILL

Hon. Speaker: Hon. Members, debate on this Bill was concluded yesterday and the Committee of the whole House finalised its bit. What remained is for the Question to be put, which I hereby do.

(Question put and agreed to)

Do not explain anything. You are at liberty to vote one way or other. That is your right, including shouting very loudly so that three Members can appear to have shouted more than the others.

(Several Hon. Members stood at their places)

Hon. Members, those Members who are rising in their places, what is it that you desire? You desire to be counted? You are five. You do not reach the threshold. So, you must remain silent. Let us have the Mover of the Bill.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Speaker, I beg to move that the Insurance (Amendment) Bill (National Assembly Bill No.21 of 2018) be now read a Third Time. I request Hon. Kandie to second.

Hon. Joshua Kandie (Baringo Central, MCCP): Thank you, Hon. Speaker. I second.

Hon. Speaker: Member for Isiolo, can you sit. Do not be so migratory. Member for Ijara, find some place to sit.

(Question proposed)

It is the desire of the House that I put the Question, having confirmed there is the requisite quorum?

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

Hon. Speaker: Hon. Members, I have been at this game for so long, the tricks which a few Members are learning this late cannot just cause confusion. Proceed.

Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I stand on a point of order pursuant to Standing Order No.40(2), which empowers the Speaker of the National Assembly to direct the sequence of disposing business of the House as scheduled on the Order Paper. Hon. Speaker, I wish to seek your indulgence that the business appearing as Order No.10 on the Order Paper, namely, Motion on the Report of the Budget and Appropriations Committee on the 2019/2020 Budget Policy Statement (BPS), and business appearing as Order No.11, namely Committee of the whole House for consideration of the Presidential Reservations to the Health

Laws (Amendment) Bill, be accorded priority so as to be considered immediately after disposing of business appearing as Order No.8, which you have already done.

The rationale for prioritising consideration of the Motion on the Report of the Budget and Appropriations Committee emanates from the fact that Section 25(7) of the Public Finance Management Act 2012 requires the House to consider the Report within 14 days of its submission. I really want Hon. Wamalwa to listen to me. Further, the adoption of the Report will set forth the publication of the Division of Revenue Bill and subsequently the County Allocation of Revenue Bill, which are critical in the fiscal operations and management of both the national Government and the county governments.

The rationale for prioritising the Committee of the whole House for considering the President's Reservations to the Health Laws (Amendment) Bill is based on the fact that the House has a timeline of 21 days to consider the President's Reservations in line with Standing Order No.154(2). In conclusion, the two businesses, for which I seek you to rearrange the Order Paper, have specific timelines that ought to be adhered to hence the request that I am putting.

The matter in Order No.11 is one that we can discuss, but the two matters that I have raised have timelines. These are the BPS Report from the Budget and Appropriations Committee and the Presidential Reservations. After that, we can discuss the other businesses which have no timelines.

Hon. Speaker, I really indulge you and my colleagues to rearrange the Order Paper and we start with the Committee of whole House, the BPS and then we can deal with other matters as they come.

Hon. Speaker: Leader of the Majority Party, your request does not require seconding for the reasons stated that the BPS and the Presidential Memorandum both have timelines. In fact, both of them must be concluded today. It is important for Members to appreciate that both of them must be concluded today. Did I understand the Leader of the Majority Party to be suggesting that the House moves into Committee first? Leader of the Majority Party, did you want the Presidential Memorandum to be the first?

Hon. Aden Duale (Garissa Township, JP): Yes, I want it to be the first because the Presidential Memorandum does not take long. It takes less than 20 minutes because if you disagree with the President...

Hon. Members: No!

Hon. Aden Duale (Garissa Township, JP): Why are you saying no? I am only telling the Speaker the Memorandum will only take 20 minutes.

Hon. Speaker: Hon. Members, the Leader of the Majority Party is rising under...

An Hon. Member: Put the Question!

Hon. Speaker: You must understand your Standing Orders. It is not everything that is disposed of in the manner that you propose. You have no role in this at all. It is for the convenience of the House and the reason given, particularly with the Memorandum, that it is just a matter of you raising the numbers. In some of them, you may have to raise the numbers and if you do not have the numbers, you know what happened yesterday. I believe it is a matter that you will dispose of very fast because it has a deadline of today. That is all the Leader of the Majority Party is asking. It is a very simple matter. I am persuaded that you need to conclude those two today before you undertake any other business. Some of you are murmuring: "What

Standing Order?” You have not looked at your Standing Order No.40. This is for avoidance of doubt and for the convenience of the House.

Hon. Members, for the reasons given by the Leader of the Majority Party in his request to me, I order that Order No.9 be considered after Order No.11, so that the House can complete those two businesses, which have timelines, and particularly the President’s Memorandum. I am doing this because I have looked at the Memorandum and the Report from the Committee, and there are some proposed amendments. It may be desirable that you dispose them off immediately. Before we do that, I wish to give this particular guidance.

COMMUNICATION FROM THE CHAIR

PROCEDURE OF CONSIDERING THE PRESIDENT’S RESERVATIONS TO THE HEALTH LAWS (AMENDMENT) BILL

Before the House resolves into Committee of the Whole House to consider the President’s reservations to the Health Laws (Amendment) Bill, National Assembly Bill No.14 of 2018), I wish to provide guidance on the procedure of considering amendments thereto.

Hon. Members, as you are aware, consideration of the President’s Memorandum to any Bill is guided by the provisions of the Constitution, the Standing Orders, as well as the Communication I issued on 28th July 2015, which refined the procedure more empirically and specifically. It is within this context and background that I wish to guide the House on the amendments proposed by the Departmental Committee on Health to the President’s Memorandum, which are in the Order Paper.

The Departmental Committee on Health proposes that the President’s Memorandum be amended:

(1) in Section 3(1) of the proposed amendments to the Pharmacy and Poisons Act, Cap. 244, by deleting paragraph (e);

(2) in the proposed amendments to the Nurses Act, Cap. 257:

(a) in Section 4(1), by deleting the word “two” appearing in paragraph (h) and substituting therefor the word “one”; and,

(b) by deleting the proposed amendment to Section 9(1)(i).

Hon. Members, the proposed further amendment to Section 3(1) of the Pharmacy and Poisons Act, Cap. 244 deletes Paragraph (e), which provides for two persons representing training institutions as members of the Pharmacy and Poisons Board. The new Paragraph (f) as contained in the President’s Memorandum also provides for the appointment of two representatives of training institutions into the Pharmacy and Poisons Board. This new Paragraph (f) introduces the appointment of a pharmacist representing institutions of higher learning, as well as a pharmaceutical technologist representing mid-level colleges. The Committee, therefore, proposes to delete Paragraph (e), so as to avoid the over-representation of training institutions in the board.

The Committee’s recommendation is, therefore, in keeping with the principle underlying the President’s reservation, which is to align the Act with the current Government policy of limiting the membership of boards to manageable numbers for effectiveness and efficiency. This

Committee's amendment, therefore, accommodates fully the President's reservations, and the provisions of Article 122(1) of the Constitution will apply. Consequently, a simple majority will suffice to consider the proposed amendment by the Departmental Committee on Health to the Pharmacy and Poisons Act, Cap. 244.

Hon. Members, the effect of the proposed further amendment to Section 4(1)(h) of the Nurses Act, Cap. 257 is to reduce the number of persons nominated by the Cabinet Secretary to represent the public in the Nursing Council from two to one. The President's Memorandum introduces the Director General of Health in the membership of the Nursing Council, thereby increasing the total membership of the Council. The Committee proposes to retain the membership of the Council at nine members, excluding the *ex officio* member, by reducing the number of persons nominated by the Cabinet Secretary. The Committee, in doing this, concurs with the President's reservation on the need to include the Director General for Health as a member of the Council, in keeping with the current Government's policy of including the Director General for Health as a member of the regulatory bodies within the health sector. Therefore, this amendment accommodates fully the President's reservations and the provisions of Article 122(1) of the Constitution will apply. Similarly, a simple majority will suffice to consider the proposed amendment by the Departmental Committee on Health to Section 4(1) of the Nurses Act, Cap. 257.

Finally, the proposed Committee's amendment to Section 9(1)(i) of the Nurses Act, Cap. 257 deletes the President's proposed text to delete the regulation of the standards of nursing commodities as a function of the Nursing Council. The Committee seems to be of the view that the regulation of the standards of nursing commodities is a function that should be retained by the Nursing Council until such time as Parliament enacts a single regulatory body for the regulation of health products and health technologies, as provided in Section 62 of the Health Act, No. 21 of 2017. This amendment, therefore, does not accommodate the President's reservations and is, indeed, a direct negative. In this case, the provisions of Article 115(4)(a) of the Constitution will apply. Consequently, the passage of Section 9(1)(i) of the Nurses Act, Cap.257 will require the support of, at least, two-thirds of the membership of this House.

In summary, as regards the amendments proposed to the President's memorandum by the Departmental Committee on Health, I wish to guide the House:

(1) That, the passage of the Committee's amendment in Section 3(1) of the proposed text to the Pharmacy and Poisons Act, Cap. 244 shall require a simple majority;

(2) That, the passage of the Committee's amendment to Section 4(1) of the proposed text to the Nurses Act, Cap.257 shall also require a simple majority, and

(3) That, the passage of the Committee's amendment to Section 9(1)(i) of the Nurses Act, Cap.257 shall require support of, at least, two thirds of the membership of the House as it proposes to negate the reservations of the President, and with regard to the text of the amendments recommended by the President, which will essentially be moved by the Leader of the Majority Party, the guidance contained in my Communication on 28th July 2015 will apply.

Indeed, I have reiterated the contents of that said Communication severally, particularly on:

(i) The simple majority requirement for agreement with the text proposed in the President's reservations; and,

(ii) The two-thirds voting requirement in respect of any proposal to negate the text proposed in the President's reservations.

The House is accordingly guided. I thank you. As already guided, the next business will be Order No.11 followed by Order No.10 and thereafter, Order No.9. That will be the order of business.

Next Order.

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.) Soipan Tuya) took the Chair]

CONSIDERATION OF THE PRESIDENT'S RESERVATIONS TO THE HEALTH LAWS (AMENDMENT) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Members. Hon. Members, we are in the Committee of the whole House to consider President's Reservations to the Health Laws (Amendment) Bill, National Assembly Bill No.14 of 2018.

THE PHARMACY AND POISONS ACT, CAP.244

The Pharmacy and Poisons Act, Cap.244, Section 2

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

THAT, the Schedule to the Bill be amended -

(1) in the proposed amendments to the Pharmacy and Poisons Act, Cap. 244-

(a) in Section 2, by-

(i) deleting the definition of the term "pharmaceutical device";

ii) deleting the definition of the term "pharmaceutical equipment";

(iii) deleting the definition of the term "pharmaceutical product";

(iv) deleting the definition of the term "Good Manufacturing Practice" and substituting therefor the following new definition-

"Good Manufacturing Practice", also referred to as "GMP",

"cGMP" or "current Good Manufacturing Practice" is the part of

quality management which ensures that products are consistently produced and controlled according to their intended use as required by the marketing authorisation, clinical trial authorisation or product specification;

Section 2 is on the term “pharmaceutical device”. Its definition is identical to the definition of the term “health product”. Further, the term “pharmaceutical device”, which we want to delete is not usually used internationally and is not aligned to the World Health Organisation (WHO) and that may cause confusion in the application and affect international collaboration and trade between us and other organisations.

From the foregoing reasons, the President recommends that the definition of the term “pharmaceutical device” be deleted.

This is in line with the term “pharmaceutical device”. In the Bill, it proposes to insert the definition of the term “pharmaceutical device” in Section 2 of the Pharmacy and Poisons Act. This definition, in the opinion of the President, in exercising the powers conferred on him by Article 115 of the Constitution, is identical to the definition of the term “health product”. Further, the term is not also usually used internationally and is not aligned to WHO. Just like I said earlier, this may cause confusion when the application of that term comes into effect. It also affects our international collaboration. So, the President recommends that the definition of the term “pharmaceutical device” be deleted.

The Bill initially proposes to insert the definition “pharmaceutical equipment” in Section 2 of the Pharmacy and Poisons Board. The pharmaceutical equipment has not been used in either the Bill or the Act. Therefore, the definition itself is redundant. It is not in line with the WHO. Pharmaceutical product normally refers to medicines or drugs and the definition of drugs has been defined in the Act. The additional information, in fact, may cause confusion and affect international collaboration and trade that we have with other countries.

The President is of the view that we delete it.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I see Members are interested in contributing. Hon. Maanzo.

Hon. Daniel Maanzo (Makueni, WDM-K): I want to support the amendment. Kenya does not work in isolation. We are in an international system and the use of drugs has to be standardised all over the world. The “good manufacturing practice” quoted is already catered for by the Kenya Bureau of Standards and other systems in Kenya, which support it.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Do you want to contribute or you are on a point of order, Hon. Wamalwa?

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. We know that to overturn Presidential Memorandum under Article 115 needs a two-thirds majority - something very difficult to attain. It is something that is impossible. I am just worried about the trend of His Excellency the President of legislating through the backdoor. He should also focus on some of the critical things, not small things like grammar which can be

handled in a miscellaneous amendment so that we go to the substance when it comes to legislation.

I support.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. While the explanation provided by the Mover is very clear, it also becomes an issue of concern when you look at the fact that this Bill went through a parliamentary committee which has serious experts in this area. I wonder how some of these small things go all the way to the presidential level only to be referred here for amendment. It just says that we need to do much more as a Committee of Parliament in terms of getting some of these things right.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I wish the Chair was here to listen to this important feedback from Members. I do not know if Members of the Committee are here. The Leader of the Minority Party is also here.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I totally agree with Hon. Makali Mulu. Before we dealt with this Bill, we gave the Cabinet Secretary for Health and his technical team in the Ministry the opportunity to go through it. We went by their way. It is very sad if the Cabinet Secretary misadvised the President on small definitions. This could even have been corrected in the Statute Law (Miscellaneous Amendments) Bill that will come. We want the President to exercise his referral powers under Article 115 on serious issues. The Chair of the Health Committee should have told us that. We are sending a message to the Cabinet Secretary for Health not to misadvise the President. The Attorney-General must take note of this. He must not make the President look bad by using his referral powers on small definitions which Parliament can deal with.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): It is well said.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie.

Hon. Aden Duale (Garissa Township, JP): Referendum?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I do not know what this referendum issue we are being told is about. If it is referendum on the gender issue, of course, count me in. If you had not passed it in the House, it must come as a mainstream issue.

That aside, it is very rare that I agree with the Leader of the Majority Party. If you see me and the Leader of the Majority Party agreeing on an issue, then it is actually a very serious issue. It is an issue I have raised before. Cabinet Secretaries are misadvising the President. Sometimes they bring issues here as reservations of the President when they are not reservations of the President. They are lazy. They do not do their work properly. After Parliament has sat and passed Bills, they go back in the pretext of the President. When a Bill is brought back to Parliament by the President, it has to be on a serious issue that requires us to raise a two-thirds majority. Otherwise, it looks like the President is micromanaging the legislature, which is very wrong. Let them do their work and let us do our work. They can persuade us on some of these things when we are doing Bills. Why do they not do their work at the right time?

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I am a Member of the Committee and I want to thank all the Members who have raised the issue. This was a matter of great concern in the Committee. Issues of definition could have been dealt with

through a Statute Law (Miscellaneous Amendments) Bill. The Cabinet Secretary did not come the last meeting when we were considering this Bill. They take advantage of their access to the President to advise on issues that are not issues. If some of you read the newspapers, I was quoted as saying that these are things that should not have come up. In fact, there is one that is coming later, which we decided as a Committee that we do not want to raise a big issue of getting two-thirds majority because it will be very difficult. So, we let many of these matters pass. On the final one that will come, the issue of the two-thirds will come up, but we discussed and agreed that it comes. I thank the Members of this Assembly who have said that in this case, the Ministry did not advise the President appropriately. It is not just a matter of definition. There is an issue where technically, it was not done properly. We will raise it when the time comes.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Seme, I hope you will take the feedback back to the Committee since the Chair is not here. The last one from Hon. Junet.

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Chairlady, thank you. This Bill should not have come back to the House. This is one of the Bills on which we spend a lot of time in this House going through. The President in this system of governance should not be allowed to legislate through the backdoor. The Bill originated from the Government. It should have covered all matters that the President feels should have been covered, but now that we spend a lot of time here, it is in bad taste for the Cabinet Secretary or whoever misled the President, to mislead the President in the form and manner they are doing.

If we allow this trend to continue, you will see all the Bills coming back to this House, so that we can rectify even the title or even small matters that should not appear in this House. So, we are sending the Leader of the Majority Party to the Government to inform them that this is not acceptable and the House will not accept this anymore. Legislation will not be done through the backdoor.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, Hon. Junet is a director of elections. Where he comes from, he intimidates people. You saw the way he was pointing his finger at me.

(Laughter)

He still thinks I am in ODM. You know I used to be there many years ago. The President is not legislating through the backdoor. I want to go on record. The President is legislating his reservation under Article 115 of the Constitution. The Members who spoke before Hon. Junet said that there were small issues. In fact, for the President to refer an exercise under Article 115, it must be in very rare cases, maybe twice or thrice in a year. I will pass that message. But he is not committing an illegality. He is exercising a provision, which is true because in the event Parliament becomes rogue, the President, as the CEO who is elected by millions of Kenyans, must exercise that veto power. It even happens in the US Congress and all parliaments. The other day when he was denied money to build walls, he used that veto power. Now he is building the walls.

*(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)*

(Section 2 as amended agreed to)

The Pharmacy and Poisons Act, Cap.244, New Section 3(1)

Hon Aden Duale (Garissa Township, JP): Hon. Sophia is confusing me. She should know that to oppose my amendments, you must have 233 Members like yesterday. I helped to mobilise 175 Members yesterday.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended —

(1) in the proposed amendments to the Pharmacy and Poisons Act, Cap.244—
(b) in the proposed new Section 3(1), by—

(i) deleting paragraph (d);

(ii) deleting paragraph (f) and substituting therefor the following new paragraph—

“(f) three other persons appointed by the Cabinet Secretary, of whom—

(i) one person shall be a pharmacist representing institutions of higher learning;

(ii) one person shall be a pharmaceutical technologist representing mid-level colleges; and,

(iii) one person shall be an enrolled pharmaceutical technologist with expertise in community pharmacy nominated by the Kenya Pharmaceutical Association;”

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I do not see any Member interested in contributing to this one.

*(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)*

(New Section 3(1) as amended agreed to)

Hon. Members, before we proceed, I wish to recognise a delegation from the German Orchestra, seated in the Speaker’s Gallery. They are in the country courtesy of the Member of Parliament for Baringo Central, to promote cultural exchange between the youth of the Federal

Republic of German and the Republic of Kenya. They are in the National Assembly to observe the proceedings of the House.

Let us take time to welcome the German delegation.

(Applause)

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

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

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, we are not in a market. This is the Chamber of the National Assembly of Kenya and we are transacting a very serious business. If you want to sing like yesterday that, “no referendum”, still the media is around, but you should not do it in the Chamber. This is a dignified House. Hon. Temporary Deputy Chairlady, you need to rule on them out of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Thank you, Leader of the Majority Party. Let us not lose...

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes, Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Is the Leader of the Majority Party in order in lecturing us?

Hon. Member: She is speaking to you while seated.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order Members. We were welcoming the delegation from Germany. Kindly, welcome the delegation from Germany.

(Applause)

Thank you. Let us proceed. There is a proposed amendment from the Committee on New Section 3(1). Let us have the Chair of the Committee. Unfortunately, we will have to pass that. I do not think there is anyone representing the Chair. It is, therefore, dropped.

(Proposed amendment by Hon. (Ms.) Sabina Chege dropped)

The Pharmacy and Poisons Act, Cap.244, New Section 3B(3)

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

THAT, the Schedule to the Bill be amended —

(1) in the proposed amendments to the Pharmacy and Poisons Act, Cap.244—

(c) in the proposed new section 3B (3) by deleting paragraph (g) and substituting therefor the following new paragraph—

“(g) approve institutions to be established or accredited under the Universities Act, 2012 training pharmacists and mid-level institutions training pharmaceutical technologists”

(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)*

(New Section 3B(3) as amended agreed to)

The Pharmacy and Poisons Act, Cap.244, Section 24

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

THAT, the Schedule to the Bill be amended —

(1) in the proposed amendments to the Pharmacy and Poisons Act, Cap.244—

(d) by deleting the proposed amendment to Section 24;

Section 24 is on Page 8 of the Presidential Memorandum. Hon. Wamalwa and the Member for Seme are very serious. The Bill did not initially propose any amendment to Section 24 of the Pharmacy and Poisons Act, but this House amended that section of the Act by deleting the word ‘Pharmacist’ and substituting therefor the words ‘pharmaceutical practice’. The effect of that amendment, which the House did and which the President is disagreeing with, is that poisons may be handled by persons who do not possess the requisite competence to handle them, putting the general public at risk. From the foregoing reason given by the President, he recommends that the proposed amendment to Section 24 of the Pharmacy and Poisons Act be deleted from the Bill.

(Question of the amendment proposed)

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

(Section 24 as amended agreed to)

(Provisions relating to the Pharmacy and Poisons Act, Cap. 244 as amended agreed to)

THE MEDICAL PRACTITIONERS AND DENTISTS ACT, CAP.253

The Medical Practitioners and Dentists Act, Cap.253, New Section 4B

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

THAT, the Schedule to the Bill be amended —

(2) in the proposed New Section 4B of the proposed amendments to the Medical Practitioners and Dentists Act, Cap 253, by deleting paragraph (f) and substituting therefor the following new paragraph—

“(f) invest any of the funds of the Council not immediately required for its purposes in accordance with the Public Finance Management Act and other relevant laws.

This provision gives the Council unlimited power to invest any funds of the Council that are not required for its purposes without reference to the Public Finance Management Act. All public resources must be dealt with within the framework of the PFM Act of 2012. Because this provides for the manner in which public funds must be invested, the President feels that this investment of public funds in a manner which is not consistent with the PFM Act 2012 becomes a problem when it comes to accounting for public resources. From that foregoing, the President recommends that the proposed paragraph (f) be deleted and substituted with the following: “Invest any of the funds of the Council not immediately required for its purposes in accordance with the Public Finance Management Act and other relevant laws”.

I beg to move.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Dr. Makali.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. This amendment is very important. We know the operational law in terms of public finance is the Public Finance Management Act of 2012. When reference is not made to this Act, I agree with the President that this might lead to misappropriation of public resources. So, it is a very important amendment and I support it.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I think the security of the Chamber is under threat. There is a serious caucus going on. Can you ask what is happening?

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Millie and Hon. Musimba, disband the *kamukunji* and come back to the Chamber. You are all out of order. Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I was beginning to feel that maybe my card was invisible. I thank you for this opportunity. I also support the President on this one. In the past, we had situations where both commissions and Government organisations were allowed to invest money and they invested it in bad ways and the Government has lost a lot of money. So, I support it because there are two things that make a lot of sense. The money should not be immediately required. That means they should not invest money that is required for their purposes, and two, it must be done in accordance with the Public Finance Management Act. That is in order and it is an excellent proposal. I support it.

(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)
(New Section 4B as amended agreed to)

(Provisions relating to the Medical Practitioners and Dentists Act, Cap.253 as amended agreed to)

THE NURSES ACT, CAP.257

The Nurses Act, Cap.257, Section 4(1)

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

THAT, the Schedule to the Bill be amended —

(3) in the proposed amendments to the Nurses Act, Cap 257—

(a) in Section 4(1) by inserting the following new paragraph immediately after paragraph (i)—

“(j) the Director General of health or a representative appointed in writing by the Director General of health”.

Section 4 of the Nurses Act provides for the membership of the Nursing Council of Kenya. The Bill initially provided for the deletion of Section 4 and its replacement with the New Section 4, which included the Director General of Health as a member of the Council, but the House deleted that proposal. The initial proposal in the Bill is in line with the current policy in respect of regulatory bodies in the health sector. For that reason, the President recommends the amendment of the proposed new section by inserting the new paragraph immediately after paragraph (i) that reads “the Director General of Health or a representative in writing by the Director General of Health” be a member. Thank you.

(Question of the amendment proposed)

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

(Hon. (Dr.) James Nyikal interjected off record)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You are anticipating the process, the Member for Seme. Just relax. There is an amendment by the Chair of the Committee.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended —

(3) in the proposed amendments to the Nurses Act, Cap 257—

(a) in section 4(1) by deleting the word “two” appearing in paragraph (h) and substituting therefor the word “one”.

The amendment accommodates the President’s reservations that the Director General should be there, but it was felt on the other hand that, that increases the number of members of the committee. Therefore, we felt that we should remove one of the members so that the number remains the same. It accommodates the President’s view that the DG should be on the committee. That is the import of the amendment.

(Question of the amendment proposed)

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

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

(Section 4(1) as amended agreed to)

The Nurses Act, Cap. 257, Section 9(1)

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

THAT, the Schedule to the Bill be amended —

(3) in the proposed amendments to the Nurses Act, Cap 257—

(b) in section 9(1) by deleting the words “nursing commodities” appearing in Paragraph (i).

Section 9(1) of the Nurses Act provides for the function and the annual report of the Nursing Council of Kenya. Paragraph (i) provides that it should have regard for the standards of nursing care, qualified staff, nursing commodities and facilities. This provision gives the Nursing Council of Kenya mandate over standards of, among others, nursing commodities. The Bill initially proposed the deletion of the words “nursing commodities” in Section 9(1)(i) of the Act.

The rationale for the proposal was the need to align the provision with the current policy of separating the regulation of commodities from the regulation of health professionals in order to increase efficiency and effectiveness and reduce the cost of doing business. The proposal was also intended to implement Section 62 of the Health Act, 2017, that required the establishment of a single regulatory body to regulate health products and health technologies. From the foregoing reason, the President recommends that Section 9(1)(i) of the Nurses Act be amended by just deleting the words “nursing commodities”. This amendment was rejected by the House, thus the words remained in the Act.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): There is a Committee amendment, Member for Seme. As you proceed to prosecute the Committee amendment, you should take note of the threshold that is required to overturn a presidential reservation. We do not need to repeat that the Chair's ears cannot count noise. You should stand advised to do the necessary. The Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, there is a Committee amendment.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): What is out of order, Hon. Wamalwa? Kindly have a seat, Member for Seme.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Hon. Temporary Deputy Chairlady, ordinarily, you are supposed to ascertain the numbers. That has been the practice.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We are not yet there, Hon. Wamalwa. Let us have the Member for Seme to prosecute the amendment. The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, the Order Paper has the Chair of the Committee. The Member for Seme cannot purport to represent the Chair without written consent. That is the Standing Orders. If he does not have it... He is not like those characters who mimicked the President's voice. He needs to provide evidence that the Chair has sent him.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): It looked quite plausible that if I dropped the amendment, it would be fine. That may be exactly where we are going. I understand the procedures and I know that in order to prosecute this amendment, we will need to have two-thirds of the members. I am aware of that.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Do you have the Chair's authority?

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, what I want to say and the world should know is that when a committee decides to go against the President's Memorandum, it is important for people to know why. We will then say whether we will proceed. It is clear to me we will not proceed. The reason is simple: This is about nursing commodities which are things like syringes, needles and blood pressure machines.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Member for Seme, you are out of order. You either prosecute the Committee's amendment by establishing that you have authority to do so and also with the understanding that it could be an exercise in futility because of the threshold that is required or you do not go beyond that.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I will say that we cannot. Again, all the Members said here that the Ministry or the Cabinet Secretary advises the President in a way that is not really technical. There is no way we will get syringes and needles to be regulated by somebody else. We have in the Health Act that they should have implemented what would have solved this problem. The Ministry has not implemented the Act and, therefore, they are misguiding the President.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Member for Seme, you are skipping a very important step of this process. We have not proposed the Question. So, you are debating what is not yet in front of the House.

Hon. (Dr.) James Nyikal (Seme, ODM): I know when you propose you are going to ask me for a letter. Our Chair has very cleverly left the House without a letter for me. I know. I am representing Kenyans now.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): What is the point of order, Member for Suna East?

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Chairlady, the Member is in order. It is only that he does not have the requisite number of two-thirds to move his amendment, but he is trying to give reasons why he wants to move his amendment knowing very well that he does not have the numbers. So, he is in order to that extent, but I want you to rule that he is out of order because he cannot debate his amendment before he even moves it on the Floor.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us move on. I believe we are moving to the next step. Member for Seme, do you want to prosecute the Committee amendment?

(Hon. Dr. James Nyikal spoke off record)

But you will be wasting the time of the House.

Hon. (Dr.) James Nyikal (Seme, ODM): I want to give information.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): To who?

Hon. (Dr.) James Nyikal (Seme, ODM): To the House and the country.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Member for Seme, we will move on. You cannot do that before we propose the Question, and you know it very well. I want you to either withdraw or prosecute the amendment.

Hon. (Dr.) James Nyikal (Seme, ODM): I withdraw or I have authority? For withdrawal, I have authority, then I also have authority for prosecuting! I cannot have authority one way only.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Do you have the authority? Do you have the *locus standi* to prosecute the Committee's amendment?

Hon. (Dr.) James Nyikal (Seme, ODM): Being the Hon. Member for Seme and sitting here as a Member of the Health Committee, I have.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Okay. Then I am tempted to just go on and pronounce the amendment as dropped. That is the direction I will take.

Hon. (Dr.) James Nyikal (Seme, ODM): I will drop it! Let me just explain then I drop it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): No! Hon. Members, I declare the Committee's amendment dropped. Let us move to the next one.

(Committee's proposed amendment dropped)

The Nurses Act, Cap.257, Section 11(5)

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

THAT, the Schedule to the Bill be amended —

(3) in the proposed amendments to the Nurses Act, Cap 257—

(c) in section 11, by deleting subsection (5) and substituting therefor the following new subsection—

“(5) The officers appointed under this section shall be paid such remuneration and allowances as the Council may, on the advice of the Salaries and remuneration Commission, determine.”

The other amendment vests upon the Council to make a determination in terms of the remuneration and allowances of officers appointed under that section without reference to the Salaries and Remuneration Commission (SRC) which is mandated by Article 230(4)(b) of the Constitution. The provision contravenes Article 230(4)(b) of the Constitution and for that reason, the President recommends that the proposed Section 11(5) of the Nurses Act be deleted and replaced with a new provision.

I beg to move.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Makali.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. You know the more the Hon. Leader of the Majority Party continues prosecuting these amendments, the more I get worried. We all know that the SRC is mandated by the Constitution to take care of public officers’ salaries and allowances. How come there was such a serious omission that you just give a counsel a free hand to do all these minus reference to the SRC? This Committee on Health needs to help us. We look so bad in the eyes of the public.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Are you a Member of the Committee?

Hon. Makali Mulu (Kitui Central, WDM-K): No. I am just saying that it makes us look bad as a House. When this thing has to come from the presidency and yet we have the legislative mandate in this country, it looks bad.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have the Hon. Leader of the Majority Party

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I totally agree with Hon. Makali. This is an indictment on the legal officer clerking that Committee, in terms of when amendments are prepared. How do you bring an amendment that is unconstitutional to be voted by the House? This is what the Member is saying. So, Hon. Makali, the clerk to that Committee is putting Parliament in bad light.

The President in his Memorandum is telling us that we have passed an amendment which is unconstitutional. So, it is not the Committee, but the person who clerks that Committee. I am talking about the legal officer, the person who prepared that amendment. The HANSARD should be used and that officer must be held responsible. We have the most robust legal department

headed by a competent person. We also have the most robust Budget office. So, when such an amendment passes and then the President is telling us let me exercise my Article 115 powers... This is very shameful. I agree with Hon. Makali and I think Parliament must act. The officer who prepared that amendment that passed through this House must be held to account.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, we agreed with that amendment on exactly what has been said. However, there is bigger problem in the Committee, including the ministry. When you see this thing happening there is some undue influence that is coming and I dare say that kind of influence is coming from the ministry. That is why this should have come before us without going to the President. Even the ministry itself has legal officers. Let me say something: We very often see in that Committee where we should have technical people, we do not see them particularly from the Office of the Director of Medical Services. I do not think he refuses to come. I believe his exclusion is deliberate and if that happens then we have things such as this one. This is why we have a technical recommendation about nursing commodities going to the President to have it changed without the technical input that was required. I agree that it is not only the legal office in the Committee but we must also look at the legal office in the ministry.

I support

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Thank you, Hon. Member for Seme. These are very serious issues being raised and as a Member of the Committee I hope you will brief the Chair accordingly and the Hon. Leader of the Majority Party will take this up with the relevant ministries.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Nyikal is making it even worse. The Committee where Hon. Nyika sits is supposed to oversee this ministry. Is he telling this House that they are not able to do that? When he says the Director of Medical Services is not participating in this process, what message are you sending to us Members of Parliament? We are your colleagues. Are you telling us you cannot manage this ministry?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Well, we will stop there. Hon. Members, there are definitely issues that need to be taken back to the Committee and the ministry. Hon Nyikal and the Hon. Leader of the Majority Party will do that.

*(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)*

(Section 11(5) as amended agreed to)

(Provisions relating to the Nurses Act, Cap.257 as amended agreed to)

Hon. Members, for the record, I just want to reiterate that the Committee's amendments on Section 9(1) have had to be dropped. Section 9(I) has been dropped because of the constitutional threshold that is required to reverse a presidential reservation.

THE COUNSELLORS AND PSYCHOLOGISTS ACT, 2014, NO.14 OF 2014

The Counsellors and Psychologists Act, 2014, No. 14 of 2014, Sections 15, 16, 17, 18, 19, 20, 21 and 22

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

THAT, the Schedule to the Bill be amended —

(4) by inserting the following new amendments in the Schedule to the proposed amendments to the Counsellors and Psychologists Act, 2014, No.14 of 2014-

- s. 15 Delete
- s.16 Delete
- s.17 Delete
- s.18 Delete
- s.19 Delete
- s.20 Delete
- s.21 Delete
- s.22 Delete

On Section 15, the Bill initially proposed deletion of Section 15 of the Counsellors and Psychologists Act which provided for the establishment of the Kenya Counsellors and Psychologists Society of Kenya. The rationale was that the society is a welfare organization that is independent of the Cabinet Secretary for Health. The society ought to have been established under the Societies Act. That is why, based on that, the President is recommending its deletion. It is on a wrong place.

On Section 16, the Bill initially proposed the deletion of Section 16 of the Counsellors and Psychologists Act which provided for the membership of the society. The provision makes each person registered under this Act a member of the society. The membership of each person registered under this act is mandatory contrary to Article 36(2) of the Constitution which provides for voluntary membership in associations. That is the other reason the President is deleting this Section. It contravenes Article 36(2) of the Constitution.

This is the same story of our legal officers. Hon. Nyikal, we have no business with the legal officers of the Ministry of Health. They do not prepare our amendments on the Order Paper. The people who prepare our amendments and the Order Paper are in the Legal Department and Legislative Department of this House. Therefore, we have no business with those legal officers. This is also about constitutional contradiction. The President is saying what we have passed is unconstitutional. It is for that reason that the President is recommending Section 16 to be deleted.

Hon. Temporary Deputy Chairlady, the Bill initially proposed the deletion of Section 17 of the Counsellors and Psychologists Act. This is on election and qualification of the chairperson of the society in accordance with the Third Schedule. However, as a consequence of the proposal – the one we deleted in Section 15 – this matter is supposed to be under the Societies Act. So, the President recommends we delete it.

Section 18 was dealing with the functions and the mandate of the society to establish standards of professional competence among others. This is a regulatory function which ought to be

the mandate of the board under Section 3 of the Act as a regulator and psychologist. The President recommends that this section be deleted.

Section 19 provided for the Kenya Counsellors and Psychologists Society of Kenya. The proposal we rejected by the House. However, as a consequence of deleting Section 15, the Kenya Counsellors and Psychologists Society of Kenya shall not be required because we deleted that section and said it will be under the Societies Act. The President has recommended that we amend the Psychologists Act by deleting Section 19.

Section 20 was providing for the Committee of Counsellors Society. Once we deleted Section 15, consequently, this proposal will have no legs. The Committee of Counsellors Society shall not be required. So, the President recommends that we delete Section 20.

Section 21 provides for the membership of the council of the society and their election. Again, because we have deleted Sections 15 and 19, the membership shall not be required. So, the President recommends that we amend it by deleting Section 21.

Section 22 provides for the secretary of the council. As a consequence of deleting Sections 15 and 19 the secretary to the council shall not be required.

The President recommends that Sections 15, 16, 17, 18, 19, 20, 21 and 22 be deleted.

(Question of the amendment proposed)

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I support these proposals. The Leader of the Majority Party has brought the point home. Basically, it was this Act that was also establishing a society. In fact, at the Committee stage, it was rejected. If I can remember, it was restored in the House. We had rejected it because you cannot establish what is in the Societies Act. Once that was done, the rest followed.

I support.

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

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, again, this goes to our Legal Department. When the amendment was brought by Hon. Wamunyinyi, they should have advised him that it is on the wrong Bill. This is supposed to be in the Societies Act. That would have been their legal opinion which they never gave.

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

(Sections 15, 16, 17, 18, 19, 20, 21 and 22 deleted)

The Counsellors and Psychologists Act, 2014, No. 14 of 2014, Third Schedule and Fourth Schedule

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

THAT, the Schedule to the Bill be amended —

(4) by inserting the following new amendments in the Schedule to the proposed amendments to the Counsellors and Psychologists Act, 2014, No.14 of 2014-

Third Schedule	Delete
Fourth Schedule	Delete

The Bill proposed deletion of that schedule which provided for the manner of election of the chairperson. This proposal was rejected by the Committee and the House. However, as a consequence of the deletions we have done of Sections 15 and 17, the procedure for the election of the chairperson shall not be required. So, the President is recommending deletion of that section in the Third Schedule.

On the Fourth Schedule, it is the same case. We have deleted sections 15, 19 and 20. The procedure for election of the members of the Counsellors and Psychologists Society of Kenya shall not be required. So, they should not be in the Schedule. That is what the President is recommending.

(Question of the amendment proposed)

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

(Third and Fourth Schedule deleted)

(Provisions relating to the Counsellors and Psychologists Act, 2014, No.14 of 2014 as amended agreed to)

CLINICAL OFFICERS (TRAINING, REGISTRATION AND LICENCING) ACT No.20 OF 2017

Clinical Officers (Training, Registration and Licencing) Act No.20 of 2017, Section 4(1)

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

THAT, the Schedule to the Bill be amended —

(5) in section 4(1) of the proposed amendments to the Clinical Officers (Training, Registration and Licensing) Act, No. 20 of 2017, by—

(a) inserting the following new sub-paragraph immediately after sub-paragraph (a) (ii)—

“(iii) be registered as a clinical officer under this Act”

(b) deleting paragraph (f) and substituting therefor the following new paragraph—

“(f) one clinical officer representing universities training clinical officers elected by the teaching staff from among their number;”

I am telling Hon. Junet that this is the last one because he went out to have tea and *mandazi*. The Bill proposes to amend Section 4(1) of the Clinical Officers Act of 2017 by doing only one thing: Deleting the provisions and substituting therefor with a new provision which is in the Order Paper. This provision does not stipulate that the Chairperson of the Clinical Officers Council shall be a clinical officer.

This is unlike other legislations that establish regulatory bodies in the health sector, which require that the chairperson of the respective regulator must come from the respective

discipline. Therefore, there is need for clarity on who may be appointed as the Chairperson of the Clinical Officers Council. This is because a quack can become the chair.

The President is saying like other bodies, the person who will become the chair must be a clinical officer. It cannot be a cattle herder or a guy who owns a chemist. So, the President is recommending a registered clinical officer under this Act. That is his amendment in his Reservations.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, the only gap left there is the use of the words “clinical officer” without including the word “registered”. He may be a clinical officer who did not proceed to be registered.

However, I support.

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

*(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)*

(Section 4(1) as amended agreed to)

(Provisions relating to the Clinical Officers

(Training, Registration and Licensing Act, No20 of 2017 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Mover to move Reporting.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee do Report to the House its Consideration of the President’s Reservations to the Health Laws (Amendment) Bill (National Assembly Bill No.14 of 2018) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT

CONSIDERATION OF THE PRESIDENT'S RESERVATIONS TO THE HEALTH LAWS (AMENDMENT) BILL

Hon. (Ms.) Soipan Tuya (Narok CWR, JP): Hon. Speaker, I beg to report that the Committee of the whole House has considered the President's Reservations to the Health Laws (Amendment) Bill (National Assembly Bill No.14 of 2018) and approved the same with amendments.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. Chris Wamalwa who has stayed all through, to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Speaker, I second.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: Next Order! Sorry, there is an intervention.

POINT OF ORDER

MISREPRESENTATION OF FACTS BY THE MEDIA

Hon. Abdullswamad Nassir (Mvita, ODM): On a point of order, Hon. Speaker. This is something that has to be done because of its public interest. There is some information going round, more so through the Short Message Service (SMS) from media houses that are considered credible. The messages are that the Speaker has been directing the Public Investments Committee (PIC) not to, in anyway, whatsoever, touch on issues to do with Jomo Kenyatta International Airport (JKIA) and Kenya Airways (KQ) Audit.

Hon. Speaker, we need your guidance on this matter because I have been receiving telephone calls from all over, to the extent that this has hampered our working. The only communication I have received as the Chair of the Committee is very specific. It says, "However, it would be important to note that PIC may deal with the matter, if this was a query arising from examination of audit reports and accounts of the Kenya Airports Authority (KAA) on a special audit."

I want it to be noted that this arose as a result of us examining their audits and when we came to realise that KQ had to pay KAA by the end of 2018, Kshs3.8 billion and as of last week that figure had reached Kshs5 billion. Secondly, a special audit that has already been signed by the relevant offices has already reached the Office of the Auditor-General. Because of the public interest, urgency and importance of this matter I took up the liberty of actually having a phone conversation with our Auditor-General.

I think you should make this very clear so that the public can be aware, because it is hampering the Committee's work. I do not know whether the media has some information that we do not have as the Public Investments Committee (PIC).

Hon. Speaker: Sorry, Hon. Abdullswamad, I was talking to the clerk. Did you say that I have directed something?

Hon. Abdullswamad Nassir (Mvita, ODM): Yes, according to the text messages from the media, coming in on 411 from both the *Standard* media and *Capital FM*, which are media houses that I hold with very high repute, they are saying that you have instructed the PIC and you have put us on the sidebar. It is important for us to get this clear because it is actually affecting our day-to-day working. With your permission, I will read out the text message that *Capital FM* has sent. It says:

“Public Investments Committee loses bid to probe KQ-JKIA proposal. House Speaker rules Transport Committee to hear the matter.” The *Standard* media has said: “Speaker Muturi directs Public Investments Committee to stop probe on planned JKIA takeover by KQ, says it is Transport Committee's mandate.”

We would like to get your word.

Hon. Speaker: Hon. Members, I do not know what you will do in this country on matters of this nature. I am sure those of you who have been with me since the 11th Parliament would know that communication of this nature on a matter involving two committees is not one in which you would communicate through text messages. I am never in the habit of communicating through text messages, *WhatsApp* or such other medium. This is a matter that we would come and do a proper Communication from the Chair. I will not write a letter. I do not write letters. Even if a matter of that nature arises, I do not write a letter. So, I do not know. Those must be some of these people who are getting into area of gutter or worse off... I think they are what President Trump calls manufacturers of fake news. How would I direct that a committee stops its work? I have chaired that Committee myself for five years. What you have done is you have given a report or something which is in the Order Paper. When has the Committee been stopped? There is nothing I need to clarify. What do I need to clarify save to say: Hon. Nassir, I have not, in any way, communicated to either your Committee or to any other committee? I think it is also fair. Those Members of this august House who have a habit of communicating to the media stories about themselves, please desist. If a Member has something, why not come to the Floor of the House and say it? There is nobody who is prevented. We do not want to spend valuable time discussing a non-issue like that. Of course, the newspapers are at liberty to write what they think maybe if they have a way of being able to read what could be in the minds of others, but certainly not mine. Let us just do as we had initially agreed so that we can see whether they will still be right in continuing with their vitriol because that is what it is. I have not issued any such instructions through whatever medium.

Let us move to the next Order.

MOTION

ADOPTION OF REPORT ON BUDGET POLICY STATEMENT 2019/2020

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. Kimani Ichung'wah on 27.2.2019)

(Resumption of Debate interrupted on 27.2.2019 –Afternoon Sitting)

Hon. Speaker: Hon. Members, as of close of business yesterday, the following Members had contributed to this Motion: The Chair of the Committee, Hon. Ichung'wah; the Vice-Chair, Hon. Lessonet; Hon. John Mbadi; Hon. Mutunga Kanyuithia; Hon. Ochanda and Hon. Rindikiri Murwithania, who was on the Floor and has a balance of seven minutes. The Member is in the Chamber. Indeed, you are the first on the screen.

Hon. Mugambi Rindikiri (Buuri, JP): Thank you, Hon. Speaker. I have seven minutes but I think I will conclude within four minutes so that we can have other Members make their contributions.

As of yesterday, one of the main issues of concern to me was the pending bills. I am very happy that the former Minister, Hon. Kimunya, is here with us because at the start of the Kibaki administration, there was a serious issue on the pending bills. I am happy that the Committee has recognised the need to look at the element of the pending bills. There are so many things that are happening. There are accumulating pending bills year in, year out, both at the national level and county level. For us to move forward, we should have a clear statement on the status of these pending bills. Are they genuine pending bills or bills that have been created so that money can be utilised through unorthodox means?

There are so many stalled projects and every year, there are one or two projects that cannot be completed. The Committee has called for an audit, but I think we also need a special committee that can look at all the pending projects. According to this number, it is alarming that we have more than 560 stalled projects. The element of the laptop project is a very serious matter in this country. We all liked it when it was beginning, but it was not seriously thought of at the beginning. So, we should not let this kind of thing to happen again going forward. That is why the Committee had recommended last year that we need a performance matrix for each ministry, which seems not to be happening even this year. In lieu of that, we can see that even next year, we will end up with a similar problem.

There is the element of accountability matrix for the Big Four Agenda. Our President has a very serious concern on this Big Four Agenda and all of us need to support it. The National Treasury needs to clearly bring to the fore the policy and accountability matrix so that Kenyans will know right from the beginning where we are coming from and where we want to go with the Big Four Agenda.

Hon. Speaker those are my views. I like the Report by the Budget and Appropriations Committee but I think those matters of concern should be taken into account.

Hon. Speaker: The next one on the screen is Hon. Mwashako, Member for Wundanyi.

Hon. Danson Mwashako (Wundanyi, WDM – K): Thank you, Hon. Speaker. I stand to support the Motion by the Budget and Appropriations Committee on the Budget Policy Statement (BPS) of the Financial Year 2019/2020. We expected the National Treasury to give us a more detailed BPS this year, but not just to bring a document like it has been the norm. It comes every February to this House, but it does not spell in details the policies that we expect to inform the Budget Estimates that will come in May, and the Budget that will be presented to this House in June. There are a few things that we, as a country and Parliament, must honestly deliberate and discuss. One, I would like to speak about the issues of public debt.

Year in, year out, the National Treasury brings figures that do not agree with the economists who are not there. Everytime you ask them what is happening, they give you very alarming numbers. However, the National Treasury always tells us that the public debt that stands at about Kshs5 trillion or 50 per cent of our Gross Domestic Product (GDP) is within the accepted levels. They tell us that presently the net value of our debt is 48 per cent. We know that these figures can be manipulated, so that they arrive at a figure that is below what the law provides. It provides that presently the net value for public debt should not exceed 50 per cent of the GDP. However, the National Treasury gave us a figure of 48 per cent, but we know that this country is not doing well. We pay so much debt that we are not able to pay for other Government programmes. It is not right because every shilling we collect through KRA as revenue in this country goes to service the debt. Our repayment of the debt was at 0.5 per cent in 2013 and we are talking about 2.5 per cent today which is five times more.

We have been talking about the Big Four Agenda that His Excellency the President presented to the country. All of us embrace it. Surprisingly, the figures of the Big Four Agenda in the BPS are coming down. It is clear that the Big Four Agenda will remain a dream that will not be achieved. When the National Treasury presented the BPS to this House, they talked about creation of employment and transformation of lives. However, it is a pity because the National Treasury is not coming up with policies that indicate that they are genuine in creation of employment for our young people. We have items that can easily be produced locally. A lot of items are imported at a very low cost.

Let me talk about the Ministry of Agriculture, Livestock, Fisheries and Irrigation. We have so many cartels there, including those undertaking importation of eggs. This country can produce enough eggs to feed this country. However, we import eggs today from as far as South Africa. This tells you that the eggs that come from other countries are not charged duty. If they are charged duty, there is no way an egg from South Africa can be cheaper than an egg in Nairobi or in other parts of this country. If there is a Government's policy through the BPS to create employment for young people, the National Treasury must tell us the measures they have put in place, so that they can frustrate importation of items that we can produce locally.

My colleague has spoken about pending bills. It is true that people who run Small and Medium-sized Enterprises (SMEs) out there are crying. The Government says that it wants to support SMEs every now and then. We have denied them the ability to have enough cash flows, so that they can employ more of our young people and other Kenyans because most of these debts are not paid. We know that our counties and the national Government have pending bills.

A commission needs to be set up to investigate the problem we have with pending bills. Some figures have been thrown around. The Government borrows billions through unorthodox means. Having pending bills means that the Government has borrowed services, and they are unable to pay. If it is computed to the public debt, it would increase it.

Before I conclude, I want to believe that it is time for this country or the President to declare corruption a national disaster. It is a pity that every headline of newspapers you buy in this country today talks about corruption. The country is losing billions. This country is losing a lot of resources into people's pockets. I am not certain that our institutions have capacity to handle corruption as we see it on a day to day basis. That is why I would like to urge the President to declare corruption a national disaster, so that all of us can focus on the fight against it. We have pledges that the President made during campaigns and programmes that we expect to run. We pass so many Motions in this House but nothing is implemented because of budget constrains. We lose billions every year. Thirty per cent of our GDP is lost in corruption. We urge the President to declare corruption a national disaster, so that this Parliament, every Government institution and Kenyans can stand and speak against this vice.

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

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

Where I come from, we have roads that we were promised that they would be constructed many years ago. We have a road starting from Bura, Mugange, Wundanyi, Mbale to Mtamwagodi. We expect this road to be constructed but we are told that there are no resources and budget for it. We were told to wait. There is a lot of corruption in this country.

Hon. Speaker, as a country, parliamentarians and committees of this House, we must stand...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Hon. Mwashako. You did not notice the change of the Chair.

Hon. Danson Mwashako (Wundanyi, WDM – K): Thank you, Hon. Temporary Deputy Speaker. I notice that the Chair has changed. I was speaking about declaring corruption as a national disaster. We have programmes and projects in this country that Kenyans expect to implemented like roads and water projects. We were told about Mzima water project in Taita Taveta that would supply water to the residents of Mombasa County and Taita Taveta County. It is not mentioned in the BPS whether this project will get money. Corruption will continue to kill a lot of projects that can help this country to move forward.

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Next on my request list is Member for Kiminini, Hon. Wakhungu Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I rise to register my disappointment on the Report on the Budget Policy Statement (BPS).

Ordinarily, the PBS is supposed to highlight the priority programmes of the Government. His Excellency the President, Uhuru Muigai Kenyatta has been talking about the Big Four Agenda. When we examine the BPS, there is no linkage with the Big Four Agenda. We are

asking whether the Big Four Agenda is for public relation or the President means business. The kind of BPS we are discussing is a routine.

We salute the time when Hon. Kimunya was the Minister of the National Treasury, during the time of President Mwai Kibaki. It is the responsibility of the Government to ensure that there is economic sustainability in the country. As we speak right now, people are languishing in poverty because of the high cost of living. When President Kibaki took over power the GDP of the country was growing at a negative rate. He came up with Economic Recovery Strategy for Wealth and Employment Creation and we saw the GDP grow from negative to positive seven. He also came up with Vision 2030. The BPS we are discussing has no linkage at all. It is supposed to highlight the priority programmes and there must be a linkage so that it can be operationalised. When you look at this Report, you do not see it.

We expected National Treasury to give a feedback or a scorecard of last year's BPS. We had a BPS last year. What happened? Did they achieve the programmes? There is no output indicator. There is nothing. This is routine and it is not adding value. We call upon the CS, National Treasury and the Principal Secretary to pull up their socks. They cannot continue taking Parliament for granted. This Parliament under the presidential system is supposed to allocate money in line with the BPS. That is why when we have the Budget Estimates there will be no linkage at all with this BPS. This has been going on for a long time. If we are serious as a country and we want to grow economically, we need to develop a matrix which will show measurability.

Professor Kaplan and Norton of Harvard University developed a model called a balanced scorecard. I am sure Hon. Kimunya knows it. They said that if you cannot measure it, you cannot manage it. We are walking in darkness. The National Treasury has not developed a matrix and indicators that we can measure to see how we are moving as a country.

On public debt, the rule of the thumb is when a developing country borrows it should not go beyond 50 per cent of the GDP. In this country, we are now borrowing up to 60 per cent of the GDP. It becomes very difficult to sustain this public debt. That is why you find the cost of living is high and Kenyans are suffering. There is poverty everywhere.

Corruption in this country is high. The reports from the Auditor-General show that 30 per cent of the GDP is wasted through corruption. The President has been in the frontline talking about the fight against corruption. But we have not seen any meaningful strategies in place to show that he is fighting corruption. Corruption has three components.

I am happy we have the Directorate of Criminal Investigation (DCI), the Directorate of Public Prosecutions (DPP) and the Judiciary. All must work in a collaborative framework. But we have a blame game going on and it is on the Judiciary. The Judiciary can only give judgements based on evidence that is given. As we are here today, there is corruption right, left and centre. As we speak right now, there is serious scandal going on at the Jomo Kenyatta International Airport (JKIA).

We call upon the parliamentary relevant committees to look at this matter objectively. Article 95 of the Constitution says that Parliament can debate to resolve any matter of national importance. The public/private partnership that is being talked about was introduced by Kenya Airways, the national carrier, but a loss-making organisation. It was done without proper consultation and proper public participation of the staff of KAA. We must speak about these scandals. We must lead from the front. We cannot preach water and drink wine. As leadership of

this country, we are very serious about this matter because Kenyans are suffering. We focus on small scandals but we let the big ones continue. We must stand and be counted.

Pending bills are high. At the county governments particularly in counties with outgoing governors, their pending bills have gone beyond... Some are fake. Proper auditing needs to be done on them. I know of some counties which bring somebody to audit, but for them to pay, they demand a percentage of the money from the pending bills. This is the time we must focus on the common *mwananchi*. Things should not be the same.

As we move on, there is another issue on the Big Four Agenda. There is a big disconnect between the national Government and county governments. We have heard governors say it. When you look at the priority projects or programmes of county governments, they are totally different from those of the national Government. The national Government is talking of the Big Four Agenda but the county governments, whether in North Eastern, Western or Nairobi you find priority programmes are totally different. It is important to align them so that the agenda of county governments is aligned to the Big Four Agenda. The BPS itself has shown that it is not aligned to the Big Four Agenda. There is a big disconnect. With this disconnect, you will agree with me, Hon. Temporary Deputy Speaker that there will be a lot of wastage.

Food security is one of the pillars of the Big Four Agenda. For us to be food secure, subsidised fertiliser is very important. I represent the people of North Rift. When you look at the proposals, you find out that the Government is not serious. That it is not going to provide subsidised fertiliser. If it cannot supply subsidised fertiliser, how does it expect the country to be food secure. These are the questions we are asking. Is the Government serious about the Big Four Agenda or the Big Four Agenda is for public relations exercise? These are the questions we are asking.

On universal healthcare, human resource is very critical. We see healthcare providers or nurses always on strike. We need to put some mechanisms in place to address human resource and staff welfare for purposes of universal healthcare. We have just been legislating on Health Laws and Hon. Nyikal, who was a Director of Medical Services, is here. It is important for every country to be healthy. I remember President Kibaki, who I admire very much - I wish we had amended the Constitution for him to continue ruling. He used to speak less but the economy was growing. There was money in circulation. We do not have money now and that is why I want a referendum so that ministers can come from this House and people like Hon. Kimunya can go back to the National Treasury and fix some of the things. People in the National Treasury now are not elected and are not accountable to the common *mwananchi*. The referendum is for the benefit of this country. I request Hon. Members, as we move on, to support the referendum. There is the Building Bridges Initiative and as the National Assembly we are also going to present...

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

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, I wish to commend the departmental committees and the Budget and Appropriations Committee for their dedication in the budget-making process.

The BPS before this House has been prepared in accordance with Section 25 of the PFM Act of 2012. The law states that the National Treasury shall prepare and submit to the Cabinet

the Budget Policy Statement for approval, and it shall submit the Budget Policy Statement approved in terms of Section (1) to Parliament by the 15th February each year. So, the National Treasury has complied with the law in forwarding this BPS.

The National Treasury submitted the 2019 BPS to the National Assembly as required by the PFM Act. Consequently, departmental committees invited Ministries, Departments and Agencies (MDAs) to review the BPS. We are, indeed, pleased with the fruitful deliberations that took place in finalising this report which today the House has the opportunity to discuss.

The BPS contains fourfold policy; both the macroeconomic policies, the financial outlook regarding the revenue that is anticipated; the expenditure anticipated; the borrowing that will finance the budget and the expenditures. One, the national Government has been allocated Kshs1.7 trillion; Parliament has been allocated Kshs38.5 billion; the Judiciary Kshs17.9 billion; and the county governments' sharable revenue is Kshs310 billion.

I saw the Senate saying they are going to add Kshs20 billion to the counties. The question is from where? This is the House that has the powers of budget-making. It is for us to act: it is not them to act. The Kshs310 billion is as a result of a meeting of the only body recognised in law –Intergovernmental Budget and Economic Council (IBEC) chaired by the Deputy President - where all governors are. So, the Senate is cheating and is also looking for relevance.

I saw today that the Cabinet Secretary for Interior and Coordination of National Government refused to go to the Senate. If you ask me, the Cabinet Secretaries for Interior and Coordination of National Government, Defence, Foreign Affairs and Education outside ECD, have no business in the Senate. No Cabinet Secretary should be worried because the Senate cannot even impeach them. The only House that can impeach is the National Assembly. So, even if Matiang'i defies them, they will just discuss him. I am sure tonight the Senators will go for him, but it is the law, not me. They cannot even impeach the President. It must start from here.

The county governments have been allocated Kshs310 billion. That is what they will get. We will go to mediation, but where is the money coming from? I want to emphasise that Section 25(3) of the PFM Act states that BPS shall provide an overarching policy framework to guide the national Government and county government in preparing the budget. In fact, this Report will guide the Cabinet Secretary for National Treasury to prepare the Estimates on Revenue and Expenditure. The same will help the county governments to prepare their budgets for the following the financial year and the medium term policy. The adoption of this BPS will therefore provide the basis for which Government will prepare a detailed budget itemised to be submitted again to Parliament by the end of April. So, the Cabinet Secretary has the whole of March to prepare his budget and by end of April, he must submit it.

The Budget and Appropriations Committee while reviewing the 2019 BPS made some very useful observations and recommendations. I wish to make the following observations that the Committee has made: The Committee has proposed adjustment to the ceiling of Kshs2 billion. Whereas the Government acknowledges the adjustments are within the purview of Parliament, section 39 of the PFM Act, 2012 requires that any increase in the expenditure should be offset by a similar reduction. That is why we are saying the budget must balance. So, if Parliament increases, then they must find a way to cater for that increase or reduce from another sector.

Two, it is important to know these adjustments to be made. The revenue projections in 2019 BPS are very conservative and have taken into account the current prevailing

macroeconomic conditions as well the trends in the previous financial year. An increase in additional expenditure will make the Government to either increase borrowing or adjust. I need to raise this matter. Our debt level is now at the breaking point. It is important for the National Treasury and the Government to diversify ways of financing our budget. Maybe public private partnership is the way to go.

I appreciate the comments given regarding the alignment of the budget to the Big Four plan and the medium term policy. In the Report, there is a detailed programme and the Budget Estimates for the Financial Year 2018/2019.

The Government is also working with county governments in the implementation of the Big Four. That is why Hon. Chris was saying we cannot implement the Big Four Agenda without involving county governments when it comes to the universal health coverage. It is already under piloting in four counties. This will be rolled out to the rest of the counties in due course. The Government is also in the process of completing the ongoing stalled projects before commencing new projects. The Budget and Appropriations Committee and the Cabinet Secretary for Agriculture must allocate specific money for stalled projects. They cannot have ghost projects across the country. Even in our NG-CDF, we have no stalled projects. So, how can the national Government have stalled projects? The Cabinet Secretary must have certain resources to restart those stalled projects.

It is against this background that the President recently issued Executive Order No.1 of 2019 as a framework in terms of coordinating the implementation of the national Government programmes and projects.

The National Treasury, in their presentation, has established what they called “project implementation management unit” within the National Treasury that will coordinate and review all projects being implemented across the country by the national Government. This measure, moving forward, will address issues relating to project prioritisation, their funding, implementation and completion.

Fourth, in the presentation by the National Treasury, they said the Government had issued guidelines on pending bills. This animal called pending bills is another form of corruption. If you go to counties, you will find people who are saying a county has Kshs2 billion pending bills, but there is nothing on the ground, so that Kshs2 billion pending bills *ni hewa*. These are the guys who are given letters of offer few months to the general election. Pending bills must be scrutinised and only genuine ones paid.

We want genuine contractors and suppliers to be paid. But somebody is saying I have done this and I need Kshs 20 million but when you go on the ground there is nothing. This animal called pending bills both at the national and at the county government...

Once again I wish to thank the Hon. Members for their cooperation and continued support to the Government Budget every year. I want to assure them that the recommendation on the 2019 BPS will be considered during the finalisation of the Budget. This Report will not go in vain. The Government and the National Treasury will use this Report from the committees harmonised by the Budget and Appropriations Committee. It will form the central document in the finalisation of the Budget that will be submitted to the House at the end of April.

With those few remarks, I beg to support and urge Members to approve this Report while ensuring that the proposed expenditure remains within the physical framework provided in the 2019 BPS.

(Hon. Junet Nuh raised his hand)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Junet, you are the next and I am aware you do not have your card. Do not raise your hand.

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Speaker, I did not have my card, so I wanted to catch your eye.

Hon. Temporary Deputy Speaker, I rise to support the BPS. The BPS is a document which gives policy pronouncement underpinning the preparation of Estimates of Revenue and Expenditure. To this end the BPS is adopted by the House to guide the National Treasury and ministries and departments. If you look at this BPS, there is no policy contained in it. It is just a routine thing that Treasury is trying to achieve. There is no major policy that is contained that caught my eye in this BPS. I am disappointed that over the years, the BPS has been brought before this House, but no tangible policy pronouncement has been proposed by the Executive to address economic problems bedevilling this country.

Let me begin by addressing the plans pronounced by the Government under the so called Big Four Agenda. The proposed expenditure allocations indicate business as usual approach. This BPS is just telling Parliament to do things in what we normally call business as usual. There is nothing new that is contained in this BPS. This Report indicates that the bulk of the ministerial expenditure which is 26 per cent goes to the education sector and 22.3 per cent to the Energy, Infrastructure and ICT. Public Administration and International Relations Sector gets 14.9 per cent while as Governance, Justice, Law and Order gets 11.2 per cent.

However, critical sectors that are the drivers of the Big Four Agenda such as the general economic and commercial affairs as well as agriculture, rural and urban development under which manufacturing, food security and affordable housing are domiciled are the least funded with a total allocation of Kshs 23.9 billion. If you have not given the Big Four Agenda, how do you intend to achieve them? Unless they are just stories that you are telling people; you can only achieve those agenda, when you fund them properly. This is despite the promise in the BPS that resource allocation will be aligned to projects and programmes that are the drivers of the Big Four Agenda. This is a clear case that the Government is not walking the talk in the realisation of the Big Four Agenda. There is no accountability framework to facilitate spending on the Big Four Agenda. That is why big projects like Galana Kulalu Irrigation Development Project are failing. There is no proper accountability framework that was put in place to make sure that the big agenda expenditures are accounted for. We just allocate resources in billions. We want to do big dams but there is no accountability framework to make sure that this money is spent in the right manner.

Two weeks ago, the Leader of the Majority Party tabled a report showing how projects have stalled. I take note that this list was not exhaustive and therefore the Executive never informed this House accordingly. I am sure it is one of the projects that have stalled. I also note that many projects which were outlined as flagship projects under the Vision 2030 and the second medium term were never completed.

A case in point of those projects is the construction and equipment of forensic laboratory by the State Department of Interior. The DCI is in top gear investigating many cases, but they do not have a forensic laboratory to do that work. That thing has been pending for many years and it was part of the Vision 2030 flagship projects. How do you intend to have a top notch

investigation, when you do not have a laboratory to do the investigations that you intend to do and you are not spending in that direction? Instead, you are spending in other directions that have no benefit to this country. These projects were the foundation of the envisaged growth of 10 per cent in the Vision 2030. When those projects were done, we expected the economy to grow at 10 per cent. Even after the revision of how those things are calculated, this economy has stagnated at between 5.6 per cent. It is stuck there. It has lost energy. It cannot move upwards, maybe downwards.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Hon. Keter. Are you okay? I can see you rising in your place, pointing upwards and on the sides.

Hon. Junet Nuh (Suna East, ODM): We are freezing in the House. Maybe he is waiting for KAA matter.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): But he does not need to act. Let us hear from him.

Hon. Alfred Keter (Nandi Hills, JP): We are freezing. It is very cold. The regulators of the air conditioning must improve.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Proceed, Hon. Junet.

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Speaker, the National Treasury has always lived a lie by giving optimistic economic projections. The projection that was given in this BPS of 2019 and medium term are not anchored in any major policy of Government and project implementation, but they are still based on factors beyond control of Government like weather. The Government is telling you that the economy will do well, if the weather condition is good. So, they are living in the hope of hopes that if God can favour us and there will be rain next year, then this economy will do well. If there will be no rain and the weather will be bad, the economy will be bad. What kind of policy statement is that in the 21st Century that a Government is still relying on rainfall for economy to do well? It just shows you how Treasury has remained archaic in the ways of doing things.

Some ongoing projects under infrastructure and industry which could have boosted economic growth have experienced delays in implementation because of inadequate resource allocation in the previous years, and there is no indication on how any prevailing challenge will be addressed to ensure that the targets of 2019/2020 are met.

In conclusion, an overrated growth projection impacts on our debt position amongst microeconomic fundamentals. This loophole has always been used by the National Treasury to give incorrect position on our debts.

We have spoken about the issue of debts for many years, from the last Parliament to this one. And we were told we are using the GDP to set our ceilings on how much we can borrow. I want this House to change that rule and put specific provisions in the PFM Act and give the Government a numerical ceiling beyond which they cannot go, Kshs6 billion and it should end there. Now they change figures and say we are at 49 per cent of the GDP when actually it is at 60 or 65 per cent. They are the ones who cook figures and you cannot know how much it is. I think this House should come up with a law that says this is the ceiling. Even when you go to borrow from a bank, they give you a ceiling above which you can go. What stops us as a House from coming with that kind of mechanism? After all, the money being borrowed is being borrowed on your behalf and on behalf of your children.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Junet, there is a point of order by the Leader of the Majority Party. I will add you only one minute.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, it is not even a point of order. I wanted to tell Hon. Junet that in fact the PFM Act obligates the House to give an approval every time the CS wants to borrow. So, next time he is coming to borrow, please be on the lookout.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, are you informing him or is he out of order?

Hon. Aden Duale (Garissa Township, JP): I am informing him. He is a very good man.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Has he accepted to be informed.

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Speaker, I agree with the Leader of the Majority Party. He is right. But by the time he is coming to borrow, he has already calculated some figures that our debt ratio is 48 per cent to the GDP, so we have 2 per cent to go. I am saying that we write it in black and white that the ceiling is Kshs5 trillion. Do not come back here, if you go beyond that. That is the point I was making.

To conclude, the BPS is a tool that guides the government in preparing estimates. Over the years, this House has made resolutions...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You have a balance of one minute.

Hon. Junet Nuh (Suna East, ODM): *Haijaisha*, unless you do not want me to speak in the House. There is some light that normally goes on.

To conclude, the amount of corruption that goes on in the county governments, the devolved corruption, the billions of shillings that are lost in the counties cannot be overemphasised. Look at what is happening. Nowadays you just hear that a county has lost Kshs2 billion or Kshs3 billion. You never hear about Kshs1 million, Kshs10 million or Kshs100 million. We must come up with a mechanism to address this. Even though here in the national Government Kimwarer and Aror are now heading to Kshs90 billion, today I was told what we lost is only Kshs7 billion. That means we have not lost a cow; we have lost a *kondoo*. That is what we are being told today; that we have only lost a donkey. So, corruption in the counties must be addressed once and for all if this country is to achieve the Big Four Agenda. Money is being devolved and you are just stealing it. Eighty per cent goes to recurrent expenditure. How are we going to develop this country?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order.

The Temporary Deputy Speaker (Hon. Jessica Mbalu): Hon. Millie, unless it is something general, Hon. Junet has already finished his debate. And I am sure your time will come. Hon. Members, as I order Hon. Keter's issues to be addressed, I also order that the machines are rectified to ensure Members are able to contribute.

The Member for Kipipiri, a Member of Parliament who we have seen a number of times carrying the budget briefcase. I am sure he has a lot of experience in this matter.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the report of the committee and to commend them for the work that they did and indeed all the committees that sat over the weekend to go through the Statement and try to make sense out of it because of its importance as the basis for the Budget Estimates that will be

brought here. Even as you go through it, I am not sure that the authors of the document have been listening to the political leadership. When you look at the manifesto and what the leadership is talking about, in terms of the intentions and the political pronouncements that have been made, and then you look at the BPS, you see total discrepancy. And I will give examples.

One of the key enablers of the Big Four Agenda is technical training of our youth who will work in the manufacturing sector, who will be constructing the houses, who will help in the revitalisation of agriculture and food security. These youth are to be trained through the technical and vocational education institutions, the TVETs. We have done very well in terms of recruiting the youth. It is expected there will be 262,000 trainees within our technical training institutions across the country.

The leadership has also gone ahead and said each of these youth will be given a capitation of Kshs30,000 and loan from the Higher Education Loans Board (HELB) of Kshs40,000. So, the total training cost of each of these trainees is estimated at Kshs70,000 per year. If you multiply that Kshs70,000 by the 262,000 expected, there should be a provision or an indication of how Kshs18.3 billion will be provided within the estimates. But the BPS talks of Kshs3 billion. So, where will the Kshs15 billion come from? It is either we are telling the youth that they will get capitation when there is no capitation provided. If it is not captured in the BPS, how do we expect that the youth that will join the technical training institutions will get their capitation?

Look at the post-training department within the Ministry of Education. I am just looking at those two as examples of some of the discrepancies. We have been telling the youth that on finishing their training, they will actually get apprenticeship programmes and some stipend. The total budget allocation for the department that is supposed to be provided is only Kshs165 million, which is mainly for administration. Where is the Kshs800 million that is required for at least the first batch of trainees to get apprenticeship allowances?

When you look at some of those things, it creates a situation that we are moving into business mode as usual. The BPS that was there last year, just change a few figures and give it to Parliament to approve because it is going to approve anyway. Does this provide the proper basis for preparing our Budget Estimates? As the Committee notes on page 19 that once we approve this today, it will provide the basis for the estimates that will be brought here. If Kshs15.5 billion for just one ministry is missing, surely what are talking about in terms of how realistic the Budget would be given that the basis on which it is prepared is itself shaky?

I also want to echo the sentiments of the Committee on the stalled projects. What I am worried about is that once we have stalled projects and we had lots of them in the late 1990s as we came to Government in 2002 – if you remember all those National Youth Service projects, the headquarters and others. There were lots of buildings and projects that were scattered all over the country. If it is stalling because of reallocation of money to other priority areas, then we are basically saying we were not serious in the first place in terms of identifying which projects we need to do. Even the ones we are starting, how sure are we that in two to three years' time they will not become stalled projects?

The National Treasury and Government ought to show us some seriousness in terms of whether those projects were desired in the first instance. If they were, as a Parliament, we should be insisting that before we commit new projects, let us, at least, complete the stalled ones. If you have money that is just lying between half-finished buildings, you are basically losing in two

ways. You will have a building where you have put so much money and you are not going to use it nor complete it. So, whatever is spent you may as well consider it lost. You have contractors who are halfway through the process and so, you have to terminate those contracts. It becomes expensive and you will be paying interest on the time that he is taking. You may remember for those of you who were here 10 years ago about the stalled National Social Security Fund (NSSF) projects where a crane just stood there for ages. If you look at the amount of money the Government will have to pay as part of reviving some of those projects, is quite a bit. Our youth are complaining that they do not have jobs and there is no money circulating in the economy. Part of the contributors to this contraction of the economy is those stalled projects. That is because nobody is being paid and money is not flowing into the economy. We are now restarting new projects.

So, if the reason as we are reading in the Report is because the Government has now decided to rationalise and move expenditure from those projects to new pet projects, then it is not exactly the kind of thing that would inspire confidence in the management of our resources. I would urge that we relook at these things and, as a Parliament, insist that no new projects will be started until the stalled projects have been completed. We should not just get a report tabled in Parliament showing the projects. What we need is an action plan of how those projects are going to be completed.

Hon. Junet Nuh (Suna East, ODM): (*Inaudible*)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order! Hon. Member. You are called Sonko. You know what you just did. Can you go back and do the right thing? We must follow procedures of this House and for that matter, let me make this communication so that we do not teach the first-timers to be out of procedure of the House. We must follow our own Standing Orders, including the language to use. I refer you to Standing Order No. 77(1) and (2) which states thus:

“(1) All proceedings of the House shall be conducted in Kiswahili, English or in Kenyan Sign Language.

(2) A Member who begins a speech in any of the languages provided for under paragraph (1) shall continue in the same language until the conclusion of the Member’s speech.”

This is so that Members do not refer or make a reference to the other Hon. Members in any language. The reason I quoted Hon. Junet is because he said: “*Hawa hawajaakisha hii kitu.*” Members let us observe our own Standing Orders so that others do not make the same mistake. Hon. Kimunya please carry on.

Hon. Amos Kimunya (Kipipiri, JP): Thank you for guiding the new Members. It is a process and I am sure they will catch up at some point. I am glad some Members mentioned that there were pending bills amounting to Kshs519 billion in 2002. However, when we started a committee to close those bills and to audit them, it transpired that the total pending bills were worth only Kshs1 billion or less. We need a thorough audit of some of these things. In those days, one of the things I heard people saying was that there was a bill of Kshs5 billion for construction of the National Treasury Annex. I kept wondering where the annex was and I was standing in the Treasury and could not see a new building that had been constructed within the neighbourhood of the Treasury. So, there could be lots of these things because people are thinking that they can put money around and then go to court and get injunctions and force

arbitrations so that they can get payments made. So, we need to be very careful on these pending bills and I agree that either we need to have a committee that will close or, at least, investigate them and before payments are made, this House should be put in the picture.

Similarly, one of the things I like at page 15 at the top is the recommendation by the Committee about the need to harmonise the desired outputs with the resources that we have put in. We have outputs that have been there, but the money required is not there.

I wish we had more time to interrogate these things and I would like to encourage Members that between now and the time we come for the Budget proper, let us make sure we look at the BPS so that when we look at the Budget when it comes, we are able to identify some of those things so that we can get some seriousness into our budgeting process. That way, it just does not become a ritual where we just get a report here and we pass it, the Committee sits and we pass it, the other one comes and we pass it and then, at the end of the day, we end up not being sure of what we wanted to achieve.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Rich experience. I confirm that I have 15 requests but from where I sit, the screen may not be in place. It shows Hon. Mbuyi is in the House and I am sure he is consulting. Let us have the Nominated Member, Hon. Oduol Odhiambo. *Daktari*.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker. I thank you also for all those titles. *Daktari* might be in contravention of the language policy we talked about. Professor could also come in but thank you very much. At the outset, I thank the Budget and Appropriations Committee for a thorough job while looking at the Report.

As has already been indicated, I thank all the committees as well. As I support the Report, I am particularly encouraged by the observation in the Report of the key challenge given that what we would look for in a Budget Policy Statement are clear policy guidelines, framework and directions. As has been pointed out by many Members, there is effort to ensure that as we will be looking for the Budget Estimates in April, we will have had a clear convincing presentation of what the direction and what, therefore, the framework should be.

We can see that it is clearly observed in the Report that whereas we find in the BPS 2019, projects that were implemented in the year 2018/2019, there is a lot of provision of extensive programmes and information. But we do not have key outputs and performance indicators and the status of the current projects are not clear.

Therefore as I support this, I want to just start by indicating that it is important that when we are looking at a programme-based budget, we ensure that resource allocation is anchored in outputs in order that we cannot only reduce resource wastage, but that there can be a clear and convincing message to us in the House and to the public in general that we are taking the responsibility of matching resources in the direction that we would like the country to follow.

Therefore, I would like to join other Hon. Members who, by looking at the BPS, cease repetition and routine pronouncements in a manner which seems not to be recognition by the National Treasury. When we are looking at the BPS, we are not only looking at prioritisation. We are much more concerned with those areas which seem to be the drivers of the economy. Also, areas which are reflective of where citizens are experiencing challenges can be addressed.

We look at the areas that are clearly not critical to the Big Four Agenda but, informing areas of need where we ably address issues of food security. Also, where we ensure that we

address issues such as universal health care and manufacturing. Looking at the BPS, we do not see a clear matching of the pronouncements in policy and resource allocation.

I am particularly concerned because in Siaya County, where I come from, we have a semblance of opportunity for the public to come and review what they feel are pertinent issues and make suggestions on what they think would be the direction to go. In particular, to speak to those whom they feel they have given a voice in the National Assembly. As I looked at the BPS, I was concerned. This is because about three weeks ago, at a gathering which, for the purposes of giving a correct record for HANSARD is called *Bunge la Wananchi*, I was tasked by the public. They indicated that they are extremely frustrated and disappointed because they will not benefit as they have been doing from subsidised fertilisers.

This conversation was very instructive and the manner in which Kenyans of different ages indicated is that, if they were not going to provide this kind of subsidy, then, clearly we will not have farmers coming up with the kind of produce we had before. This is going to spiral into a situation where we will not only fail to have food security, but we will find increase in domestic violence, frustration and the challenges we can see day in, day-out. This is reflected when lives of those who are in families are taken, sometimes by their own spouses.

As I support the Report, I also would like to call upon the House... I particularly would like to indicate that it is good that we do not allow the National Treasury to accept a semblance of just normalising, a way in which a very critical role that helps the country out of the hopelessness it seem to be sinking into can to continue.

Looking at the area of corruption as well, we do not see a clear policy statement to address this. Yet, when we look at what is happening in the country today, we are beginning to be a country that is very comfortable talking about billions being lost. We are more or less training not only our children, but other citizens that it is not a big issue when money is lost. This is because when we start talking about billions as if it is thousands of shillings, then you send the message that in our country, we are demonising honesty.

We do not think professionalism, technical work or advice is important. Integrity seems to be something that is only left for those who do not seem to be aware, that what you can get now may not continue. The manner in which we are going; we do not know what tomorrow holds. Therefore, in a way, we do not only continue to reinforce this sense of hopelessness but, as a matter of fact, normalise corruption. I would like to emphasise that we would like to see clear policy statements and directions. Indeed, as we look at the BPS, we are clearly indicating that we do not want to be silent on tax waivers which seem to be something which happens because we do not have clear policy directions.

Looking at pending Bills and the manner in which we transited from the national Government to the county governments, we have more or less duplication of officers. We still seem to have the same wage bill at the national level. This reflects that some of the officers that were deployed to the county through line ministries are still in office. As I conclude, I want to suggest that we should ensure clear policy direction.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Keter. However, you may not be able to use your microphone. Move to another one or use the Dispatch Box. Hon. Members, as you are aware, some of the microphones are being worked on.

Hon. Alfred Keter (Nandi Hills, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, listening to most of the contributions by Members from yesterday, I think we are living a lie in terms of what we were expecting from the BPS. This is a fundamental issue that touches on one of our biggest role as MPs, the budget-making process.

I believe we should add our input or improve by making contributions which will change the living standards of our people. It is rather unfortunate that every time we sit in this Parliament, we hear stories about coming up with policies that are not realistic in terms of the challenges Kenyans are facing.

When you see the estimation of revenue collection that the National Treasury is expecting every year, it has a big disconnect from the reality. They talk of huge figures of almost Kshs2 trillion. However, the real figures we get are below Kshs1.5 trillion or lower at times. Last year, we passed some laws for Kenyans to pay more taxes in fuel costs. Then, after six or seven months down the line, there is no improvement in terms of revenue collection. This is because the same taxation we did on fuel cost is not impacting positively on our economy.

I have heard comments from MPs that there are issues to do with a lot of foreign debt. We have borrowed so much. It is the wastages and leakages that we get as a result of borrowing and the mis-priorities. We do not prioritise in terms of what we invest. I remember in the 11th Parliament, I talked about the railway. I believe in the Standard Gauge Railway (SGR), but I was against the costing. There is an amount of money that you need to use in any project. Kenya is a country where every cost, so long as it is about public resources, is very expensive. I have heard of dams where Government is planning to use millions of dollars. A whopping Kshs25 billion is used to construct a dam. Private individuals have constructed dams five or ten times less the cost we are incurring. It is sad that every time we use public resources, everything becomes very expensive.

There are so many stalled projects. The reason is that people want to launch new projects because they benefit from kickbacks. People want to launch new projects because they want to change their dreams every year. We must believe in what we believe in this year. We have Vision 2030 which nobody knows how it is being implemented. If we were to do an audit in terms of how much we have achieved as a country with Vision 2030, it would be sad to realise that we are only 11 years to get to 2030. Most of the stalled projects have been the challenge that we have been having with the resources. We must agree and live a reality that this country is broke. We must start believing in that because we are living a lie.

So far, we have managed to receive Kshs31 million for the National Government Constituencies Development Fund out of over Kshs100 million. It is less than 30 per cent. We do not know what is happening. Most county governments have received less than that amount. I heard the Leader of the Majority Party speaking about the pending bills where huge corruption cases are coming up because of them. Some are genuine cases, which is a factor contributing a lot to the issue of circulation of resources or the cash flow that we are experiencing at the moment. It is affecting directly the SMEs. Many small-scale enterprises are collapsing because of resources. Bankers are auctioning contractors. Factories are closing down. Many Kenyans are losing jobs because factories cannot proceed with the type of environment that we are in. We are in an economy where everybody is feeling it, whether the rich, the middle class and the poor. The farmers are complaining left, right and centre. Every sector in farming is collapsing. That is why I want to support my colleagues who have said there is a big disconnect between what is in

the manifesto of the Jubilee Government, what the Treasury is proposing and what the Kenyans are facing.

If you talk about the Big Four Agenda, you have to address manufacturing because it is among the Big Four Agenda. When you look at the BPS, nothing is coming up that is going to improve manufacturing. If you talk about healthcare, it is not just about the National Hospital Insurance Fund (NHIF) that is going to address universal healthcare. It is bigger than NHIF. We must have universal healthcare that is sustainable and that can meet the test of time. If it is about the question of food security, let us see the Government taking responsibility in terms of improving the fertiliser distribution to farmers. Let us have subsidised fertiliser to allow farmers to use less of their inputs to achieve more output.

If you look at the other pillars of the Big Four Agenda, they are not replicated here. There is a big disconnect. We have talked about the public debt. We have borrowed so much. We have borrowed a whopping Kshs5 trillion. If you are to make an assumption that Kenyans are about 50 million in number, then it will mean that every Kenyan, including the children who are born today, owe foreigners Kshs100,000. It is crazy. A one-day old child has a Kshs100,000 bill to sort out. What did we do with the Kshs5 trillion? Nobody knows. There is a team which was discussing the viability of the SGR and they came up with some costing saying it will cost someone about Kshs140,000 to have his cargo or a 40-foot container transported from Mombasa to Nairobi, which is way too much. It costs Kshs50,000 to get it to Nairobi, but the handling cost is ever increasing. Most of them are now resorting to use our roads to transport their cargo and it will delay because of the challenges that they are facing from Mombasa to Nairobi.

As a country, we need to see how we approach corruption cases so that we reduce leakages. We need to see how we are going to improve on revenue collections and then stop living a lie. We must pass a budget that strictly addresses how much we can collect. Let us not dream of other nations to give us resources to address our budgeting process.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Are you supporting or not supporting the Report? You must go on record.

Hon. Alfred Keter (Nandi Hills, JP): I support it.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo, I can see you on intervention. Do you want to contribute to this?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. Actually, I did not intend to speak to this. I am a Member of the Budget and Appropriations Committee and, sometimes, I prefer to give other Members a chance.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Thank you. I remember you were on intervention. Let us have Hon. Kiarie, Member for Dagoretti South.

Hon. John Kiarie (Dagoretti South, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I will start by saying that I actually think the job that has been done by the committees is commendable. To my mind, the budget process is the most important business that this House transacts, if not critical. We are here starting the process of the budget cycle. As we do this, we are all alive to the fact that economic alarm bells are going off incessantly around this country. We have to, at one point, pause and reconsider what it is that we do in this House and ask ourselves whether we are here to do things that are exercises in futility or to do things that are mundane and routine, that is, passing papers in this House every year.

Why I say that is because at this time, we know what the economic situation in this country is like. We know the global outlook. We also know that there are countries that are going to be receiving sanctions and yet those countries are very critical to the economy of this country. There are oil producing countries that are facing sanctions at this time. We will also have to think about what we do with our Budget in this country.

It is going to be important that we unpack this Report that has been presented to us. In my mind, I think there is still time for the Treasury in this country to do better than what they have presented to us. As we speak, we are talking of growth projections that have been captured in the BPS. These projections are not backed by any major policy shifts that we can write home about. In fact, we are seeing the same exact things that we saw last year. They are telling us that they are surrendering the growth projections of this country to the whims of things that are beyond their control. They are talking about things like weather and that our growth projections as a country are going to be dependent on matters that are beyond their control. It is what lawyers call *force majeure*. They are matters of God. They are issues that they have no control of. However, when we dig deep to look at any policy shift that they are proposing or even an idea of how they will change how we implement projects in this country, this Report is devoid of such.

We all know that the economy is driven by certain key sectors like infrastructure and industry. Looking at what they are proposing in this BPS, we do not see any tangible improvement in resource allocation to those very critical sectors. We tend to wonder whether the National Treasury is serious in presenting such a BPS to Parliament and whether Parliament will rise to the occasion and say that for once, as Parliament, we will do the right thing, not only for our country, but also for our people. For some of us who are in support of our President, we will do the right thing so that he is not shamed by a legacy that is littered with some of those things that will be the product of such a BPS.

When you unpack this BPS, you realise that we get into the same cycle of debt problems. It is at this point that as a House, we will have to go back to our committees and interrogate the budgets coming from our departments, ministries and semi-autonomous Government agencies (SAGAs) and say to ourselves that it does not take an economist or a former Minister like *Mheshimiwa* Kimunya to know the basic tenets of an economy. There are some irrefutable laws in economics that you cannot change. One is that you have to live within your means. We will draw a budget of Kshs3 trillion whereas in reality, maybe, all we can afford is Kshs1.7 trillion. Let us go back to those ministries, SAGAs and departments and tell them that we have to prioritise those things that will work towards building a sustainable Kenya. When we talk about debt levels of this nature, we are not working for posterity.

We are in the era of the Big Four Agenda. It is the marshal plan that will be the mid-term policy that drives us towards Vision 2030. Looking at this BPS, it suffers the twin tragedy of first, lack of an overarching framework. We cannot clearly tell what the agenda is, what the strategies are and what the tangible policies which would come with a result matrix are for the Big Four Agenda. That is one tragedy. The second tragedy is that there is no clear investment in the Big Four Agenda. The BPS 2019 does not tell us how they are shifting resource allocation to housing, health, infrastructure and industry. We realise that there could be marginal additions of budget allocations to some issues that are geared towards the Big Four Agenda. In the real sense, we are not investing in the Big Four if this is what we will go with as a BPS.

This is a country of young people with a mean age of 18. This Government has promised young people that they will be enabled to run their own businesses so that they do not just depend on employment. We have other affirmative funds to help our women and marginalised people. This Government has promised a bank that will consolidate all those affirmative funds where we can all draw from as the youth of this country, women and other people seeking affirmative funds. But in this BPS, we do not see anything on the status of the establishment of Biashara Bank as promised by the Government. Currently, the *Uwezo* Fund sits on its own, the Youth Enterprise Development Fund (YEDF) sits on its own, the Women Enterprise Development Fund (WEDF) sits on its own and the Kenya Industrial Development Bank sits on its own. They are fragmented but are all trying to do the same thing of empowering our people who need affirmative action.

We are in a country where, as Parliament, we are presiding over a myriad of potential white elephants. There are 554 stalled projects. Looking at this BPS, we cannot find any clear roadmap on how we will revive those projects. What are we presiding over as a Parliament? These issues will end up at the door of every Member of Parliament every Monday when you go to your office. When *Pesa za Wazee* - the cash transfers - are not remitted to the old people because we cannot meet our targets, it will come to the door of the MP. When we cannot meet the promises of capitation and financing of our TVET students, they will end up at the door of our Speaker. When our project monies for NG-CDF are delayed, it will end up at the door of the MPs. Currently, with the slow economy, critical projects have stalled. There are roads in our constituencies which are not being developed.

My point is two-pronged. First, we expect something more serious from Treasury and secondly, as a Parliament, we need to budget within our means. Let us, therefore, for once, do what is right and budget for something we can accommodate as a country.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity. The BPS is an extremely important document. It looks at how we have used resources in Government programmes in the past and what we obtain. It sets a future of how and on what programmes we will spend. It also sets the ceiling of what we are likely to spend. It, therefore, needs extreme scrutiny when looking at it. I must congratulate the committees of the House and the Budget and Appropriations Committee for the work they have done in just 14 days.

I noticed that it was really stressful. Members were running all over trying to be in the House and in the committees. My suggestion is that we may need to look at our Standing Orders so that in the first week of the consideration of the BPS, we do not have sessions in the House. I remember Members of our Committee trying to contribute to how dead bodies should not be retained in hospital while waiting to look at the BPS on health - something which if we solved at that point, would not be a problem. In the second week, we would then have the committees reporting to the Budget and Appropriations Committee and the House would resume. That is something I recommend we look at.

I will not mind repeating. When the BPS was tabled, everybody was looking at where the Big Four Agenda was. Everybody said that they did not see it. That is tragic. We are all geared towards the Big Four Agenda. We are supporting the Big Four Agenda but we do not see

it. For example, looking at the area of agriculture or manufacturing, I would expect manufacturing in this country to be agro-based because that is the only way we can start serious manufacturing. It will also spur the agriculture sector and create tremendous employment. There are a lot of issues in the sugar sector but we did not see much of it in the BPS. Cotton is a huge sector but there was absolutely nothing about it in the BPS. I know it has been devolved but there would be policy and direction in funding. How do we revive cotton farming?

Hon. Temporary Deputy Speaker, all I saw was some money being allocated to the Rift Valley Textile East Africa Limited. Where are the ginneries? Where is the motivation for the farmers to plant cotton? When you have cotton lint at the ginneries level, then you know what to do with it. I did not see that in the Budget Policy Statement.

I also looked at the area of irrigation. I want to mention a few places in Nyanza that I know of. There is Oluch Kimira Irrigation Scheme, Nyando Irrigation Scheme and Lower Kuja Irrigation Scheme. In all these cases, the funding that we can see, to a large extent, comes from partners. How can you go ahead without looking at that? There is also an issue in fisheries. We import fish from China. The best tilapia is from Lake Victoria. We are in the era of cage farming. I know that this function is devolved. As Members have said here, there is no way we will go forward unless national policies and strategies are linked with what is happening in the counties. That is what we want to see in the BPS.

There is also an issue in healthcare. We are all saying that we want universal health cover. We all support it. I do not see how you want to move from the pilot programme, which we are implementing in the four counties, to roll it out in the whole country. What we are doing is tax funded. You go and get treated in Level 1 to Level 4 hospitals for free. When we roll out the universal health cover within the next one year, how will we fund it? We all hoped that we would use insurance and NHIF, which is not in the pilot programme. When we roll out the programme, how shall we fit it without involving them in the pilot programme? I am not convinced that we have enough money to give free healthcare without the insurance element. These are just a few examples. We hope that when we get to the Budget Estimates, some of these issues will be corrected. There is time and comments were made. So, we can correct that.

We are also on a programme-based budget but we noted that there was low absorption in our sector. A lot of it was explained on delayed or inadequate Exchequer release. What was interesting was that the targets had been achieved. If they were achieved with 30 per cent absorption, then it means that we did not need that money in the first place. I do not think that is the case. The data that we are using is not correct. If data is brought to us so that the process can go on and it bears no relation with reality, we shall be wasting time. Data does not lie. During the Coalition Government in this country, there was performance contracting which was useful. The targets and indices were looked at very carefully. Ministries were even ranked. Therefore, you had no option but to have your programme, target, indices and get checked. We need to go back to that. That is what a BPS says, to give you direction on how to move. We know that the President is keen to get the unit that monitors development. If you do not have clear programmes, targets, indices and timelines, how can you monitor development? That is what you see. At this point, it is not so much about the amount of money, but it is how to raise it. That will come in the Budget Estimates. We did not see that.

There is also the issue of stalled projects. There is basically one big issue with stalled projects. It is change over, for example, when you have a new Cabinet Secretary or Principal

Secretary at the national Government. There was no follow up on the projects that were there. When you go to our case in the NG-CDF, it is when Members change and the old projects are not allocated money. If you look at the stalled projects that were in the national Government and they were devolved, the devolution process did not consider them. We should look at them and have a policy that indicates that if you take over any institution and when funding comes, you must first of all start with the stalled projects before you start new projects. This is the same thing we do with pending bills. They become the first charge. The two are related. That is important.

We looked at county allocation revenue guidelines that came and we saw high personnel emoluments, pending bills and lack of asset registers. This indicates lack of structures. We should have done this during the devolution, but it should be done now.

I want to say something about debt. I request for a minute to contribute. I do not want to talk about external debt but internal debt where the Government borrows. We capped the interest rates. The industry says that people cannot get money because we capped the interest rates. The Government borrows internally. Therefore, it competes with the citizens. I do not know whether this is a cartel to refuse to give people money to discredit the capping of the interest rates. Some economists are saying that we can cap the borrowing...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Your time is over. I wish you had one more minute. Hon. Members, I have 13 more requests. Let us also avoid repetition, pursuant to Standing Order No.106. We should try to avoid those arguments that have been used by other Members. You can also use less than 10 minutes because 13 more Members have requested to contribute. I am sure every Member wants to contribute to this Motion. Member for South Mugirango, is he here? Member for Kibwezi West.

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this BPS. I concur with the Budget and Appropriations Committee. When you look at each point that they have analysed in the Report, there is a major indictment on the BPS. When you pick any underlining, it is just caution. They are cautioning that this is not reflective of the current situation and whether Kenya will continue being a growing concern, if it continues in this trajectory.

As much as we have raised issues about figures, it is important to talk about hope for this nation. A hope carried through within the confines of three pillars which are the economy, politics and social status as a nation. At the heart of being Kenyan, it is a heart of competitiveness and productivity. This BPS in its entirety is not addressing us as per Article 95 of the Constitution. We, as Members of Parliament, have a responsibility to all our constituents the way we reflect and represent their aspirations on a day to day basis. What do Kenyans aspire for? We wake up each morning to see how we can fend for our families and contribute to the greater good and prosperity of this nation. There are certain drivers in this economy which even the National Treasury depends on which are our tourist earnings, Diaspora remittances and exports. But the PBS speaks little about how many more acreage we are going to grow tea and how much we are going to expand in coffee exports.

(Hon. David Pkosing and Hon. Aden Duale consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Members. Chairperson, Departmental Committee on Transport, Public Works and Housing and the Leader of the Majority Party, consult in low tones. Let us give time and space to Members to contribute.

Hon. Musimba, carry on.

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): Thank you very much Hon. Temporary Deputy Speaker.

We have to look at our fundamentals, the things which at Independence we read in our geography that we were a powerhouse in the arena of growth of wheat and in livestock production. Today, the PBS does not go to the heart of returning us to our competitiveness. We want to know the population of our livestock. Today, we import livestock from Ethiopia and Tanzania. We do not hear the incentives towards livestock owners within Maasailand, Garissa and Wajir. How are we going to increase livestock populations? How are we going to have bigger Artificial Insemination (AI) programmes which are going to improve the productivity of our milk farmers? How are we going to go into the heart of things and ask the acreage of tea to grow in Mt. Elgon and Nyeri? How much of our arable land is being used? Ultimately, we have to talk about what is coming into the kitty for us to expand and spend. But these things are not being touched.

We talked about being a tourist destination, but how much are we improving our tourism product? Are we amplifying the fact that we are an unmatched *safari* and beach destination? Our coastline is second to none in the world. We have temperate waters and a coral coastline. We must speak to economic hope by saying that the BPS has to address every single constituency in Kenya and see, for instance, how Fafi or Kibwezi West constituencies are affected. How does it encourage growth across the country?

We come from an area where there is a lot of human-wildlife conflict going on and where we have people standing at the parks saying to tourists not to support them because the parks bring greater pain. What does that do to the greater country? It means we have less guests visiting because there is apathy by the locals. We cannot address this unless we are serious. Funds like Catering Levy Trustee have to look at how we can mitigate that. We have to grow and look at every individual. A country is only great by the total sum of the savings that have been mobilised by each individual, but today, you cannot determine the cost of your utilities. There is no one in Kenya who can tell with confidence what their electricity or power bill is going to be in the next one year. Are they going to buy cheaper firewood? Are they going to spend gas in a particular fashion? What will their water bills read?

If we cannot address our fundamentals of the cost of living, then what growth are we dreaming about when there are no savings which are being expected to be grown by the individuals? We need to mobilise 50 million Kenyans, including children, to be in an environment where we are growing our GDP in terms of how we consume and how we mobilise the savings for onward distribution to our SMEs.

Let us look at our cottage industries. Since the 1980s when we were boasting about starting *Jua Kali* sheds, the cottage industries have not moved forward. We have now got to a point where... The same tin trunk I was bought for by my parents to go to high school has not improved. It is still the same tin trunk that is being sold to children today in 2019. We are not investing in those people. We are not growing them. Along Ngong Road, they make beautiful furniture. But how can we standardise that? Those are the areas we can grow and become a

country that exports furniture. Certainly the Great Lakes Region has 100 million people. The consumption habits are the same. But are we better? We had programmes like the last mile connectivity and rural electrification. They were about growing cottage industries. We have a very developed human capital base in Kenya - of people who are educated. We have put enormous sums of money into the education sector and we continue to make that investment. But the investment must actualise and this is where, in the last regime, we had business process outsourcing where the thinking was how to transform Kenya to a 24 hour economy so that we can grow the money that is coming in. If you are an accountant by day, you can extend it in the evening by publishing books for people who are in Venezuela, America and other markets and improve our Diaspora earnings which come in. We are competent. With our day starting at 8.00 a.m. and concluding at 5.00 p.m. somebody can still put in another two or three hours of gainful time by working and remittances will come in. Where are those incentives in this PBS? They are nowhere.

The ICT sector moved Kenya to a middle level economy but that is where we stopped. Are we optimising our fibre optic networks? We invested heavily in having fibre optics cables coming to Kenya. Today, what do we utilise them for? We are just on social media, but we do not optimise these platforms to get work from outside countries, deal with it in realtime when they are asleep and when they wakeup, they get their work is ready. That is improving competitiveness with those people.

On our political set up, how do we grow our politics? We have to get to a point where we know that our political setup has heralded a political economy, people who are active in politics and growing our governance space. We must mainstream these people so that they are not lost. This is the arena of lobbyists. Who will be out there to see the best practices and how do we grow the practices for the betterment of our nation? Being Kenyan is not an accident. Being a Kenyan is a blessed thing because it is competitive and a country of great potential. We must all strive and it must be reflected in our PBS.

As we move to the Budget Estimates, the resolve of the House has to direct the National Treasury to understand that we must be keen on the fundamentals that have made our country great.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Member for Pokot South, the Chairperson of the Departmental Committee on Transport, Public Works and Housing. Hon. Makali Mulu, I know your card has been there for long and I am aware that as a Member of the House Business Committee, you ought to have consulted and given your experience in this. But you must also...

Hon. David Pkosing (Pokot South, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. At the outset, I support the Report on Budget Policy Statement. As Chairs of Committees, we made our presentation to the Budget and Appropriations Committee. We thank that Committee for doing a great job in combining all our requests and recommendations.

I want to emphasise two points. One is on housing. We have heard Hon. Members a while ago saying that they do not understand the PBS and, particularly, they wanted to see the Big Four Agenda in the PBS. Because the housing docket is in my Committee, I know people expected a lot of money to be allocated to housing to the tune of Kshs2 trillion. That is because

of the expectation of what a house will cost to build. We have a policy. I said it to the Budget and Appropriations Committee. What is the policy? The policy in housing is that the Government is not building houses. That is why you cannot see the money in the BPS and eventually in April, when it comes to the Budget Estimates, there will not be a lot of money allocated to housing. The Government policy is very clear that we want to encourage the private sector to build houses. Why would the Exchequer build a house that is going to be sold anyway to the people of Kenya? It is an affordable house and there are figures to that effect.

What is the policy? The policy is such that we want to encourage the private sector to bring its own money to build the houses. That is the policy direction in terms of housing. What is the role of Government? The role of Government is to put up necessary facilities required in building good houses. What are these facilities? One is land, so that houses are cheaper. The private sector needs the land. The Government will look for the land. By Government, I mean both the national Government and the county government. There is a lot of collaboration between national Government and county governments in terms of delivery of affordable housing. So, the primary one is that the Government will look for land. That is a big service that is required for the private sector to build the houses.

Two, if the land is far from the road the national Government and county governments provide for the road. Three, provide water. People need water. All households need water. It is the national Government or the county governments to provide water. We also provide for electricity. Once Government provides those things that I have just mentioned, the private sector can come and build the houses on the land that has been acquired by both governments. That is the policy. People will not see money in this budget. The houses are going to be standard. The houses will be drawn by national Government and the private sector will only come to build. There are many investors who have shown interest in terms of building the houses. There is only one small thing that is delaying us. The private sector has asked the Government: "If we build these houses for you and they are ready to be sold and your Kenyans are not ready to buy, where do we go? Will you hold my money?" That is why the national Government proposed, and we passed in this House, a contribution which will go to the housing fund. That housing fund is supposed to cushion or give a surety to the private sector. In case houses are built but not all are sold, the Government will buy the houses. So, we have a cushion in terms of money. That is why we had that 1.5 per cent contribution from the employer and employee. What delayed is that some people went to court. They were willing to withdraw the case. I urge them to withdraw the case so that we can move this process forward. The people of Kenya want the houses like yesterday. That is why I am pleading with them wherever they are to withdraw that case so that we are able to move forward.

The second question about the same housing that Kenyans are asking is: "Where will the people of Kenya get houses?" The national Government has provided that fund to cushion and to allow Kenyans to get cheaper mortgages. There will be what we call mortgage refinancing which has already been decided in terms of a policy direction so that the people of Kenya can get the mortgage and buy houses. It is one of the best models I have ever seen in my life. That is the policy in terms of housing that people need to understand, so that we can move together as the people.

What is lacking - and which I presented to the Budget and Appropriations Committee but I did not see them capturing properly - is a policy on housing. When the Department of Housing

appeared before the Committee, they raised a very important point in terms of policy. They said the monies that are supposed to provide for services like roads, water and electricity should not be vested in the parent ministries. The money should have been moved so that it is managed in one unit called Department of Housing. That way, it will be easy for them to move this housing project forward. We agreed with them. For example, if you are making a road on a certain land for affordable housing and, maybe, the Department of Roads might not see it as a priority at that particular time, what happens? If they get land without road and water, it will delay the service. That is the direction in terms of policy. I hope it is well understood.

My second contribution on this BPS is on roads. The road network is the nerve of this country. In fact, it should be a big one. It should be isolated to become a big one. It is the artery of this country. It is the movement of this country. Without roads, our country is finished. I am wondering whether what we are seeing as the representatives of the people is seen by people who make this policy statement. All Members are affected by roads. I do not know whether the people who make the policy statement and even budget understand and feel the way we feel in terms of roads. Why am I saying that? In the BPS that I made presentation this week on Tuesday, the infrastructure department, that is roads, is in a deficit of Kshs124 billion. You wonder what is going on. Who does not understand that the people of Kenya need roads? I remember in the last Budget, all these honourable Members took me to task. I even went forward and proposed Kshs8.7 billion that every constituency will get Kshs30 million to repair their roads. It means it is a serious matter. What is happening? The people who are supposed to do it seem not to be seeing that we have a serious problem in terms of deficit and we need roads. Everybody needs roads here. I cannot sit at the corridors. Members take me around and ask me for roads. I wish I had powers to give roads. All these honourable Members have the power to give the money. Give us Kshs124 billion come April and come to ask for roads.

Because of resources, we have made a proposal as a Committee. We have not kept quiet and lamented the way I am talking. We know there is a deficit of Kshs124 billion. We know we have a budget problem in terms of scarcity of resources. We had made a proposal to the Budget and Appropriations Committee in terms of policy that we want them to agree with us. We had proposed to create a roads board under Kenya Roads Board so that we are able to float a bond of Kshs300 billion. We have the money to securitise – we have about Kshs54 billion for fuel levy. We have discussed with the Ministry and they are ready to use a percentage of that money to securitise for roads board. I think this is the best time to discuss and agree. That is why I am saying I do not know whether the people who draft these things feel the way we feel as elected Members of Parliament.

I ask honourable Members that when it comes to estimates, they support this department. We need to find together the Kshs124 billion so that everybody gets a road. If we do not get that money, Members should not follow me to ask for roads.

With those many remarks, I thank you, Hon. Temporary Deputy Speaker, for giving me this chance.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us get academic experience from Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. At long last, I have got an opportunity to say something. I have listened to the Members make contributions. I want to remind them that this is a policy statement, it is not Budget

Estimates. So, even as we contribute, we do not need to narrow down to issues of houses, roads and similar things. There will be time to discuss that. What we need now is to question the policies which the Government has put forward. This document was approved by the Cabinet. It means it is a policy document in terms of what the Government is singing for the next one year.

From the word go, when you look at this BPS, it is projecting a budget deficit of 5.6 per cent meaning that after we do all our collections as a country, we will be expected to borrow out there to the tune of 5.6 per cent of the Budget. To me, the policy question is: What is the policy of this Government in terms of moving towards a balanced budget or what we call a zero-budget so that we do not have to borrow? That is the first question. Members have spoken about the Big Four Agenda. I like the comments that have been made that this Budget, on the Big Four Agenda, presents big issues. You realise it is only about 6 per cent of the total budget of direct Government funding. There is what is called the enablers in terms of making sure that we get the Big Four Agenda achieved. That is what Chair Pkosing is talking about because roads are an enabling environment. The Government is indicating that some of the Big Four Agenda may be taken by the private sector but the question is: Have we put in place measures that will ensure that the private sector is able to complement the Government effort? If that does not work, this policy will not be achievable. These are the hard questions. The other question is in terms of policy. Let us look at the domestic savings policy. This is what Hon. Musimba was talking about. In this country, we are saving about 18.6 per cent. Our investment is about 24 per cent. What is the policy to grow our domestic savings so that we bridge this gap of between domestic savings and investments? Unless that becomes zero, we will continue borrowing. These are the questions that we need to ask the Government so that, as we move forward, we need to see deliberate efforts to grow our domestic savings as a country, so that we can avoid getting funding from out there.

The other issue is on source revenue at the county level. Almost all counties in this country are collecting lower than they used to collect when they were municipal councils or town councils. What has happened? Somebody on the side of the Executive needs to sit down and tell us what is the policy from the Government side in terms of source revenue, so that we grow that revenue at the county level. Unless we do that, we will continue having problems. You will then realise that we will never grow those counties as anticipated.

The other point is this: When you talk to everybody in this country, they will tell you that we are an economy of cartels. When you talk to anybody, be it agriculture or industries, people will tell you that there are cartels who are blocking Kenyans from accessing the results of those resources. For example, in the Ministry of Agriculture, Livestock and Fisheries, we allocate money for fertiliser every year. But how much fertiliser gets to the ground so that farmers can grow their crops and increase their yield? As a matter of policy, what is the Government policy in dismantling those cartels which we keep on talking about? Unless there is a policy in terms of how to relate with the cartels, then automatically, we will continue having problems. These are the difficult questions we need to ask. When we read the policy statements, these things do not come out clearly. That is why I am saying I think to some extent, the Executive is talking but in terms of implementation, they do not achieve anything because they need to come up with very clear strategies in terms of achieving some of these targets.

I like what Hon. Musimba has just said on the issue of fiber optics. This country has invested a lot in terms of ICT, but look at what is happening? I am sure if you talked to my

colleagues, the Hon. Members, you will find that they have hired brokers to tell us what is happening in their constituencies. But if there was a clear policy, this would be an opportunity to use fiber optics to create jobs. We could do international jobs while seated in Kenya and send the results to those countries and get your cheque while at home. In that case, we would be growing the economy and we would be helping those young people. There are serious policy questions which would be asked about this document and I do not think they have been answered.

Let us talk about pending Bills. Has anybody thought about the impact of pending bills in terms of local economies? If you go to your counties, I am sure you must have lost about two suppliers or three contractors who have died as a result of blood pressure which resulted from non-payment of pending bills. They went to a bank, got a loan, they were not paid by the county government and so, they collapsed and died. Small businesses have died because of pending bills. Has anybody analysed the impact of those kinds of bills? If so, what is the Government policy in terms of pending bills relating to the local economies where we come from, where small businesses have died and even big contractors have died because they took loans from banks and they have not been paid for years? Those loans have made them bankrupt. We need a policy on that.

As I conclude, it is clear to this country that there is a clear policy that the wage bill in our county governments and the national Government should not go beyond 35 per cent. How many counties are within that range? How many counties are below 35 per cent? We are in a situation where more than 80 per cent are above that level. What is the Government policy? Is it to change that figure from 35 to 40 per cent or what mechanism are they going to put in place to make sure that we are within that range? I do not want to imagine that somebody just woke up one morning and said it has to be 35 per cent. There must have been a serious thinking and serious analysis to achieve 35 per cent limit. It is internationally known that if you are to go beyond 35, you start eating on the development budget and then you will not be able to develop because for you to grow, you need to invest. These are the hard questions which we need to ask as a House. I agree with all those Members who said that, unless we do something, this is going to be another talking show. I do not think we need to get to that level. If we need to achieve the Big Four Agenda, we need serious work on those pillars so that this country can grow. When the country grows, it will help us, our children and it will even help the rural area.

With those few remarks, let me stop there. I do not want to go to the figures because we need to question the policy.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. For your information, the debate on this Report has to be concluded today. As a matter of procedure, I will give Hon. Member for Gem five minute and Hon. Member for Tharaka five minutes. Then the Hon. Mover will reply.

Hon. Elisha Odhiambo (Gem, ODM): Thank you, Hon. Temporary Deputy Speaker. As I rise to support the BPS, let me, at the outset say that what I expected from the statement was pragmatic and prudent steps in rationalising where to spend each coin because this is at the core of the fabric of our society. As a student of inferential statistics, I expected to see a correlation between the Big Four Agenda and the resource allocation. Looking at food and nutrition, I have not seen a clear intervention strategy on how we are going to help Kenyans have food on their table. I would imagine that there would be a clear statement on intervention on how we will buy

fertiliser for the country. Looking at manufacturing, I have not seen a clear statement on how we want to reduce the cost of electricity or a strategy on how we can encourage manufacturing firms to produce in the night. If you ask me, I would ask Treasury to think deeper because this country is going through debts. If you ask me, I would say let us restructure our loans and let the country breathe for five years. Then we start paying our debts after five years, so that we can achieve the Big Four Agenda. Or else, we are headed on a deliberate cliff that we may not save one another. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Tharaka.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. I have been here ever since. My few remarks in support of the BPS are that the actual Budget is going to come to this House and this House is going to discharge its duty - one of which includes budgeting. However, let me speak on behalf of the Judiciary because in the Budget Policy Statement, there are allocations for Parliament, which is where we sit and we will speak for ourselves. The Executive also has its allocations, and it is the Executive that is actually making these proposals. As such, it is the Judiciary that possibly needs to be spoken for.

I belong to the Departmental Committee on Justice and Legal Affairs. The Judiciary came over and made an elaborate representation on why they required an additional Kshs3 billion to cover their expenses. I am happy to note that the Committee made a representation to the Budget and Appropriations Committee and an extra Kshs1 billion was allocated to the Judiciary. It is vitally important that the Judiciary is well funded so that we have all these courts strewn across the country getting completed. I have my own court at Marimanti in Tharaka Constituency that requires about Kshs20 million to complete. It is vitally important that we make a provision for that. It is also important to note that courts are under-staffed and we have a problem with one major court, the Environment and Land Court, which needs to employ more judges to deal with our land cases. It is important that we fund the Judiciary so that it can take care of this and ensure that we have enough staff to dispense justice. It is also important to note that we require modernising our courts so that when we go there, we are able to get our proceedings done quickly. This can only be done if we provide sufficient funds.

Unfortunately, my five minutes are over. Thank you, Hon. Temporary Deputy Speaker, for the little I have said.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): There is this Member who has been here for long, together with the other Members whose cards are indicated here. The Member for Bomachoge Borabu.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu, Independent): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to make a contribution on two areas. One of the challenges that the county has been facing is the number of strikes, ranging from the Ministry of Health to the Ministry of Education and to our universities. I do not see any pronouncement on how those strikes could be reduced because they have a cost implication. They drain the Budget and, at the end of it, we do not have any gain. I would like to see strategies in place to ensure that issues like delay to submit statutory contributions and pension are well addressed so that we do not see a situation where the country is a striking nation.

Number two, I would also like to see a strong statement on prioritising stalled projects. I speak from experience. I think my constituency of Bomachoge Borabu is the leading constituency in this country that requires about Kshs200 million to deal with stalled projects.

When we have stalled projects, we lock the revenue that is supposed to be generated. So, we need a clear policy that prioritises ways to address all stalled projects.

Finally, when I look at the Big Four Agenda, I feel that there is a sector that has not been well represented in the BPS - the agriculture sector. We are talking of many challenges. We know that there have been delays in payment of farmers and in the supply of fertiliser. This has been a discouraging experience. What is the Executive likely to do to ensure that similar situations are not seen in the future, so that we can talk of a country with stable food security? What about the challenges that come with importation of fish? What about the challenges that come from stalled or non-functional coffee factories and the collapsing tea industry? We need a statement on that.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Before I call the Mover to reply, allow me to appreciate the requests by the Member for Igembe South and the Member for Kajiado East, who would wish to speak. Because of procedures, I now call upon the Mover to reply. Hon. Lessonet.

Hon. Moses Lessonet (Eldama Ravine, JP): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to reply to the debate on this very important Motion. May I take this opportunity to thank the Members who have actively participated in contributing to the Motion.

May I assure Members that we have listened to them keenly. We have heard their proposals about the creativity they want to see in the Budget Policy Statement – a BPS rich in matters of policy. As the Budget and Appropriations Committee, we will ensure that we communicate these sentiments to the technocrats at the National Treasury on their need to put more time and thought whenever they write the BPS. More important is the need to manage debt in this country. This is a matter that is in the mind of everyone, including ourselves as the BAC, as well as the Government officials at the National Treasury.

We have listened to the Members. They want to see more concern on the production sectors and, more so, agriculture – which is the biggest employer and one sector that contributes most to the Gross Domestic Product of this great Republic. We will ensure that in future, the budgetary requirements for institutions like the Judiciary continue accessing more funding. We will ensure that the right limit is given in the next Budget. This is so that the Judiciary can take a leading role in dispensing justice in this Republic and, more importantly, in the fight against corruption.

There is a very important fund called the NG-CDF. This is a fund whose impact is being felt in the constituencies. Close to zero of resources from NG-CDF are stolen. This is a fund which is implemented by the Wanjiku on the ground. We will continue ensuring that more funding is directed towards the NG-CDF. We will also address the subject of the arrears amounting to Kshs4.9 billion. We hope to achieve this in the next Budget.

Hon. Temporary Deputy Speaker, I thank you for presiding over this very important session. It will definitely go into the record of this Republic that the BPS for 2019/2020 was passed while you presided over the House.

With those few remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, the House is not properly constituted for me to put the Question on the Motion for adoption of the

Report of the Budget and Appropriations Committee on the 2019/2020 Budget Policy Statement.
So, I order that the Question shall be put at an appropriate time when it will be slotted in our Order Paper.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time being 7.00 p.m., the House stands adjourned until Tuesday, 5th March 2019, at 2.30 p.m.

The House rose at 7.00 p.m.