

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 13<sup>th</sup> February 2019

The House met at 2.30 p.m.

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

### PRAYERS

### PAPERS LAID

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

A list of stalled capital projects from the National Treasury and Planning through the National Treasury Circular No. 9 of 2018;

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

National Gender and Equality Commission;

The State Department for Co-operatives (Vote 1173);

The National Council for Law Reporting;

The State Department of Labour;

State Department for Culture and Heritage;

State Department of Fisheries and the Blue Economy;

Intelligence Service Development Fund;

The Teachers Service Commission (Vote 1064); and,

Political Parties Fund.

Thank you, Hon. Speaker.

### ORDINARY QUESTIONS

*Question No.005/2019*

#### STATUS OF MILK PRODUCTION AND IMPORTATION IN THE COUNTRY

**Hon. Speaker:** Member for Githunguri.

**Hon. Gabriel Kago** (Githunguri, JP) asked the Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation:

a) To indicate the amount of milk, both liquid and powdered, imported into the country for the period 2016 to date, indicating the countries of origin?

b) What is the country's milk production level vis-à-vis consumption level?

c) Are there any plans by the Ministry to ensure regulation of importation of milk, including powdered milk, into the country with a view to protecting local dairy farmers?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Agriculture and Livestock, which will prioritise when the CS will appear.

Before we go to the next Question, allow me to recognise the presence, in the Speaker's Gallery, of students from Maua Girls High School, Igembe South Constituency, Meru County, and those in the Public Gallery from Kiamunyi Secondary School, Rongai Constituency, Nakuru County. They are all welcome to observe the proceedings of the National Assembly this afternoon.

*(Applause)*

The next Question is by the Member for West Mugirango.

*Question No.014/2019*

LOWERING OF QUALIFICATIONS FOR THE POSITION OF ASSISTANT CHIEF

**Hon. Vincent Kemosi** (West Mugirango, FORD-K): Hon. Speaker, I beg to ask the Cabinet Secretary for Interior and Coordination of National Government:

Could the Ministry consider lowering the minimum age requirement and academic qualifications for persons seeking the position of Assistant Chief to 30 years of age and a mean grade of C- (Minus) for academic qualifications?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Administration and National Security which will prioritise when the CS will appear.

The next Question by the Member for Nakuru Town East, Hon. Gikaria, is deferred at his request because he is out of the country on official duties.

*Question No.017/2019*

NON PAYMENT FOR ACTIVITIES UNDERTAKEN UNDER THE NATIONAL  
YOUTH SERVICE PROGRAMME

*(Question deferred)*

Let us go to the next Order.

**MOTION**

APPROVAL OF THE CALENDAR OF THE HOUSE  
FOR THE THIRD SESSION (2019)

**Hon. Speaker:** The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order No. 28, this House approves the Calendar of the National Assembly (Regular Sessions) for the third Session (2019) as contained in the Schedule.

Hon. Speaker, the House Business Committee (HBC) adopted the Calendar of the House yesterday during its first meeting. Members will note that the calendar is divided into three parts separated by long recess periods.

The first part, which began yesterday and runs up to the end of April, has 11 weeks. It is the longest compared to the other parts. The reason for that is that during this part, we will engage the Executive, the Legislature, the Parliamentary Service Commission and the Judiciary in the budget-making process which normally falls in the first part of this Session. Between February and April, we have to adhere to fundamental deadlines set by the statutes or the Standing Orders. For example, the Budget Policy Statement for the Financial Year 2019/2020 from the National Treasury should be submitted by 15<sup>th</sup> February 2019 - this Friday. Thereafter, the departmental committees led by the Budget and Appropriations Committee are expected to consider it and forward their recommendations to the Budget and Appropriations Committee within seven days. Hence, the Budget and Appropriations Committee will then table a report by 28<sup>th</sup> February 2019 for the House to adopt.

During this period, we also expect the Division of Revenue Bill, 2019 to be introduced not later than 10<sup>th</sup> March 2019 and passed by the Houses by 31<sup>st</sup> March 2019. In case any Supplementary Budget Estimates are received, they will be fast-tracked including the passage of the Supplementary Budget Appropriations Bills before consideration of the main Budget.

Pursuant to the provisions of the Constitution, the Public Finance Management Act and the Standing Orders, the National Treasury is expected to submit the annual estimates of revenue and expenditure for the Financial Year 2019/2020 on or before 30<sup>th</sup> April 2019. This will go to the committees for public hearings and engagement with the relevant Government ministries, departments and agencies during the month of May 2019. This will pave way for the passage of the final Budget through the Committee of Supply and the introduction of the Appropriation Bills, 2019, which will be passed by the House on or before 26<sup>th</sup> June 2019.

With these timelines that I have stated, this part of the Session is longer than the other parts of the Session. Because of the tight timelines related to the budget cycle, it has not been possible to synchronize the recess period with the school holidays which we usually do for the long recess in May. This would have been the desire of most Members of Parliament. We, therefore, propose the House holds 126 sittings this year - excluding any Special Sittings or morning Sittings held on Tuesday morning and Thursday morning - which may eventually be inevitable at the behest of HBC. The Calendar that is appended to the Order Paper has been arranged as proposed.

Allow me to spend a few minutes to remind Members of the history of Parliament. Prior to 1999, Parliament was a department of the Office of the President in the Executive. In this regard, the calendar of the House was controlled by the Executive. Parliament was opened and closed at the whims of the Executive. The Legislature was able to emancipate itself from the Executive by way of Constitutional Amendment No.3 of 1999 entrenching the Parliamentary Service Commission in the Constitution. I am sure Members will remember that sometimes, sessions of the House were suspended for Members to go to the airport to receive the President.

That is how it was. Today, Parliament is independent and controls its calendar. For the information of Members, today in India and Sri Lanka, both Houses of Parliament in those countries have their sessions terminated by the President of India and Sri Lanka, respectively. They can summon the Houses any time at the start of every year or suspend the sittings of the Houses. It is good that those of us who have the opportunity to serve under an independent Parliament must, at all times, guard the independence and integrity of the House. Consequently, Members need to appreciate the independence of this House and the powers we have in formulating our own calendar.

I, therefore, urge Members to support this Motion and approve the proposed calendar. That does not mean that...

*(Hon. Kimani Ichung'wah spoke off record)*

The Member for Kikuyu is saying that he can second the Motion, but he is not privileged to sit in the HBC. So, he cannot second it. It is only a member of the HBC who participated in the deliberations yesterday who can second. But that does not mean that we cannot amend it. The same calendar we approve today, even in the wisdom of the membership of the HBC, we can bring a Motion to amend to extend a sitting period or a recess. Still, amendments to this calendar are subject to the whims and wishes of the majority of Members of the Assembly.

With those many remarks, I ask Hon. Makali Mulu, who is a Member of HBC and who was present last night in our deliberations and participated in the approval of the calendar, to second.

**Hon. Speaker:** Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Speaker, I beg to second the Motion as moved by the Leader of the Majority Party.

The Leader of the Majority Party has said all that is important for this Motion. The only thing I can add is that, as a House, we need to be proud of this new development where we have our own calendar which we prepare, change when necessary and dictate our own terms of how we conduct our business as a House. I encourage Hon. Members to support the calendar bearing in mind that it is our calendar and we can adjust it when necessary.

With those few remarks, I beg to support.

*(Question proposed)*

**Hon. Speaker:** Is it the desire of the House I put the Question?

**Hon. Members:** Yes.

**Hon. Speaker:** Very well! I see glowing faces. Hon. Members as you know, I keep reminding ourselves about the famous statement by Speaker Lenthall on 4<sup>th</sup> January 1642. I will do exactly that by putting the Question.

*(Question put and agreed to)*

Next Order!

**BILLS***Second Reading*

## THE KENYA ACCREDITATION SERVICE BILL

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. I beg to move that the Kenya Accreditation Service Bill (National Assembly No. 17 of 2018) be now read a Second Time.

The objective of this Bill is to establish the Kenya National Accreditation Service and become an internationally recognised...

**Hon. Speaker:** Sorry, Leader of the Majority Party. I see an intervention from the Member for Igembe Central. Do you have an intervention?

**Hon. Kubai Iringo** (Igembe Central, JP): Yes, but it has been overtaken by events.

**Hon. Speaker:** Very well. Proceed.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, we need to know the event.

*(Laughter)*

He said it has been overtaken by event. So, we want to know from my good friend, Member for Igembe Central, what the event was.

The objective of this Bill, for the first time in our country, is to establish the Kenya National Accreditation Service and make it an internationally recognised effective accreditation system, and give us an effective and reliable accreditation system. This Bill shall establish the service as a sole recognised body for accreditation in our country.

The other objective of this Bill is to repeal the current Kenya Accreditation Service Order of 2009 which was made under the State Corporations Act, Cap. 446 of the Laws of Kenya. There are many institutions and bodies that deal with accreditation, but this Bill is proposing a one stop centre called the Kenya Accreditation Service which is internationally recognised and which will give us an effective accreditation system that will be respected by all. That is the genesis and the main objective of this piece of legislation.

Part 1 of this Bill consists of three clauses only.

*(Hon. (Ms.) Catherine Waruguru laughed loudly)*

Hon. Speaker, we will forgive them because this is the second day. Old habits die hard. That is the habit that was there before the recess.

**Hon. (Ms.) Catherine Waruguru** (Laikipia CWR, JP): Happy New Year.

**Hon. Aden Duale** (Garissa Township, JP): Happy New Year. We have to come back to the Chamber. It will take us some time.

Section 3 of the Bill sets out the objective of the Bill which, as I said, is to establish the service for facilitation of trade and enhancement of health, safety and environmental protection. So, that institution will deal with matters of safety, health and environmental protection. It will

facilitate trade so that it becomes an added advantage for trade between us and other countries and our own institutions.

Part II of the Bill consists of Clauses 4 to 6. It talks about the Kenya National Accreditation Service. It deals with where the headquarters will be. Section 6 deals with the functions of the Service. They include: Accreditation conformity, assessment bodies, promote accreditation in Kenya, and promote competence and the equivalence of accredited bodies elsewhere in the world. So, the functions of this body are well stipulated. There are over 20 functions that those institutions will be given by law if this Bill passes.

Part III of the Bill consists of Clauses 7 to 17. Clause 7 deals with the composition of the Board of the Service while Clause 8 deals with the conduct and the affairs of business of the board - how they conduct their business. Clause 9 deals with what we call the establishment of the accreditation committee while Clause 10 deals with the functions of the accreditation committee.

Clause 11 of the Bill deals with the appeals committee where in case of an aggrieved party, there is an appeal mechanism.

Clause 12 deals with the procedure and proceedings before the appeals committee so that anybody should not abuse that process. The procedure and the processes are well documented in that Clause.

Part IV of the Bill comprises of Clauses 18 to 25. Clause 18 deals with the process of applying for accreditation. What are the conditions? How do you apply to acquire that service called accreditation?

Clause 21 deals with suspension or revocation. At what stage does the service revoke or suspend an accreditation permit given to you by the board?

Part V comprises of Clauses 26 to 32. That deals with the financial provision in relation to the service: the general fund, the investments of the service and others.

Part VI deals with the repeal of the accreditation service order. For us to have this law, we must repeal the existing Accreditation Service Order of 2009 and provide a transitional clause or matters relating to that repeal so that the staff and assets of current board are safeguarded in the transitional clause. In this Bill, we have the first schedule which deals with the procedure of the meeting of the board, the second schedule deals with the proceedings before the accreditation committee and the third schedule deals with the proceedings before the Accreditation Appeals Committee.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided for in the estimates. It will occasion extra expenditure. The enactment of this Bill shall occasion additional resources. I am sure – the Chair of the Budget and Appropriations Committee (BAC) has left – this will be provided for in the estimates. Those are the highlights.

With those few remarks, I will ask the Chair of the Departmental Committee on Trade, Industry and Co-operatives, Hon Kanini Kega, who did the public participation and got the views from stakeholders, to second.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Speaker, for giving me this opportunity to second this important Bill. Because we have not met before, I take this opportunity to wish you a happy new year, together with my colleagues. We are back from recess. I saw somewhere in some of the analysis by some panellists saying that Members of Parliament are on holiday. It is very important to say that when you are on recess, you are given an opportunity to go back to

your constituency to get the views of your constituents and do the work. As Members of Parliament, we never go on holiday. We are always at work.

As I second this Bill, I want to say that it was tabled on 17<sup>th</sup> July 2018. As it is normal practice, we had to do public participation. We placed an advertisement in the newspapers on 7<sup>th</sup> July, 2018. Unfortunately, we only received one reply via email from one James Robert Sakwa. We felt that it was not sufficient. Getting only one response and yet this is a very important Bill, we felt we needed to do more consultations.

We have also engaged stakeholders, including the Kenya Accreditation Service (KENAS). We called them and they explained themselves to the Committee. I thank them so much. We held very many meetings with them in order to, first of all, understand what this Bill means. Some of the highlights of the Bill have been ably put across by the Leader of the Majority Party. He has clearly elaborated what it entails. We have captured most of these things in our Report which we will bring at the appropriate time, that is, during the Third Reading. At that point, we will make the appropriate amendments.

One of the highlights I would like to put across today is that KENAS is the only national accredited body that gives formal recognition to certified bodies, inspection bodies and laboratories. It gives recognition to testing and calibration. It ensures that medical, veterinary, pharmaceutical proficiency tests and scheme providers are competent to carry out specific conformity assessment tasks.

Furthermore, we also note that accreditation is a formal third-party confirmation that conformity assessment bodies are competent to carry out specific conformity assessment activities. Conformity assessment bodies are those that assess compliance to ensure conformance of products, services and supplies with regard to specific guided requirements. The examples here are testing, calibration of laboratories, proficiency testing laboratories, inspection, verification bodies, medical laboratories, certification bodies and so on. We export goods as a country. Those goods need to be trusted that they meet basic standards. At the same time, the goods coming into this country need to be confirmed whether they are of the right standards.

Another highlight in the amendments is on members who will be on the board. We have, as a Committee, clearly considered the suggestion that we should have representatives from consumer organisations. We have clearly indicated that the body that will be nominating persons to sit on the board must be registered. That is so that we do not give the leeway to the Cabinet Secretary to appoint a person, maybe, just because he is in a consumer organisation. We have said that it has to be registered.

I do not want to repeat the very many issues that were touched on by the Mover, who is the Leader of the Majority Party. As I conclude, I want to say that the Kenya Accreditation Bill 2018 has the primary objective of establishing the Kenya Accreditation Service; recognising it as the sole body created for the purpose of carrying out accreditation of conformity assessment bodies; establishing an internationally recognised accreditation system; promoting accreditation for facilitation of trade and enhancement of health safety, environmental protection, economic performance and transformation of Kenya; and, promoting the competence and professionalism of accredited bodies.

The enactment of the Kenya Accreditation Service Bill 2018 will revolutionize the standards on conformity in the country and, in effect, set the stage for international recognition of products from Kenya.

Finally, the Bill will transition the Kenya Accreditation Service established in accordance with the Kenya Accreditation Service Order 2009 being repealed and other instruments, assets and liabilities accredited certificate issued under Legal Notice 55 of 2009.

I, therefore, beg to second.

**Hon. Speaker:** Order, Members.

*(Question proposed)*

I can see there are very many Members desiring to contribute. Among them is the Member for Makueni.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Speaker. I am also in the Departmental Committee on Trade, Industry and Co-operatives. My Chairman, Hon. Kanini Kega, has put the record very straight in as far as this law is concerned.

This is a very important law when it comes to trade, the movement of goods and the recognised international standards. This borrows heavily from the practice in South Africa and the United Kingdom which are some of our main trading partners. We had an organisation which was already handling this, pursuant to a Presidential Order. There was a need to make a law to make sure that all matters pertaining to trade and the standard of goods are regularized and people are able to check quality and standards. This does not conflict with the activities of Kenya Bureau of Standards (KEBS) or Kenya Medical Research Institute (KEMRI). They can complement each other where there are issues. This means the standard of goods coming to Kenya and leaving Kenya can be checked. The moment this body approves, a corresponding body in a different country will also certify. It will make it easier for goods to move. Other than that, the goods will be determined whether they are of merchandise quality via international agreement. It is a very important body in Kenya, it helps suppliers. It will make sure that our goods are trusted outside there. They will ascertain that proper qualities as recognised by KEBS and KEMRI have already been accepted.

There is also the multi-agency body that makes sure goods are of good quality in this Act. All those will work together so that they can facilitate trade with different bodies in the world, including the Arab world. One of our main concerns is the beef that we produce in our country. Other countries are ahead of us because they have this sort of law ahead of us. With this law being enacted in Kenya, it is going to make it very easy for our goods to move faster in the world.

Of importance to note is that there is a process in case one is not satisfied by what the new body we are creating is doing. They have an opportunity to appeal. Once they have that opportunity and they feel their goods are being held unnecessarily, or are being prevented from coming to the country or leaving it, they still have recourse at the High Court.

Very important in this are the regulations, which the CS in charge of trade is likely to make. This is where the Committee on Delegated Legislation comes in. There is a whole chapter on that. Hon. Duale, the Leader of the Majority Party, has captured it very well. He has really understood this Bill and its purpose. I believe the House will support it so that we increase international trade in our country.

I thank the Committee and the Chair for a job thoroughly done, especially when we were doing public participation. We call stakeholders to make an input. In fact, I must tell the House



that you could see people from the international scene. People from different parts of the world attended this event and Parliament did very well.

I thank you, Hon. Speaker. I beg to support.

**Hon. Speaker:** Member for Igembe North.

**Hon. Maoka Maore** (Igembe North, JP): Thank you, Hon. Speaker, for giving me the opportunity to say a word or two about this very important Bill. As we try to modernise our country, you will realise that the most important aspect is the consumer aspect of what we take from factories or industries. You will realise that this is one of the very difficult countries to live in because of the lax regulations that we have in our laws. Now that we have this Bill, the Kenya Accreditation Service Bill, we need to go further and set up a kind of a mechanism, equivalent of the Food and Drug Administration (FDA) in the US, where, when you prepare anything that is meant to be consumed by human beings, it must be to the highest safety standards. The idea of profiteering is always very tempting to any individual. I have in mind what the security agencies unearthed in Thika; the huge multi-billion plant which existed. I noticed that most of the individuals who were rushing there were worried about the tax revenue that has been lost. They were very crooked. You cannot tax poison. They should be more worried about the individuals who have been consuming the poison that was emanating from that un-accredited factory. As much as we are passing these laws and creating those new bureaucracies, let us not create an avenue like the one where people created the Anti-Counterfeit Authority after they were worried and tired by the lax behavior of KEBS. The job that is being done by KEBS and Anti-Counterfeit Authority is the same. When people realise that there is a gap, they create another bureaucracy. Then they wake up the next morning and create another bureaucracy. This is an avenue for them to help themselves. It is for this reason that we have this body and we pray that the many people who will be appointed to head the organization should be of integrity to run an institution that will do the service for posterity.

The life of a Kenyan is very delicate. I tabled a bottle of a soft drink in this House which happened to contain a huge fly. That was the only and the last time a soft drink has been tabled in this House. The story happened in 1997 and the Speaker wondered how I entered the House with a bottle, and ordered the Serjeant-at-Arms to take it. It was kept and the Ministry of Trade then was ordered to come and collect it and take it to KEBS for testing. The morning of the Question, I got pressure from all corners. I was told: "If you agree with us, we will employ some youths from your constituency or we can give you some money". I told them that I would go ahead and ask the Question and wait for the world to come down. So, it is true that those things happen every day. I know between that time and today, it has not been easy for other people to bring up the issue of poison by huge corporations and multi-nationals who do not care because they know that this is Kenya. In Kenya, people get away with a lot of nonsense. We hope that one day, we will have an organization that will be able to standardise the things that we consume.

I have not told you what happened to the bottle. In between the Office of the Serjeant-at-Arms, the Ministry of Trade and KEBS, the bottle was destroyed. So, we never got the report. That is Kenya for you. So, we want to live in a safe country where you can buy medicine that is not expired or the dates of expiry altered in a chemist. The food we buy should be safe since it is from a licensed or accredited institution or facility. So, my prayer and plea in this issue that we are talking about is this: That the regulations and rules that govern the institution should ensure the safety of the goods that we take. That is very important for us. For that reason, I want to

support the Bill and hope that we will have a single body, instead of duplicating and creating another bureaucracy for people to help themselves.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker for giving me the opportunity to contribute to the Bill. I belong to the Committee of Trade, Industry and Co-operatives that has engaged the members of the public and Kenyans themselves in streamlining or panel-beating the Bill to a more reasonable and cleaner one. I must, at the outset, say that the Bill has come at the most timely moment in our history, where we are faced with so many cases of counterfeit goods, illegal importations, substandard goods and the up-rise of cancer diseases in this country. The Bill intends to create an apex body called the Kenya National Accreditation Service to accredit laboratories and any other bodies that undertake conformity assessments that test goods and equipment to ensure that they conform to standards.

This is a matter that has gained a lot of interest because of some of the messes that we have had at KEBS. There are cases that are in court about the testing of fertilizers and imported goods that do not come with relevant certificates of conformity. The purpose of this body is to basically register, supervise, oversee and ensure that whatever conformity standards are in place in this country are adhered to.

We have had bodies that purport to do conformity testing and yet, there is nobody who can vouch for the country that they are doing the right thing. The main concern in this country, as we stand now, is forgery and outright criminal activities by manufacturers in this country. We want to go to that period in life where when you see the sticker of KEBS on a product, it must give you an assurance that it is a correct sticker and whatever we have are correct goods conforming to various international standards. Quite a lot will be done at the Committee of the whole House because a lot of discussions have been held between the Committee, Kenyans, the Ministry and other stakeholders to streamline the Bill. Most of it will be discussed at the Committee of the whole House.

With those few remarks, I beg to support the Bill.

**Hon. Speaker:** Hon. 001

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Speaker. At the outset, may I take this opportunity to say happy new year to you. While we were on recess, we really missed your intellect. You remember something that happened in 1642, while some of us may not even remember what happened yesterday.

I support this Bill. It is really timely. The Committee did a thorough job. May I start by congratulating them for the job well done. That is because public participation was undertaken and they have done enough research. This Bill will bring all the accreditation bodies under one roof, thereby making it easier and cheaper to give accreditation to companies that may need to work here in Kenya. It will also harmonize the issues of fees and training of the projects that will be undertaken by those services.

For a long time we have been scaring away investors from this country because they do not know the roadmap of being accredited to work in this country. This multi-sectored approach will ease the process and attract more investors into our country. For a long time, KEBS was supposed to be a sticker of assurance. But we no longer trust anything that bears the KEBS label. This is the time that we will make sure that we eliminate counterfeits from our country and

eliminate shoddy factories that manufacture poison for our people. This is the time this House must come forward and approve this Bill quickly, so that we can protect our citizens.

In this country, sometimes the work that was supposed to be done by one body is done by so many bodies, creating confusion among not only citizens of this country, but also people who come from abroad. At times, it is very difficult for investors to know where they should register and get accreditation from. When they come in, they find that our laws are shoddy and they run away. It is also good for our accreditation body to be internationally accepted. If all these things are put under one roof, with all professionals available, it will be easier and cheaper in the long run for taxpayers.

*(Loud consultations)*

Members are consulting in high tones. I do not know if it is the excitement after the recess or it is the Christmas excitement. Some are even making phone calls. I was tempted to introduce the position of an assembly monitor, the equivalent of a class monitor, to make sure that all noisemakers are told to tone down.

Hon. Speaker, thank you very much. I support the Bill.

**Hon. Speaker:** Hon. Angatia.

**Hon. Ayub Angatia** (Lugari, ANC): Thank you, Hon. Speaker, and happy new year to you and all my colleagues. I rise to support the Bill. This is a good move. It will give a boost to the Kenya Plant Health Inspectorate Service (KEPHIS), KEBS and Poisons Board of Kenya in dealing with matters of health, safety, environment and general trade facilitations. You will realize that a country like Rwanda, which is far below Kenya's economy, has an accreditation services body whereas Kenya, which is the biggest economy in the East African region, does not have a similar body. So, I thank the Committee for having brought this Bill. It will enhance the services of accreditation of services and goods in this country.

The KEBS relies on an accredited body in Japan to inspect cars and other goods whereas that body is not regulated from Kenya. The appointing authority is KEBS, but it is accredited in Japan. This Bill will help Kenya to have its own accrediting body to accredit institutions that will provide such services. For us to sustain growth in the big economy, we need to trust in our commodities. It is a trust that can be gained only through the belief that Kenya has an accreditation body that can offer such services.

Kenya is the only country where everything is not tested, attested and re-tested, because we do not have a regulatory body. For example, on the issue of fertilizer which was tested by KEBS, the courts have also ordered for a third test. Who is giving accreditation to that body to carry out the re-test? That is why we need this Bill. I thank the Leader of the Majority Party. You have explained very well why we need such a body.

With those few remarks, Hon. Speaker, I beg to support.

**Hon. Speaker:** Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Speaker, for giving me this opportunity. May I also take this opportunity to wish my colleagues that I have not met since we went on recess a happy new year.

I rise to support this Bill whose object is to establish a single accreditation body that is independent. This is extremely important to avoid the many bodies that we have that, either

rightly or on their own volition, claim to give accreditation. It is extremely important that whichever body does accreditation, should be one that we can trust, hence the need for this body.

It is also important to establish this body because it will help to distinguish between licensing and accreditation. There are many bodies that license and yet, they behave as if they do accreditation. You find this virtually in every sector. For example, in the health sector, all the regulatory bodies are working as accreditation bodies. Even in the industry, you find the concept of self-regulation. So, where people have self-regulation, they set up bodies that behave like they give accreditation. It is not possible for an organization that has self-interest, such as a self-regulating body, to actually conduct accreditation. Therefore, it is important that we have that distinction.

To give the best example that I know, the Kenya Medical Practitioners and Dentists Board (KMPDB) will license health institutions. Is it an accreditation body? Would it then be assumed that any facility that is licensed by KMPDB can also be accredited, for example, by NHIF to offer NHIF services? That is extremely important. Who accredits medical, scientific or investigative laboratories for criminal investigations? You find a situation where samples are taken to different organizations which give different results and yet each claims competence.

Therefore, we need one body that will ensure there is accreditation. It is also important that we protect consumers. Members have indicated here that a lot of imported goods are accredited outside this country and yet, when they are imported, it is assumed that, that accreditation is adequate. We may not even know the capacity and legality of the accreditation bodies outside the country.

Hon. Speaker, if you look at the bodies that license cars for example, instruments and even firearms, how shall we know that this same body licensing fire arms is competent enough to deal with cars as well? This is an extremely important Bill for us in the country. Further, it is important that we have international standards. You should be sure that whatever you get, wherever it comes from and wherever you are going to trade, once it is passed as a certain quality in one country, it should be exactly the same quality as in other countries. Again, we need a body that will relate and have international recognition and competence. For that reason, this is an extremely important Bill.

I support it further because it establishes a board and clearly states its composition, the recruitment of the officers and the requirement for their recruitment. It also sets out proper processes such as for application, suspension and how certificates are given. It further has clauses on funding and it is clear that this body will have many avenues of getting resources from the services that they provide as prescribed fees paid to them or from grants. It is also indicated in Clause 26(c) that they will get appropriated funds, but it is not clear who is appropriating this. I presume that it means the funds as appropriated by Parliament. At the Third Stage, we will have to make that clear. It also provides for processes of appeal. Obviously, in an organisation such as this, many people will feel aggrieved when their products and services are declared not up to standard and so we need a proper appeal process which this Bill provides for.

It also makes provisions for the Cabinet Secretary to make regulations again. This is going to be extremely important because this is a new area. As we start operations, we will find that there is need for adjustments and so the provision for making regulations which eventually will come to us.

With that, I support.

**Hon. Speaker:** Member for Endebess.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I support this Bill. It is long overdue considering that the accreditation that we have now was created through Legal Notice No. 55 of May, 2009.

Kenya is a member of the International Accreditation Forum (IAF) and an associate member of the International Laboratory Accreditation Cooperation (ILAC). This ensures that all the goods and services are of better quality to the consumers. These are the various challenges. Once it was created through a legal notice, but this Bill provides a better framework.

The legal notice does not give details of the body where we have services that will be offered through the accreditation. It also gives an opportunity for peer review which we can do through regulations and other means. It ensures that those standards are maintained continuously. We are in a dynamic world, one where technology is fast changing and with that, once we have peer review, people can look at what is new in the market. How do we ensure that this conforms? With new knowledge and advancement, people can look at it and ensure that whatever services, whether goods or technology, conform to the modern standards and trends - whether you are in Kenya or outside of the country. That is why you have to be a member of IAF. Here you share. Within the Kenya Accreditation Service, we look within our region on what it is that we can do in as far as services and goods are concerned.

So, this is a very important Bill. With those few remarks, I support. Thank you.

**Hon. Speaker:** Let us have the Hon. Member for Mwea.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Speaker. I wish you and the rest of my colleagues a happy new year. I support this Bill and agree with Hon. (Dr.) Pukose that it is long overdue. Accreditation is a very important service to this country and to all the countries that consume goods that originate from here, and those that we import from. By having a Bill that guides the way we do accreditation in this country, we are enhancing the process of accreditation to ensure that we are protected from taking goods that may not have been accredited. Recently, we as consumers have been getting increasingly worried by the way goods are getting in this country and how stamps and seals from the Kenya Bureau of Standards (KBS) find their way into those companies.

I was recently surprised to see a company in possession of many cartons of stamps and seals from KBS meant for goods that eventually find their way into our markets. It is, therefore, important that as we build on this Bill, in the future, we consider how we can have support services to support some of those services that we are discussing today. It is important that we have a special intelligence service that will work hand in hand so as to put in security and intelligence that will ensure that those bodies have a backup. This is to ensure that we do not have people who penetrate into their work and make sure that seals and stamps find their way into the streets.

So, it is important that our country has an inter-agency kind of working so that even as we have those kinds of services, they do not work alone but have that kind of backup so that they deal with those who infiltrate into their systems rendering such services useless.

The KEBS is well supported. We have invested a lot as a country, but we can never be sure. Even the water in front of us here, we are not sure if it is 100 per cent pure or cleared by KEBS, simply because people out there have infiltrated KEBS work rendering it almost useless as one may want to refer to it. Therefore, we need to create this kind of a service using a Bill and once it is passed, we ensure the subsidiary regulations are water-tight and are able to guide the way this service will be operated. That way, we will not cause fear to consumers.

By having a credible accreditation service, we will create international confidence. Our goods will get markets out there. There will no longer be fear that if you buy goods from Kenya, you cannot be sure whether they are accredited or not or, if they have passed through the right processes. This is the impression out there, because of our current weaknesses in ensuring the standards of our goods. People out there are afraid of buying our goods and that is why we end up getting low markets. The international markets are afraid of buying our goods and services.

Hon. Speaker, I support this Bill and hope as we do so, the body that will be established by this Bill will find it necessary to work with other agencies in this country. This will ensure we are protected. Intelligence will be collected to ensure that this service operates in the intended manner. I second this Bill.

**Hon. Speaker:** Were you seconding?

**Hon. Josphat Kabinga** (Mwea, JP): Sorry! I support this Bill.

**Hon. Speaker:** Hon. Dennitah Ghati.

**Hon. (Ms.) Dennitah Ghati** (Nominated, ODM): Thank you, Hon. Speaker. First, allow me to pass my happy new year greetings on behalf of myself and persons with disabilities who I represent. They have sent me to request that this year, issues disability find favour in this House.

Allow me to support the Kenya Accreditation Service Bill because it is coming at a time when, in this country, there are a lot of fake things and counterfeits flooding the Kenyan market. Fortunately enough, I had an opportunity of living in the United States of America (USA). I think Members know they have an organisation called the Food and Drugs Administration (FDA) which is a strong body that does accreditation and checks all the imports, foods and products that leave that country.

By this Bill coming at this time it is a good opportunity to ensure that, as a country, the products we export to outside countries get the credit deserved. We want to set a standard that promotes credibility of our goods. In this country, we have been told there are plastic fish being sold. We do not know whether that fish is counterfeit and yet, it finds space in this country. When you go outside the country, you are likely to find Kenyan products in American markets. You know those products belong to this country and yet, they have nothing to show that they are from this country.

To me, this is an opportunity which this country should use to establish the national accreditation service. I am happy that this Bill is going to look at that body and propose a thorough composition of the board to be established. I want to appeal and plead that the board of that body should be made up of Kenyan men and women of integrity who will ensure credibility of products exported from this country to other countries. This will also give our country credibility.

I am happy the Bill talks about the conduct and the whole entire course of accreditation. This is an extremely good Bill which is going to create a body that will provide credibility of the various products that we will export. It actually sets standards which will be recognized internationally. The same way we have a habit as Kenyans of appreciating products from other countries, I would love to see our products in the markets of Brooklyn, New York or New Jersey which the Americans will proudly use. I support this Bill and thank the Committee and the Leader of the Majority Party for bringing it before the House.

Thank you, Hon. Speaker.

**Hon. Speaker:** Dr. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker. Let me join my colleagues in supporting this Bill because it is very important to this country. We know the issue of accreditation is very important to any country. This is, more so, when you are engaged in international trade either in goods or services because it ensures you get the kind of quality which is internationally acceptable.

I think this is not the first time we are getting bodies in this country in-charge of ensuring that expected qualities are achieved. Hon. Members have mentioned KEBS, as such a body. There are also other bodies which are responsible for checking services. I think as Kenyans, we get frustrated because of not getting what is expected as consumers of goods and services. That is why that service is very important.

Look at this Bill. There are some things which are very important to note. One of them is that the Service through the board, will ensure there is quality assurance both of goods and services. That way, whatever things Kenyan consumers will be exposed to will not be harmful to their bodies. Another important issue that has been captured in this Bill is ensuring that, where standards are not met by some of the bodies that are mandated to assure quality, efforts are put in place to achieve those standards and bring improvement. This is very important. It will ensure that we do not fall short of standards in any area, either in quality assurance of goods or services.

Another important issue is the appointment of the board membership. There should be emphasis in ensuring that bodies which will nominate people to the board are registered. This will avoid issues of getting un-qualified people doing quality assurance in specific areas. The board membership is expected to have competent people who will carry out the work of that important board.

Another important issue that has been captured in this Bill is ensuring that accreditation systems are prepared, well designed and implemented. This is one area we have not done very well. Even though we talk about quality assurance, I do not know whether the expected standards are clearly stated anywhere. So, the proposed board should take up this role and ensure that expected standards are designed, approved and implemented. So, if you fall short of the standards, then you are not accredited.

Another important point is an issue I think we cannot legislate. I think the reason why we are having problems... For those who read the newspapers yesterday, it was clearly stated that Kenya is losing about Kshs8 billion worth of taxes because of counterfeit goods. When you look at that amount and what it can do in terms of services and goods in this country, it means we have a big problem in our hands. It is important that as Kenyans, even as we come up with this new service, there are areas we cannot legislate. I encourage my countrymen and women to think seriously about the issue of honesty and integrity. As a country, time has come for us to say that even though we have those bodies, there are what we call human factors which we cannot legislate on. The way we live, we need to promote honesty so that whatever we do as Kenyans, if we are put in a position of responsibility, we are honest and we have the highest level of integrity to make sure that whatever we are supposed to implement, we are not compromised. That is where we have problems. I think the existing bodies which are currently charged with quality assurance have integrity issues and we cannot legislate on those issues. So, we encourage Kenyans who are going to take up those important positions to make sure that they have the highest level of integrity so that whatever is expected and whatever is put in this law will be implemented.

With those many remarks, I support this Bill. I wish that Hon. Members will do so during the Committee of the whole House and Third Reading so that it becomes an Act of Parliament.

Thank you, Hon. Speaker, for giving me the chance.

**Hon. Speaker:** Member for Luanda.

**Hon. Christopher Omulele** (Luanda, ODM): Thank you, Hon. Speaker, for giving me this opportunity to speak to this very important Bill. For me, the purpose of this Bill is actually to bring certainty to services and products that are put out in the market in Kenya and also in the international market by manufacturers from Kenya, and also for those products that come into our country to give the consumers of such services and products certainty that those products are exactly what they are. As my brothers who have spoken before me have said, the purpose of this Bill is to give assurance that the measure, taste or efficacy of a product or service is exactly as it is stated.

This Bill has had a long time in coming before this House today. The idea about coming up with such a Bill actually was mooted around the year 2000. That is when, for the first time, the Kenya National Bureau of Standards realised that even as it undertook its role in enforcing standards and coming up with standards of measure and efficacy in this country, it also needed to have a body which could accredit its own services and laboratories within which it undertook those services. So, the Kenya National Bureau of Standards, from 2009 to this year, was actually carrying out the dual role of reassurance and setting up standards and also accrediting other bodies that wished to carry out similar services that the Kenya National Bureau of Standards was offering within the Kenyan sphere of the world. It is at that time that Legal Notice No. 164 was drafted. It is a fact today which I want to just inform my colleagues who have spoken before me; that we are not actually formatting a new body today. The Kenya Accreditation Service today exists and has been in existence from the year 2009, but it has existed as a legal body emanating from Legal Notice No. 164 of 2009. It has been operating as such from the mercy of the President. However, it is a body that exists and it has been carrying out those services. What we are doing today is basically coming up with an Act of Parliament to ground it more as a statutory body within the laws of Kenya and such, give it more strength to operate and to know that it will always be in existence.

Having said that and the purpose for which we need this Kenya Accreditation Service, I wish to add that it is important for us, as a House, to find finance for this very important service that is being offered today, and that will be offered by this statutory body that we are now creating, taking into account that, as originally founded, it was a function that was being carried out by Kenya National Bureau of Standards under the Standards Act Chapter 496 of the Laws of Kenya. Under that Act, the Kenya National Bureau of Standards was receiving finances to carry out those services. As presently constituted, that financing continues to go to the Kenya National Bureau of Standards under that Act. It will be important for this House, the Budget and Appropriations Committee and the Departmental Committee on Finance and National Planning of this House to actually unbundle those finances so that the Kenya Accreditation Service as a body can have its own finances remain with that bit of finance which they will use to carry out the work of standardisation and reassurance of standards within Kenya.

So, finances are very important for this and I will urge the Budget and Appropriations Committee and the Departmental Committee on Finance and National Planning to look into this. I am sure and confident that if those committees invite the current management of Kenya Accreditation Service as currently constituted, it should be able to give a way forward on this



together with the management of the Kenya National Bureau of Standards. This is a good Bill which I am pleased to speak to on this very first day that we are carrying out business in this House.

I support it whole-heartedly. Thank you, Hon. Speaker, for giving me the opportunity to speak to this.

**Hon. Speaker:** Member for Saku.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Speaker. I join my colleagues in wishing you a happy new year. I rise to support this Bill. In this country, we do not lack laws. I think we lack enforcement. Through this Bill, we are coming of age. We are actually identifying the gaps within our laws and within the regimes that exist in terms of enforcement of those laws.

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

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

Hon. Temporary Deputy Speaker, when I look through this Bill, all over the world, there is the problem of adulteration, substandard and counterfeit goods and services. However, having this institution, I think we will be able to tie down the monster and ensure the safety, health and conformity of our goods to international standards. According to the explanatory notes in this Bill, I can see the intent is to have a body that is competent to carry out specific conformity assessment tests. That is the intention of this particular Bill. Hon. Members who have spoken before me have said as much, but there are things that we want the Committee to really delve deeper into, particularly in the area of the board. If we allow this to go as it is, there will be a serious ambiguity. Section 7(d) says six members shall be appointed by the Cabinet Secretary. When you see how they have been picked or the areas they represent, I think we are going to be ambiguous if we allow this to slip through our fingers. Also, the Chief Executive Officer (CEO) is an ex-officio member who should be the secretary to the board whether he or she attends board meetings or not. That is likely to create a lacuna that we should look at during the Third Reading.

The good thing about this board is that it will create committees of specialised groups such as health, trade, manufacturing - both technical and otherwise. Those committees will look at the different areas of specialisation as the accreditation is given. It is an important input into the Bill. There is also the area of appeals. Through a personal or competitive process of accreditation, one company can edge out another. It is important that the appeal process has been built into the Bill.

Lastly is the area of penalties. The Bill talks about the suspension of a company that violates the established accreditation law. Rather than just talk about suspension, the Bill must go further to state the punitive penalties that the particular company should incur. We have examples of fertiliser, goods, consumer goods and recently, we had the experience of sugar. If there are no penalties subscribed in this Bill, it is likely to fall short of the intent.

With those remarks, I beg to support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Next is the Member representing the people of Ndhiwa, Hon. Martin Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you so much, Hon. Temporary Deputy Speaker. I also want to join my colleagues in supporting this Bill.

This Bill will bring safety, health, welfare and set standards for the goods that we manufacture here, improve the quality of those goods and more importantly, raise our reputation. Right now, there is a lot of chaos when it comes to accreditation of goods, certificates or degrees. As you know, there are a lot of colleges that have mushroomed, not only in our country, but also abroad, and you cannot determine if they have genuine accreditation. This body will connect with others outside to ensure that those productions are from credible institutions.

I agree with one of the Members who stated that resources are of paramount importance. Many times, we have set up institutions that can hardly operate effectively because they lack resources. Once this becomes an Act of Parliament and the board is set up, they should be given enough resources to operate fully.

There are a lot of bodies in this country, but still their performance is dismal. They are mostly involved in processes, but when it comes to action, nothing much is done because of compromises. It is important that when putting this body together, we should pay serious attention to the recruitment procedure, especially the recruitment of board members when it comes to their qualifications, integrity and also background checks. This is upon the Cabinet Secretary to conduct. If not done correctly, we will still have the same problem that we have today.

Lastly, this body will hold accountable all the bodies that are currently known as accrediting institutions. In doing that, we will have more reputable goods coming in as well as going out. It should be known that if we produce sub-standard goods, it will result in unemployment as people out there will not import our goods.

I support this Bill, but when it comes to putting together the board and the administration's infrastructure, we will have to make changes in the Third Reading.

I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you, Member for Ndhiwa. Let us have Hon. Serem Cornelly, Member for Aldai. Give him the microphone.

**Hon. Cornelly Serem** (Aldai, JP): Thank you, Hon. Temporary Deputy Speaker. Allow me to personally wish you a happy new year on my own behalf and on behalf of the people of the great constituency of Aldai.

I support this Bill. As I do so, it is also fair that I give a small history of the body that we are discussing. It is common knowledge that the Kenya Accreditation Service (KENAS) was a department in the Kenya Bureau of Standards (KEBS). It was very difficult for an institution to be compelled to conform when you are under the same roof. It is fair to have an independent institution to compel institutions to conform to set parameters of what we expect in this country.

I want to highlight the benefits of this body. First, it gives an opportunity to this country to have our goods recognised internationally. Members raised the issue of countries that have similar bodies such as the Food and Drug Administration (FDA) in the United States of America (USA). We do not want to copy and paste what the USA is doing, but it is good to benchmark with the best in the world.

An analysis of the same body shows that it will have what we call sound management systems. Talking about sound management systems, first of all, this institution will be independent. It will ensure that quality levels are met to make sure that all our customers are satisfied.

Secondly, it will prevent defects so that we do not import goods that are defective. We have many cases of items that do not meet the standards entering this country.

Thirdly, it will increase the accuracy of the parameters set in this country. If we have a body that compels other institutions to make sure that they conform to the set parameters, we will have better goods that can compete internationally. Instead of having so many bodies pretending to give their own parameters, it is better to have one body that makes sure that all of us conform to one particular parameter. It will also make it easy for exporters to do business instead of having many other bodies that require them to move their documents from point A to B in order to meet the requirements. For example, one may have to go to KEBS or KRA to get documents. It would be fair to have an institution that will ensure that all the requirements are domiciled in one place.

This Bill is important for this county. Many of us have had experience with cases of cancer and it will be better to have an institution that takes care of conformity to the set standards of the items that come into the country and those that go out, so that we can compete fairly with other players out there.

I support the Motion.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Vihiga Constituency, Hon. Kivai.

**Hon. Ernest Kivai** (Vihiga, ANC): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to support this Bill with a few reservations. I do not want to repeat what my colleagues have said about the benefits of this Bill. It is a good Bill. I have read it and it is a well thought out Bill. It is detailed and has tackled most of the issues that arose. However, I have a few reservations about this Bill. I intend to approach the responsible committee to see if we can have amendments to the Bill. For example, when you read Part III of the Bill on the proposed Clause 9(2)(d) of the Bill, it is on the establishment of an accreditation committee. It gives the details of how that committee will be set up. Of importance is that the Bill says that the committee members will be appointed by the CEO. When you go to Clause 11(2) that deals with the Appeals Committee, it is proposing that the members of the committee will also be appointed by the same CEO. There is conflict of interest here if it is the same person who will appoint members to the two committees. I will discuss this with the responsible committee to see whether we can correct it.

The other area that I find interesting - and I must admit I am not a lawyer - is in Clause 7(2) on discharging a member of the board. Clause 7(2)(d) says that a member shall be discharged if the member is convicted of an offence and is sentenced to a term of imprisonment for a period of at least six months without an option of a fine. If I may underline the last four words, does it matter whether this person has been fined or jailed? To me, that person is a criminal. Whether he is fined or jailed, he should not be a member of this committee.

The Bill has three schedules. I urge the committee to consider having more schedules that are specific to business areas like trade or medicine. They need to highlight that. Our county has a history of these problems. We had problems in the trade sector with regard to fertilizer - and my colleagues have indicated all these areas - and health. We should, therefore, have a Fourth Schedule that will clearly commit this organisation to focus on an area that we have had a history of problems. I urge the committee to point this organisation into areas where they must concentrate instead of being general. So, we should have, at least, a Fourth Schedule that will deal with these issues.

As I had said earlier, I do not want to repeat the importance of the Kenya National Accreditation Service Bill. Its advantages are immense. I hope when we come to the Third Reading of the Bill, we will harmonise it with a few amendments and pass it.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Ogesi, you will be in order to bring your proposed amendments during the Third Reading after you have approached the committee. That is the procedure of this House.

Member for Kitui west, Hon. Edith Nyenze, the Floor is yours.

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Let me take this opportunity to wish every one of us a happy new year. I stand to support the Bill. It seeks to establish an accreditation body that will be responsible for providing assessments and approvals to services and products that are provided by other bodies. It will be useful in this county because it will serve several important functions like improving services and products that are offered. The Service will ensure that there is quality and quantity control assurance of goods and services. It will also ensure that marketing of these goods and services is done properly. However, as I support the formation of the body, it is important to consider its possible challenges. For example, the body should be able to show and demonstrate cost effectiveness. It should ensure that minimum standards are set for institutions. It should ensure that institutions do not stagnate. It should not be an impediment to business. If there will be bottle necks, businesses will not prosper.

Some pioneers of the accreditation bodies carried out various studies on best practices and came up with recommendations on how to reward quality practices and how to loosen professional control, so that there is room for growth, creativity and innovation. So, this body should not be an impediment to creativity and innovation. Instead, it should encourage them. It will also be good to have consistency in the requirements and standards for validity. The accreditation body should ensure that there is high level of transparency and accountability. The body should work in collaboration with other bodies. As I had said, the body should not be an impediment to business. Sometimes, there are many standards and bottle necks for the youth who are coming up with small businesses and they are unable to do business because of the many requirements and restrictions. As this body ensures quality, it should also train the youth on the requirements, so that it will be easy to achieve the qualifications for ease of doing business.

With those few remarks, I support the Bill. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Nyeri Town, Hon. Wambugu Ngunjiri.

**Hon. Ngunjiri Wambugu** (Nyeri Town, JP): Thank you very much, Hon. Temporary Deputy Speaker. I also want to take this opportunity to wish my colleagues a happy new year as we begin this Session. I stand to support the Bill because it is trying to create a common institution that will ensure that all our vetting institutions are up to standard.

From where I stand, we have had incidences and cases of products generated from this country going out to other countries and being deemed to be of below standard quality. Unfortunately, a lot of those products are vetted by some of our existing standardisation institutions. Part of the problem is that we do not have anywhere we can go to complain or check whether the institutions that are checking standards meet the standards to do their work. The Kenya Accreditation Service Bill seeks to ensure that first and foremost, we have a consistent

standard of determining that the institutions which are vetting our products meet the expectations of the market.

The second benefit I see from this Bill is that we will go out into the international market with something that says that when you see this mark and kind of standard, then this product has passed the highest form of vetting and is of quality as per indications on its manuals. Part of the problem we have in a global market like the one we have is that our products compete with products from other countries. You can access and buy a product from any country on the internet. The problem is that we do not have a system that is internationally recognised to vet our products which are competing with others which might be of lower quality, but have an internationally recognised accreditation process. Products in the Kenyan market lose out in the global market for that single reason. By getting a national accreditation institution, we will be telling the world that our products have come of age. If you are going to buy an agricultural product or service, we will guarantee the world that particular service or product has been vetted and it meets the standards expected in the world.

Our country has some of the best technological expertise. We have some of the best service providers in terms of services and goods. What we lack is a process of legitimising the quality of our products. The institution that this Bill seeks to create will provide that particular missing link in the market so that moving forward, when I stand out and say that I offer this product, I will confirm that it is as good as any other product that is in the market.

Hon. Temporary Deputy Speaker, I support the Bill. Thank you very much.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Okuome Adipo, Member for Karachuonyo, you have the Floor.

**Hon. Adipo Okuome** (Karachuonyo, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute. Let me start by wishing my colleagues a happy new year, including you.

The Bill is very important. I must take this opportunity to say that I support it because I remember what I have been seeing in my country. Counterfeit products are imported. When we buy them, we take them home and suffer. Some of them last very few days and others become eye sores soon after. If we pass this Bill, we will have good imported products which can be of use to us.

The quality of some of the products we produce in Kenya is also wanting. Those who produce them do not think of the standards. They produce low quality products. We need to improve our standards. If we produce high quality products, we will get market all over the world. This will also increase employment opportunities in our country because our products will be on demand. I support the idea of good quality and quality production. It is very essential in our country.

I support the Bill strongly. If passed, the Bill will improve productivity in Kenya. Thank you so much, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well, Member for Karachuonyo. Member for Tinderet, Hon. Kibiwott Melly, the Floor is yours. I can see he is consulting. I will give the opportunity to the Member for Rongai, Hon. Moi Kipruto. Give him the microphone. Hon. Kipruto, is your card on? Hon. Member, you are blessed with height. Member for Rongai, can you use the next microphone, so that you can be recorded? This is a House of records. The microphone is already on. We can hear you now.

**Hon. Kipruto Moi** (Rongai, KANU): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this very important Bill. I also would like to congratulate the Departmental Committee on Trade, Industry and Cooperatives for the work that they did on this Bill. It is extremely important.

This Bill seeks to establish the Kenya Accreditation Service as a State corporation. Therefore, the functions of this Service will fall under the national Government. This is a national Government entity. The Bill recognises the Service as the sole body which is responsible for carrying out accreditation of conformity assessment bodies such as KEBS. A while ago, Hon. Serem said that the Kenya Accreditation Service has been a department of KEBS. It should be the other way round because it is the Kenya Accreditation Service that accredits KEBS. The Bill seeks to establish a system that is recognised internationally. That is extremely important because we seek to sell our goods not only locally, but also internationally. So, our systems must be recognised internationally. The Service will promote accreditation for the facilitation of trade and enhancement of health, safety, environmental protection, economic performance and the transformation of Kenya.

Hon. Temporary Deputy Speaker, the enactment of the Kenya Accreditation Service Bill will revolutionise the standards and conformity and set the stage for international recognition of products from Kenya. As has been stated, we seek to expand and promote our exports and this is the only way to do that. If the countries that we export our goods to trust the Kenyan system, then we will be able to promote our services and goods.

It will also enhance the realisation of the Big Four Agenda of the Government, particularly in manufacturing and affordable housing. Emerging global consensus demands that a nation has a singular national accreditation body to be established per country. For example, among the European Union countries, prior to 2009, there were two accreditation bodies in the UK, namely, the United Kingdom Accreditation Service (UKAS) and the Clinical Pathology Accreditation (CPA). By 2013, the CPA was absorbed by UKAS and so, the UK has one accreditation body. There is a great demand for this. We cannot have multiple agencies doing this function. Prior to 2009 also, Germany had 20 private and public accreditation bodies, but in 2009, the Germany Government amalgamated all these bodies into one legal body called DAKKS. So, establishing a sole body for this purpose is extremely important because it fulfils international obligations especially the World Trade Organisation (WTO) demands.

This Bill will in effect transition Kenya from the Kenya Accreditation Bill No.59 of 2009 into an effective organisation that can promote trade both locally and internationally for this country. That is extremely important. The sugar saga of last year occurred because no one believed the reports by KEBS. This recognition by the international system is very important for Kenya.

With those few words, I support the Motion and wish everybody a wonderful new year. Thank you very much.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you for the wishes. Hon. Members, I have two requests before I call upon the Mover to reply. Hon. Odhiambo Akoth, Member for Suba North and Hon. Yussuf Haji, Mandera West respectively.

Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity to speak. I also take this opportunity to wish Members of the House a happy new year. I have been in Parliament for a number of years and

this is the first time I have had a wonderful recess because of the “handshake”. I was not looking behind my back or in front to see who I can deal with. There is nobody to deal with. Contrary to what a lot of people think, it is one of those rare moments for politicians and a very wonderful one when there is no war. Even us, we also love peace. I only wish that the recess could have been extended a little more because we rarely get such wonderful moments. Be that as it may, we have to undertake national duties. There are issues of concern in the calendar and agenda of Parliament.

Indeed, before I get into this Bill, it is a tragedy that there are a number of women who are being killed. I hope within this week, we will discuss the women who are dying or disappearing under mysterious circumstances.

I support this Bill since it is very timely. We are in a very competitive world and unless we put ourselves in the cutting edge of competition, we will become irrelevant. Countries have become like companies. Unless you compete at an even keel with other companies, which are other countries, we may become irrelevant. Let me give an example of a time we went to Botswana and visited the Botswana Meat Commission. We went there during the 10<sup>th</sup> Parliament to learn good practices from them. I was amazed at the number of people from different countries that were visiting Botswana to learn from them because of the standards that had been set and that were being adhered to.

This body has a very difficult task ahead. It may look like it is simple, but it is not especially when we are confronted with corruption that encourages people to take shortcuts. I encourage those who will be appointed under this body that if they love this country and want to market it and set standards, then we must make sure that we do away with corruption. I was very shocked recently when I read in the *Daily Nation* Newspaper that a test had been done on fish from China and they said that the fish contained mercury yet our accreditation standard bodies were saying that the fish is fit for human consumption. In my House, we have now stopped taking fish until and unless we have an accreditation system to tell me the fish from China and that from Kenya. Until the Chinese ones are classified as okay, I will want to take the fish I am familiar with, which is from Lake Victoria. Even as I say that, people in some parts of this country like Gikomba repackage the fish, sometimes with collusion with the bodies that are accredited. That is why I have said that this body will have a very difficult task to bring order in the sector.

I encourage the committee that is working on this, for the purpose of intellectual property, to relook at Clause 7 that provides for the board of management of the Service. I know we have one representative of consumer organisations. Because consumers are most affected, I encourage them to add more representatives of consumers because we are the ones who are affected. Secondly, they could add a lawyer who has expertise in intellectual property because this is in the realm of that area. Let them add a lawyer to add value.

It is a timely and important Bill and I support it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Yussuf Haji, Member for Mandera West, you have the Floor.

**Hon. Yussuf Adan** (Mandera West, EFP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. First and foremost, I echo my colleagues by saying happy new year to all the Members. We are happy we never had casualties during the long recess.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I am sure the public will understand. We came from recess yesterday and that is why the Members are wishing one

another a happy new year. I see the Member for Taveta is in red and tomorrow is Valentine's Day.

**Hon. Yussuf Adan** (Mandera West, EFP): I am happy because to the best of my understanding, everybody is back. There was no causality during the long holidays when many people enjoyed themselves to death.

I stand to support this very important and timely Bill. Accreditation is everything in making sure that the right things are at the right place at the right time. But when accreditation is not credible, that is when we have problems. We are normally very good in putting things on paper, but when it comes to the actual implementation, maybe because of corruption and other cultures within us, we dilute the very important and nice things that we put on paper. For example, I hear that this basket called *kiondo* which was born in Central Kenya is patented by another county. Just imagine that! Everybody in his right sense knows that *kiondos* originate from Kenya. This is where it was born. If the patency is with another country, then it means that in the world market, the *kiondo* is sold by that country. Even if Kenyans wanted to sell it in the world market, they would have to sell it through the country which has patented it. This is because we have things on paper, but practically, we have problems.

Another example I can give is the commodities marketed in the international world using a certificate of origin from the Kenya National Chamber of Commerce and Industry and yet the products come from Somalia. This is to say that much as we have accreditation in place, it is not adhered to. This is a very timely Bill, but we must ensure that its implementation is done to the letter in order to bring order and relativity into the world market.

With those few remarks, I support the Bill. It is very timely.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, I now call upon the Mover of the Bill to reply.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, I thank the Members for contributing to this very important piece of legislation. The objective of this Bill, as I earlier said, is to establish an institution called the Kenya National Accreditation Service that will be internationally recognised and will have an effective accreditation system. It is important and I am sure the concerns of the Members are valid. When we place this proposed legislation to the Committee of the whole House, more amendments will be brought on board to enrich, reform and to make it better.

I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, guided by the procedures of the House, I am not in a position to put the Question to the Kenya Accreditation Service Bill (National Assembly Bill No.17 of 2018). I order that the Question be put at the most appropriate time.

*(Putting of the Question deferred)*

Next Order.



## THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the Public Finance Management (Amendment) Bill of 2017 be now read a Second Time.

This Bill has stayed in this House for too long. In fact, it was disappearing from the rolls of Bills from the Government. We have agreed with the Committee and Hon Makali Mulu, who had a lot of interest in it, that we do the Second Reading and then proceed to the Committee stage. It is a very important Bill and even part of what we are going to do here will concern county governments. So, it will end up in the Senate.

This amendment Bill to the Public Finance Management Act has one principal object, namely, to amend the Public Finance Management Act No.18 of 2012 in order to ensure the smooth implementation of the Act. These amendments are informed by the lessons learnt during the implementation of the Act at both levels of Government. So, the implementation of the PFM Act No.18 of 2012, the lessons learnt, the challenges faced, and the gaps realised has informed the Government and more so the National Treasury to come up with this amendment Bill. Whatever is being envisaged here will affect the operation of the Public Finance Management Act at both levels of the Government, namely, the county governments and the national Government. The experience that we have had demands that we amend this Act in order to facilitate an efficient and an effective service delivery to the general public. So, the proposed amendment to this Act adopts an approach to financial management. The PFM Act is mainly about prudent financial management which is focused on outputs and responsibilities, which this law is supposed to instil within the financial sector in the Government.

The amendment also introduces a broader strategy on enhancing a prudent, efficient and effective use of public resources in the public sector. That is the summary of the Bill.

Let me now go to the highlights of the various clauses for the benefit of the Members in the House. There is an amendment to Clause 3 of the Bill which proposes to amend Section 5(1) of the PFM Act in order to include Parliament in the approval process of the declaration of county government entities. So, in any declaration that will be done in as far as county entities are concerned, Parliament approval must be sought.

Further, that clause proposes to amend Section 5(4) of the PFM Act to include county executive committees in the process of making a determination if and when a county government entity ceases to be a county government entity in accordance with the Act. These amendments are made to secure public assets and ensure that county governments do not declare national Government entities as county government entities without getting the approval of Parliament. This is very clear. The county governments, through the Transition Authority, inherited assets and liabilities from the defunct municipalities, city and county councils. There was an abuse in that process. So, we are trying to bring an amendment to give Parliament the power to participate when making a determination on who owns the entities - is it the national Government or the county government? When it is the national Government, it is very clear the custodian of national Government entities is the Cabinet Secretary for the National Treasury.

Clause 5 of the Bill proposes to amend Section 10 of the Act in order to enhance the functions of the Parliamentary Budget Office (PBO) and its reporting duties. Under the proposed amendments in that section, the PBO is required to report to the relevant Speaker and committees of Parliament on any Bill that has financial implications. In addition to the existing functions

under the Act, the amendment proposes that the PBO also undertakes monitoring and evaluation of Government programmes and projects to inform the legislative budget and economic analysis, and produce the Budget Options Paper as a basis.

Under the Constitution of Kenya 2010, the Legislature, more so the National Assembly, has been given the power of budget-making. That is why the CS will introduce the Budget Policy Statement (BPS) by the end of this week. We do not want Parliament to be used as a rubberstamp. Parliament, in appropriating money to both levels of the Government, must have powers to monitor and evaluate Government programmes and projects and bring back that report to its committees and the House at large. That is why the PBO, a key department of the Legislature, is being given extra powers in that amendment, so that they can prepare what will be called the Budget Option Paper as a basis for evaluating the BPS and the annual estimates, review the county fiscal strategy papers and reports of the Controller of Budget. The powers we want to give to the PBO is to analyse the report of the Controller of Budget, the debt level and the National Debt Paper that the Cabinet Secretary of the National Treasury submits to Parliament. The PBO will analyse strategy papers that county governments use, many other sectors and even the BPS, so that Parliament is well informed of the functions that the Constitution has given it as a budget-making House.

These amendments are very technical. So, I will go slowly unlike other Bills where I would skip some items and allow Members to fill up. This Bill is a bit more complex.

Clause 8 of the Bill proposes to amend Section 7 of the principal Act, which is the PFM Act, by inserting a new subsection to prohibit procurement at both levels of Government during the three months period before a general election. Any procurement during that time may only be done with the approval of the National Treasury. You have seen that people commit public expenditure three months to general elections. An example is even with governors. They use that money to campaign. This amendment says that there will be no use of public funds three months to general elections. No procurement will be done. Procurements are done left, right and centre even two weeks to the general elections. The moment the governor loses, he takes away money. That is why we have huge pending bills, some of which cannot be verified. Some of them cannot be seen. The amendment to Section 7 of the PFM Act prohibits procurement at both levels of the Government three months before general elections. If there will be necessity, if that procurement is important and there will be an emergency, the approval of the Cabinet Secretary of the National Treasury must be sought.

Clause 11 of the Bill proposes to amend Section 38 of the principal Act to ensure that all conditional grants to county governments from the national Government and share of revenue raised nationally are included in the Budget Estimates submitted to the National Assembly by the Cabinet Secretary. This will allow Parliament to demand accountability for conditional grants from the relevant national Government accounting officers. That is very clear. I think it is a bit simple that all conditional grants to county governments from the national Government and share of revenue raised must be included in the Budget Estimates that the Cabinet Secretary will present to the House.

Clause 15 of the Bill proposes to amend Section 66 of the principal Act to include monitoring of nonfinancial performance by accounting officers of the Judiciary, Parliament, constitutional commissions and independent offices. This links financial resources to actual output achieved and provides Parliament with an accurate account. This is more for monitoring and evaluation by these agencies to Parliament. Parliament must be able to monitor and evaluate

all resources sent to the Judiciary, Parliament, constitutional office holders and independent offices.

Clause 18 of the Bill proposes to amend Section 78 of the principal Act to recognise and include other collectors of revenue other than the KRA under the public finance management framework in order to facilitate the smooth operation of Government in the collection of revenue. If there are other agencies that will play a role in the collection of revenue, this amendment gives them an opportunity to work alongside the KRA.

Clause 19 of the Bill proposes to amend Section 82(4) of the Act to restrict the power to grant waiver or variations to only the Cabinet Secretary in line with provisions of Section 77 of the Act so that nobody else in our country can grant waivers apart from the Cabinet Secretary of the National Treasury. You will agree with me that granting such powers to other persons or entities may result in arbitrary waivers and variations which will be detrimental to the people of Kenya. Restricting the power to the Cabinet Secretary allows the National Assembly adequate oversight capacity as the Constitution makes the Cabinet Secretary directly accountable to the House for his or her actions. So, this amendment makes it mandatory that nobody else, including the President, the Deputy President, other Cabinet Secretaries or any other institution, can grant waivers, for neatness and accountability purposes.

Clause 31 of the Bill proposes to amend Section 109 of the Act in order to facilitate easy operationalisation of the single treasury account by having all counties' exchequer accounts maintained at the Central Bank of Kenya (CBK). Currently, the Act allows the County Executive Committee Members (CECM) to approve opening of exchequer accounts in commercial banks. I remember this was very important. Today, as per the Act, county exchequer accounts are maintained in various commercial banks. Some of them might have issues in terms of liquidity. They might collapse. When the Chase Bank, the Imperial Bank and many other banks went under, the National Government Constituencies Development Fund (NG-CDF) money was lost. County governments' money and national Government parastatals' money was lost. This amendment is saying that all Government money, the single treasury account and the county exchequer accounts can only be maintained in an account at the CBK. It should no longer be in a commercial bank. This poses a significant risk to the cash flow requirements of a county in the event those commercial banks either collapse or are placed under statutory management as we have seen in the recent case of the Chase Bank, the Imperial Bank and the Dubai Bank. Requiring that these accounts be maintained at the CBK provides greater stability in terms of the fiscal requirements of the counties.

Clause 49 of the Bill proposes to amend Section 127 of the principal Act. This amendment will require every county government to prepare its annual cash flow projections to the Controller of Budget by 30<sup>th</sup> of April instead of 15<sup>th</sup> of June as currently provided for in this Act. This is in line with the prescribed budget cycle and will allow the relevant authority access to information in a timely way and inform their reporting to Parliament. If we do not change the date from June when they are supposed to do their cash flow projections reporting, time will lapse and Parliament will be briefed after the end of the financial year. In this amendment, we are saying that county governments must submit their annual cash flow projections to the Controller of Budget latest by 30<sup>th</sup> April every year and not 15<sup>th</sup> June every year.

Clause 42 of the Bill proposes to amend Section 131 of the Act in order to limit any change under the vote contained in the estimates provided to county assemblies, which is 10 percent of the ceiling of the vote. That is dealing with what we give to county assemblies. We

cannot just have an open-end cheque to county assemblies. This amendment says that we can only give 10 per cent of the ceiling of the amount appropriated by that county assembly.

Clause 53 of the Bill proposes to amend Section 159 of the Act in order to allow the county executive committee member for finance to vary a tax, a fee charged or imposed by the county government in line with the powers granted under Article 210 of the Constitution. This section only grants the county executive member for finance powers to waive a tax or fee or charge. So, this amendment gives the county executive member for finance extra powers. In their opinion, they can vary a tax or any fees which are charged or imposed by the county government in line with the powers which are granted to them under Article 210 of the Constitution.

Clause 66 of the Bill proposes to amend Section 193 by inserting new subsection 3, 4, and 5. So, we amend Section 193 of the principal Act and insert new Section 3, 4 and 5 which will require the public sector accounting standards board to account and report to the Cabinet Secretary. This is to ensure that the body submits the statutory and management reports on their operations. This is just to ensure that they comply with the best practices and internationally required form of accounting. This Bill is firmly anchored in Article 201 of the Constitution. It gives effect to the principles of public finance as enshrined in the Constitution. In particular, this Bill makes amendments that provide for openness, accountability and public participation in managing public finances.

These amendments also provide for a prudent and responsible management of public resources. This Bill provides for a very clear line of fiscal reporting. The passage of this Bill by this House shall assist in the operationalisation of the Public Finance Management Act of 2012 as contemplated by the Constitution of Kenya. The Act was adopted, enacted and we gave it to ourselves and our future generations.

There are a number of other amendments that we will introduce at the Committee of the whole House, but this Bill is very important in managing our resources both at the county and at the national Government levels.

With those very many remarks, I wish to request the Chair of the Departmental Committee on Finance and National Planning, Hon. Limo, to speak to this Bill, based on the public participation that the committee did in order to enrich it.

I beg to move and ask him to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Limo.

**Hon. Joseph Limo** (Kipkelion East, JP): Thank you, Hon. Temporary Deputy Speaker. As I second this important Bill, I wish all the Members of this House a happy new year. I welcome you to the new year as we start our new session. I also wish to pass a word of condolences to the people who were affected in my constituency today. There was a serious accident involving a light aircraft which I understand was from Maasai Mara and was heading to Lodwar. I understand it caused four deaths including the death of the pilot. It fell right in my constituency at a place called Baraka Farm in Kamwingi Location in Londiani. It is by God's grace that it fell on an open farm where there were no activities happening. It did not cause any fatalities or injuries to my constituents. I wish to pass a word of condolences to the families and friends of the people who were affected.

This Bill is very important. I want to thank the Leader of the Majority Party for speaking to it very well. He has given a lot of details. The Members who were listening to his explanations have heard that the purpose of this amendment to the PFM Act is to ensure that its

implementation is made easier. At the same time, it is meant to bring in county governments into the right perspective because the PFM Act of 2012 was before county governments came into place. Therefore, there are a lot of challenges in terms of implementation. This Bill is, therefore, trying to harmonise what is happening in the national Government with what is happening in county governments and bring sanity in financial management.

I wish to also thank the Office of the Speaker and that of the Clerk for the support they gave us when we were processing the Bill and during public participation. I also thank the Members of the Departmental Committee on Finance and National Planning because they put in a lot of effort into processing this Bill especially during public participation. We did public participation on this Bill and when we invited members of the public to respond, the main stakeholders who appeared before us included the Institute of Certified Public Accountants of Kenya (ICPAK). I wish to thank them because they have worked closely with the National Assembly especially on Bills that touch on finance.

We had other bodies which normally revolve around the counties, namely, the Society of the Clerks at the Table (SOCAT) in Kenya. This body brings together all county assemblies Clerks at the Table to participate on issues touching on county governments. We also had the County Assemblies Forum (CAF), which brings together all county assembly speakers. They came before us. The Council of Governors (CoG) also participated. We also had the participation of the Institute of Public Finance and our own National Treasury. During the public participation, the institutions had a lot of comments concerning the amendments which are being proposed, both in support and in opposing. As usual, what normally happens is that when an amendment affects the areas of operations of county governments, whether for the good of the country or not, people will normally want to have some sense of comfort. That means they want to maintain the *status quo*.

The Government has been moving towards having a single account so that the operations of the Government are not brought to a halt especially when finances are limited. You will find a ministry has accumulated resources in its own account yet they do not need to use those funds at that moment. Right now, you are aware that the National Treasury will release resources only if you are ready to pay and all requisitions are supported by documents which show that you are going to immediately release the money to the person you are paying.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Limo, for your planning, as per the resolution that this House passed today, you have only 15 minutes.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Speaker, because of time, I wish to say that the proposals contained in this Bill are meant to bring sanity.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Actually, you have 10 minutes because you are not replying. So, you have a balance of three minutes for your replying.

**Hon. Joseph Limo** (Kipkelion East, JP): Much appreciated for the guidance, Hon. Temporary Deputy Speaker. Most county government stakeholders who appeared before us were opposing the issue of bringing together the bank accounts. This proposal will ensure that we operate a single account at the Central Bank as opposed to what we have now where they have bank accounts in different commercial banks. At the same time, this Bill proposes to restrict overdrafts to Central Bank. Of course, they opposed this kind of arrangement, but that is how it is going to happen. Also, the proposal to involve the National Assembly in the formation of parastatals or corporations in county governments is heavily opposed by the county

governments, but it is the view of the proposal here that they should involve the National Assembly.

I do not want to go into the details. This Report will be available for Members to go through the comments, all of which are trying to propose either additional amendments or some form of the *status quo*.

In terms of the committee's position, we have come up with a raft of amendments, some of which were even proposed by the National Treasury as additional. All of them revolve around making the amendments smoother. These amendments are very important. We propose to the House to support them to ensure that our country moves forward especially in the budget-making process. This Bill also proposes to change some ways of doing our budget process. That is going to make our work and the work of the county governments smoother.

Hon. Temporary Deputy Speaker, I beg to second. I urge the House to support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Actually, as the Chairperson of the Committee, you have 30 minutes. Now you were the Secunder. I hope you are okay. We are giving 30 minutes to chairpersons because we are aware they have a lot of information and they are carrying all the resolutions of the committee. That is why the House resolved that chairpersons will have 30 minutes. Seconders of Bills usually have 10 minutes.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Members, I will give the first chance to Dr. Makali Mulu, Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Let me also add my voice to this important Bill. As I do that, I must thank Hon. Duale for the way he has moved this Bill. I was very impressed as a finance person. He did it very well.

Looking at our Constitution, public finance is given a whole chapter, namely, Chapter 12. That tells us as Kenyans how important the issue of public finance is in this country. But in terms of implementation and day-to-day operation, it is the PFM Act and regulations under the same Act that are used to implement the chapter. So, the PFM Act is very important to this country. All the amendments being proposed here are to make sure that we manage our resources better; what the Constitution calls prudent management of resources.

I have taken time to read through this Bill. I am not sure whether I will have enough time to say what I want to say, but I will try. There are some general observations on the Bill which are meant to try to edit the current Act so that we can align it with the wording in the Constitution. That is critical. There is also an attempt to provide more time where there are timelines. For example, when you are supposed to provide cash flow projections, submit annual development plans and submit monitoring reports. There is a bit of change in timelines so that departments and ministries are allowed more time to make their submissions, which I think is important.

Let me focus on the main issues in this Bill. Looking at Clause 3 of the Bill, there is the issue of creation or dissolution of new Government entities, more so county government entities. This clause is ensuring that other than the approval being done by CECM and the county assemblies, Parliament is being brought on board, being the body, which oversees national issues. That is very critical such that in addition to that approval process taking place at the

county level, there is the endorsement of Parliament that is going to ensure that we get good procedures and entities which have been subjected to thorough vetting.

Clause 5 is important because it discusses the Parliamentary Budget Office. It has added some responsibilities to it in terms of monitoring the budget. What is impressive to me is the new subsection which is demanding that now, the PBO, through the Clerk of the Assembly, can write to any department or ministry of this country and demand information to be provided in the required format. This is a good move in terms of public management of resources. This is because this House oversees all the ministries, departments and agencies (MDAs) and for us to oversee the MDAs, we need information. We only get this information through the PBO. So, if this office is required by law to get this information, then it means as a House, we will do vetting in a better manner.

In Clause 8, there is a requirement that there will be no procurement three months to the elections and specifically from the development vote either at the national or at the county level unless authorised by the National Treasury. The Auditor-General's reports that he has just released for 2016/2017 reveal that we had heavy expenditures when we were about to go for elections, which were incurred by governors at different counties. It is clearly pointing to the fact that people were looking for money to campaign. In a situation where we declare that three months to elections one cannot procure from the development vote, it is good for proper management of public resources. We need to support this clause because it is going to help this country to ensure resources are not being misdirected.

In Clause 10, in the process of preparing the Budget Policy Statement, there has been a focus only on revenue and expenditure requirements. There has been minimal mention in terms of borrowing requirements. This clause states that it will be mandatory as you prepare that important policy statement to indicate what will be the borrowing requirements as you finance your budget. This is where we have been having problems in terms of budget deficit. This will go a long way in ensuring that we get it right at the planning stage before we even go for implementation.

Clause 15 talks about general monitoring. It is said that in addition to financial monitoring, we need to bring on board the issue of monitoring non-financial issues. There has been a focus on the financial aspect, but there has been minimal talk on the outcomes as a result of that expenditure. Through this amendment, it will be a requirement that MDAs also report on outcomes which are non-financial. As the Budget and Appropriations Committee, we have been saying that this is the way to go. We have been pushing the Controller of Budget to move to this direction. Other than just telling us about figures, he should tell us what the figures are translating to in terms of outcomes, which will benefit Kenyans.

The most important parts of this Bill are Clauses 31 and 35. These talk about a single treasury account. It has been mentioned by the Chair of the Committee, Hon. Leader of the Majority Party, and if there is anything which is going to help this country in terms of prudent use of public finances, it is the introduction of single treasury accounts both at the national and county levels. Why am I saying so? You realise that anytime we talk about domestic borrowing, the Government would be borrowing from our local banks. We cannot rule out situations where the Government has borrowed its own money from some of the commercial banks, which has been deposited there by parastatals. The Government pays interest on money from the Central Bank, which it could just take and use minus paying interest. So, the introduction of the single treasury account and the enforcement of the same will ensure that the Government only borrows

money when the money that has been collected through the revenue collection system and using the Consolidated Fund is no longer there. So, you are likely to see a reduction in domestic borrowing from banks and that will affect our interest rates which will be good for the economy even as the current interest rates are pegged. This is an important amendment through the current Act.

Also, Clause 2 is talking about the use of the emergency fund. Just as you do at the national level, we have a contingency fund at the National Treasury and an emergency fund at the county level. This has been abused by governors in most counties. It is giving clear guidelines on how to use the emergency fund, how to draw the money and clarity for its purpose. So, it does not leave any room for somebody to start joking around with money because the guidelines are clear. If you misdirect the money, then you will have audit queries and this is important for this country.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Makali, I am aware of your experience and understanding on this. This is an area of your speciality. I will allow you five more minutes.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker for the additional minutes. As I said yesterday, it becomes very tricky to put the points across especially when you have done much research and you are just given 10 minutes. I have two more clauses and then I can give general comments and I close.

Clause 35 talks about overdrafts. It is saying that where MDAs and county governments have taken overdrafts from the bank, they have to declare them on the 5<sup>th</sup> day of the following month. This is very important for the management of our resources. It will ensure that we do not have county governments which have overdrawn their accounts and are not mentioning it. These are public funds and it should be stated clearly how the money has been used.

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

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

Clause 39 talks about cash flow projections. I would like the Chairman to listen to me on this matter. Initially, the law required that all the entities should submit their annual cash flow projections by 15<sup>th</sup> June every year, so that the National Treasury can work out on how they will be releasing the money. What is being proposed here is to move that time from 15<sup>th</sup> June to 30<sup>th</sup> April. This means that we are telling the expending units that by 30<sup>th</sup> April, they must give their cash flow projections which will be starting from July. We might be demanding too much in terms of time. So, I am already not convinced that we move it from 15<sup>th</sup> June to 30<sup>th</sup> April. That might be a disadvantage in terms of proper use of public resources, but it is up to you to consider as we move to the Third Reading. These are the areas that have not been taken care of and as we move forward, we might need amendments. I will work on some and consult other people to see through the amendments. One of the areas is that of the revenue collected at the county level.

We need a clear and tight law to ensure that money collected at the county level is deposited in the respective accounts. What is happening now is that some counties are collecting this money and it ends up in people's pockets. If you analyzed collection of most counties when they were municipalities or local authorities, you would realise this. They used to collect more money at that time than they are doing now. It is not that things have changed. They are



supposed to be collecting more, but money is being collected and is not being deposited into accounts.

Therefore, this is an area we need to look at and see how we can tighten it in order to avoid creating loopholes for people to play around with it. We should also look at the issue of public debt which we are all crying about it. We should look at this law and see how we can deal with it. Even if we have international benchmarks, we need to see how this can be tightened instead of leaving it and we may end up auctioning our future generation.

Another important issue is economics of cartels. This country is suffering a lot because of cartels. Therefore, this is an area we should address. I think the Chair will champion this matter so that we avoid issues where we pass budgets here and they never reach the intended purpose because of cartels.

Lastly, I must talk about the issue of non-payment of contractors. I am sure you can bear me witness. Even in your own counties there are contractors who have died because of nonpayment by county governments. We should relook at how we can ensure smooth payments to avoid killing people as a result of nonpayment.

Hon. Temporary Deputy Speaker, with those remarks, I thank you for the chance.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Shall we now have Hon. Chepkut Chirchir.

**Hon. William Chepkut** (Anaibkoi, Independent): Thank you, Hon. Temporary Deputy Speaker. This is a very important Bill. Firstly, allow me to give my heartfelt message of sorrow to families of all Kenyans who lost their lives in the Dusit terror attack. At the same time, I wish to thank His Excellency the President for taking charge in the entire operation of the Government.

The Public Finance Management (PFM) Act is very important as well as Chapter 12, Articles 6, 8, 32 and 201 of the Constitution. The Executive, Judiciary and Legislature are the three arms of Government. Members of Parliament are neither subordinates to Judiciary nor the Executive. We are all serving this Government. So, we are dealing with very key amendments to the PFM Act.

We want proper utilization and management of our resources. Members should play the oversight role in all counties. In fact, misuse of public funds in Kenya should stop. In normal circumstances the end of accounting is the beginning of auditing. Auditing is to ascertain the overview of the financial statements, whether they are making losses or profits. We should empower the Cabinet Secretary, National Treasury, to be in charge of all accounting officers. If we pass this amendment Bill, we shall attain one, prudent utilisation of our resources and two, value for our money, which is very important.

We, therefore, want an open a platform of sharing since Kenya is digital now. We want professionalism and dedication in performing our duties. I support Article 35 of the Constitution. As a House, when we pass this Bill we should conduct financial monitoring of resources allocated to counties. Counties should deposit all their revenues directly to the Kenya Revenue Authority (KRA).

Last year we passed the Value Added Tax (VAT) of eight per cent on petroleum. Therefore, the CS, National Treasury, and his Principal Secretary (PS) should urge all petrol stations in the Republic to deposit the eight per cent directly to the National Treasury so as to end the issue of misappropriation and stealing of funds.

We want accountability because it is the basis of any meaningful achievement. We shall, therefore, give the CS all the powers to manage our resources to ensure their proper utilisation. The Auditor-General when dealing with adverse, qualified or unqualified issues, should be very keen when auditing books of accounts. This should be done using digital infrastructure, not manually so that the issue of misappropriation ends.

Three months before elections, payment of procurement services should be stopped. On pending Bills, I humbly plead with His Excellency the President to take charge, because people are suffering and yet they delivered services and have not received payment. Legislatures are the operational arms of Government. Therefore, I support the PFM Act to oversee both the national Government and county governments.

In the budget-making process, we play a very key role. I want budgets to be submitted to the National Treasury according to our discussion today. County Assemblies must submit their budgets before the end of April. We should also go round the country. For example, if we went to my county, everybody would be scared. The most important thing is public appearance. Article 118 of our Constitution requires public participation of all the stakeholders. So, the most important thing is public appearance. Article 118 of our Constitution requires public participation for all stakeholders. I am happy that the Institute of Certified Public Accountants of Kenya (ICPAK) really participated a lot. We have a responsibility to our electorates that we must deliver, but at the end of the day we want value for our money. The issue of waiver and giving variation should cease. Why give variations or waivers? We want to increase revenue so that we can manage our own debts and finances. I support that we borrow locally before we go abroad. You have seen the Standard Gauge Railway (SGR). It is great. It is the greatest gift Uhuru Kenyatta has given to this country. I give my heartfelt congratulations to His Excellency the President. I am humble and loyal to him. I support him fully because he is a great man. He is one of the greatest statesmen that Kenya has been blessed with.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Chepkut, your contribution is good but time is up. I am not sure that Parliament is the operational arm of Government. You said something like that. Anyway, that is fine. We shall have Hon. Odhiambo Akoth, Member for Suba North.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to speak to the Public Finance Management (Amendment) Bill 2017. I wish to indicate that I support it but with amendments. I indicate that the PFM Act gives effect to Chapter 12 of the Constitution and enhances prudent financial management of public resources. This is one of the pieces of legislation that is supposed to help, especially with our devolved system and to ensure that even as our counties are getting more resources, they should be using the same prudently.

However, if you see the period within which the Act was passed, the counties had not come into effect. So, really it has been a learning curve. As the English say, the proof of the pudding is in the eating. I think counties have eaten literally. So, the proof is in the eating and it is up to us as Parliament to seal all the loopholes that would allow the non-prudent use of resources.

A lot of our counties have a lot of issues, including ghost projects and misuse of resources. I cannot even begin to say. A lot of people are getting disillusioned but I would want to say that it is up to us as the National Assembly, as the standard-setting body, to make sure that the country does not lose hope in devolution because it is one of the systems that is supposed to

help marginalised areas and those that have hitherto not seen development. We know that if people were to use the resources that are given to them more effectively and efficiently, then we would see progress. What I would want to discourage us from is our excitement to seal those loopholes so that we do not then violate the constitutional standards. So, I just want to urge the Committee that even as they will be sitting down and examining some of these provisions and amendments that are proposed, that they stay true to the constitutional provisions and the principles of devolution so that we do not wade into areas that are solely the responsibilities of counties.

I start by highlighting Clause 5. If you look at it, we are seeking to add the word “Parliament”. I think if we add the word “Parliament” or give Parliament a role as is proposed under Clause 5, in my view, I think even though we are well intentioned, we are defying the constitutional principle of the two separate entities – the devolved governments and the national Government.

The proposed amendment to Clause 5(4) that seeks to add the county executive committee is also very good. It is another layer of bureaucracy but which, in my view, does not violate the constitutional standards. However, I would rather that we have an added layer of bureaucracy but not add another layer which is parliamentary but which violates a constitutional provision. I just wanted to give that as an example of a standard that we can use going forward that even as we are sealing loopholes, let Senate do oversight and let Parliament provide standards that would seal the loophole, but at the same time not try to undertake roles which are not ours.

I also want to speak to the proposed amendment to Section 17 of the Act. It is a very good amendment that talks about stopping any procurement three months before any general election. I propose to the Committee that even as they are looking at this, they can propose an amendment that stops any withdrawals leave alone procurement or any activities of a financial nature in the counties when there is a proposed by-election. In Homa Bay County, people were largely expecting that we might actually have a by-election. Unfortunately, we did not have or fortunately depending on where you stand. We did not have a by-election but people were already gearing and preparing to take over. If you could see, the main driving force for the takeover was to ensure that you walk in and loot and walk out. If those loopholes are stopped so that you know that even when there is a by-election, you cannot access those resources, then the level of excitement that we saw in Homa Bay County would not have been there. This is because everybody thinks the counties are free for all. You walk in, loot and walk out. So, I encourage the Committee to look at a possible further amendment to Section 17 of the primary Act.

Section 38 is good as it ensures accountability through Parliament where there are conditional grants. I also want to speak to the proposed amendment to Section 66 of the principal Act. Even though we are saying that we are giving Parliament – when I speak of Parliament it is both the National Assembly and the Senate here - oversight roles, this one I want to speak in relation to our overall oversight roles. If you even look at the NG-CDF Act, the role of Parliament there is primarily oversight yet if you look at the funds that are put into oversight in that Act, it is nothing. I think it is Sh30,000 if you actually work out the percentage. Tell me what oversight you can do with Sh30,000. Look at the Committee that is set under the NG-CDF Act that is supposed to be undertaking oversight. That Committee has no resources for oversight. If Parliament wants to actually undertake serious oversight role, then we must give Parliament

teeth so that it can actually effectively undertake oversight both at the Senate and National Assembly level.

I will be proposing other amendments in writing to the respective committees. Otherwise, I support but with amendments. Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Next is Hon. Yussuf Haji, Member for Mandera West. That Member has clearly taken leave. The next Member on the queue is Hon. Iringo Kubai, Member for Igembe Central.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to the Public Finance Management (Amendment) Bill (National Assembly Bill No.51 of 2017). Before I proceed with the Bill, let me take this opportunity to wish you and all my colleagues in this august House a Happy New Year. I thank God that we are here in one piece to execute the mandate which our people brought us here to execute. There is a lot in store for us and we thank God that we have the energy and the ability to do the same.

Having said that, I support this amendment Bill which is pegged on Article 201 of the Constitution of Kenya, 2010 and gives strength to the financial management of this country. Even as we make these very pertinent amendments, they will need further amendments in the later stages. We need to make a concerted effort. If we are to succeed as a country, the laws which we pass should be prudently and religiously followed. We have laws which govern financial management in this country but unfortunately, we do not strictly adhere to them. Despite the fact that there are no loopholes, we create them to destroy what we have already made. As Parliament, we need to make sure that once we pass those laws, we see to it that they are followed. If anyone goes against them, the Judiciary has to follow up and ensure that those who do not follow those laws are reprimanded according to the law. We should also challenge the Executive in whatever laws we pass. Let us not use our powers arbitrarily or allow Executive orders to override what we have done in this House. These laws should bind all of us so that we walk the talk as we enact them.

When we say that there should be no procurements or withdrawals before elections, let it be seen to be done. This is where the Executive hides. This is where it hides its strength so that they can go out there and use public funds and secure their positions again or help others get to those positions.

There is also issue of waivers. There is the idea that every Cabinet Secretary and AIE holder should have their fees waived. We even have the Kenya Revenue Authority waiving some fees and the Kenya Ports Authority (KPA) officers waiving fees on some importations. This will be checked. The CS for the National Treasury should handle this because Kenya is losing a lot of revenue, especially from people who use their friends or who want their friends to gain by waiving the fees which would have gone to the Exchequer for the benefit of this country. Those balances will really help us to make sure that monies are monitored properly.

With regard to the county governments, they have heard that in this amendment Bill, they will have their take and what they will have to give out. Resources are terribly wasted in the county governments, especially the revenue collected locally. The accountability on that end has been minimal. You would find that funds which have been collected in a certain market, town or from a certain department are carried in a bag and taken to the office of the County Executive Committee Member (CEC) for Finance or even to the governor or deputy governor. That money is put in his office and is spent from there. That has been the talk. That has been the norm and it

has been happening. If all these monies which have been collected are put into the Exchequer, that is the same money which will be factored in the budget of that particular county government. It will be very easy to monitor where there are spillages. If they do not spend that money, it goes back to the Exchequer. That clause is very good. You have to prudently do your planning and budget and start using that money early enough so that when it is time for the audit, you would have no money to return. If there is any, it will go back to the Exchequer and you will be answerable to the public or the electorate on why you did not use the money yet it was there. That will help in managing funds prudently.

The CECs for finance in the county governments have also been given powers. They need those powers because there are times when some incidents arise and you have to make a decision. If this decision has to come from the National Treasury, it might be too late or it might have some other detrimental effects. Once they have been given those powers, they can waive or vary taxes according to the situation they are in. I agree that the variations are welcome because they will arise any time. Varying of tariffs is also important. You will hear of people striking because they do not have any business since they cannot pay the high fees and that business is slow. This has been considered from region to region and it is welcome.

Another amendment which I also agree with is having a centralised exchequer for our counties to manage the funds or monies received as grants or through the national Government. Apart from the fact that that maybe the bank can close, go under or other things can happen, the management of the same becomes very tedious to the National Treasury, the Exchequer and even the auditors. A very good example is in my constituency. I have put the funds of all my projects in designated banks so that my office and the Office of the National Government Constituencies Development Fund (NG-CDF) can also track all the projects wherever they are because they are in banks which are known and can be accessed.

Equally, once the Central Bank of Kenya (CBK) is tasked with that one, it will be well and good. My worry is that we have very few branches of CBK and we have 47 counties in this country. We need to have a framework whereby we will not have bottlenecks when it comes to revenues and other monies collected within the localities of the counties. An amendment will be sought so that we can have designated banks which are accredited and are known to be stable. They can be given that money for collection purposes so that we do not destabilise the counties looking for where we can take those monies.

There is the issue of the county governments and even our ministries getting money. Once they get monies for certain activities, their procurement process becomes so cumbersome until you find that some projects will take six months, 10 months or a year before they take off. Some monies spill to the following year and are lost to the National Treasury and that work is not done. We are calling for efficiency in our ministries. Our Cabinet Secretaries should be efficient enough so that once money for purposes of development or any other use has been put across to them, procurement is done faster so that we do not have projects spilling to other years.

Hon. Temporary Deputy Speaker, because of time, let me say these are good amendments. As we move on, we shall polish them further and come up with a document which will put our financial management in this country...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Before I go to the left side, shall we have Hon. Shaban?

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also add my voice to this Public Finance Management (PFM)

(Amendment) Bill No. 51 of 2017. Devolution was enacted with a bang and very quickly. This PFM Act was also enacted very quickly because we needed to operationalise the Constitution. There were too many loopholes which were created in the process. This was not done intentionally but because of the hurry we were in to put everything in place.

I do not want to overlook certain issues which are very important. This PFM (Amendment) Bill is very important in the sense that it has come at a time when we have learnt lessons. The Executive arm of Government, especially the National Treasury, has come up with this amendment Bill, so that some of these loopholes can be closed. It is not easy to close all of them in one go but what they have mentioned touches on the core of the major problems that we have. The importance of the controls that are being put in place to control the pilferage which goes on just before elections is something that needs to be underscored. Major pending bills are created. It is so sad to say that they all arise from ghost projects which are created and people think about them before the elections. It is obvious that procurement procedures are flouted right, left and centre because people do things in a hurry. Basically, all this is done because people want to get away with stealing and misusing public funds.

Our Parliamentary Budget Office has been added more responsibility. In other words, they can demand information at the time when they require it. That enhances the parliamentary oversight mandate. The main mandate of overseeing counties is executed by the Senate. This Bill will go a long way in assisting the Budget Office to get information and then release it, so that Members of Parliament from the Senate can do their work.

The other point that is of importance is the fact that overdrafts are drawn left, right and centre by the county governments. The declaration of these overdrafts by the county governments is important, so that the Budget Controller can be aware of what is going on at the county level, so that they can close in the loopholes which are created like the unnecessary overdrafts. You also need to look at the fact that in future, revenue collection must be looked at very seriously with a specific eye on looking at means and ways of improving accountability of money collected as revenue at the county level. The major contention is how this money is collected and banked. I believe that in future it will add value if the Budget Controller comes up with an idea of having a special account for collection where money cannot be withdrawn without the express authority for it to be appropriated and periodical audits to be done on funds which are collected as revenue. I want to go back in the history. When we had the local government authorities, they used to collect a lot of money. If you compare that with what is being collected by most of our county governments, it is a joke.

Hon. Temporary Deputy Speaker, with those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The next Member is Hon. Oduol Adhiambo.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill. At the outset, I would like to thank the Committee and say that I support the amendments. I do this in view of what has already been presented, particularly by the Leader of the Majority Party and Hon. (Dr.) Naomi Shaban. The operationalisation and implementation of devolution had a lot of challenges in terms of time.

When we came up with devolution, the key interest was to see ways in which we would bring services and more opportunities for those who are at the grassroots level whose voices are not heard sometimes at the policy level. This Bill does a great job of looking at where loopholes

are. It also seeks to ensure that the existing State organs such as the Senate, the National Assembly and the respective county governments are able to get this done.

As I support the Bill, I do it from the perspective that we recognise that we need to bring sanity. The Transition Authority (TA) operated within a timeframe. It was not able to separate or complete some of the most critical concerns. We were left with a lot of confusion. The Leader of the Majority Party made reference to the key concern with regard to the manner in which the assets were handled. The TA supported inheritance of assets from the national Government to the counties which was not prudent. My great concern is that the national Government had very clear systems in place. When we look at the whole idea of PFM that we are talking about, the national Government already had in place systems and a lot of officers who had been well established in terms of how business is done. The county governments did not have sufficient opportunity to model and learn from the national Government how devolved governments can be effective, accountable and transparent. The very key problem in a number of cases is that they got officers who had absolutely no experience in working in Government to come and sometimes handle serious portfolios such as finance and other related issues.

Having said that, I agree that the manner in which the Bill seeks to deal with loopholes is extremely relevant because we want to ensure prudent management of resources. We are therefore going to close all the gaps that concern overdrafts, procurement and abuse of public resources three months to elections or related to elections to ensure we deal with monitoring of non-financial issues. That, indeed, will ensure we have clarity in regard to waivers and who has authority to do that. However, I am a bit concerned that as we debate, we seem to be looking much more at the county governments. On our Budget of Kshs3.1 trillion, I have had the occasion to sit here with my senior, Hon. Bunyasi, and observed that Kshs2.7 trillion remains with the national Government. As we look at these amendments, I hope we remember the systems we want that would guarantee openness, prudent management of resources and ensure we bring an end to abuse of public resources. It is not at the county governments that only we have had these challenges.

I support the amendment Bill. When we look at the respective clauses such as Clause 38, we create functional placement to ensure that the National Assembly in its oversight role provides a clear format that enables or enhances monitoring so that when looking for information, it is presented in a manner that is helpful. I have experience from our committees that sometimes when we are looking for information from departments in the Executive, there are cases where we do not get the information in a timely manner or when we get it, we get it in a format that does not help to allow us to effectively perform and realise our role.

I support the amendment Bill. When I listened to the Chair of the Departmental Committee on Finance and National Planning, I was pleased to hear that public participation was conducted and it spanned across and not just to the clerks of all the county assemblies but included the County Assembly Forum that brings speakers, the Council of Governors, Institute of Public Finance and the National Treasury together. However, coming close to the National Assembly where we seem to be stuck with the issue of the two-thirds gender rule, my attention was drawn to Article 27 of the Constitution. We would want to ensure that we have equality and freedom from discrimination and that, in particular, women and men have the right to equal treatment including the right to equal opportunities in political, economic, cultural and societal spheres. As I looked at the bodies that seem to have had room from that perspective to participate in financial management, and looking at the disaggregation and the manner in which the voices

are represented, we seem not to have brought sufficient voices of women in what they want to indicate.

As I conclude, in terms of how we seek to address significant issues, if your voice is not in the budget or finances or in issues of financial management, there is a sense in which your voice is not present at all.

It is my view that as we look at bodies and seek to include those that are going to participate, we are encouraged to always seek to capture a holistic perspective not just of the male or men but one that includes women and when we read Article 27 of the Constitution, we do not restrict ourselves only to the two-thirds of representation in appointment to elective posts but seek to truly get the voice of all.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ali Athman, Member for Lamu East.

**Hon. Ali Sharif** (Lamu East, JP): Asante, Mhe. Spika wa Muda. Kwanza ningependa kumushukuru Mwenyezi Mungu kwa kutujalia kurudi tena hapa Bungeni kwa mwaka wa 2019 baada ya likizo ndefu.

Ningependa kuungana na wenzangu kuunga mkono mapendekezo haya ya namna fedha za umma zitadhibitiwa kiumakini na kiuangalifu. Kwa kweli, hili ni suala nyeti. Tunapolizungumzia ni lazima tulifahamu kwa namna zote. Kwanza, nataka tufahamu takribani asilimia 25 za fedha zinazopatikana kutokana na mapato ya nchi zinaelekezwa kwa serikali za kaunti. Hivyo basi kuna umuhimu wa kuwa na mwongozo kuhusiana na pesa hizi wakati Serikali inazipeana kwa kaunti.

Vile vile, tumeshuhudia mara nyingi sana nchi hii ikilalamika kuhusiana na masuala ya uchumi na matatizo mengineo. Naamini pakubwa haya yanasababishwa na hali ya kutodhibiti kile tunachopata kwa uangalifu. Asilimia 25 ambayo inaenda kwa kaunti sio pesa kidogo. Lakini utapata ya kwamba pesa hizi zinazoenda kwa kaunti, kaunti nyingi bado zinalalamika kuhusiana na miradi na maendeleo. Naamini pakubwa kwamba kama utaratibu huu ambao tuajadili hapa utaweza kutumika kiusawa, nina imani kwamba matatizo kama haya hayatashuhudiwa mbeleni. Ukweli ni kwamba nchi hii ina umuhimu mkubwa wa kuhakikisha ya kwamba fedha za umma zimedhibitiwa na zimetumika kiusawa na kiuangalifu.

Utakubaliana nami kwamba matatizo haya yanapatikana kwa wahusika wakuu wanaoendesha mwongozo kama huu ambao tunajadili hapa Bungeni. Ni matumaini yangu makubwa na nina imani kwamba kama mwongozo huu utafuatwa kikamilifu na vile unavyotakikana, basi fedha za umma zitadhibitika na matarajio makubwa ya wananchi yatapatikana.

Vile vile, mbali ya kwamba tunayazungumzia haya leo ama tunajadili marekebisho haya, ni lazima tukubali matatizo yako na ni sisi tunayasababisha kupitia serikali za kaunti ama Serikali Kuu. Utapata kwamba utaratibu huu ambao tunajadili hapa, wengine wanautumia kama sababu kwa mambo yao ya kibinafsi. Mfano ni namna serikali za kaunti zinavyotaka kutumia pesa zao. Lakini hapa katikati, hofu ni kwamba kuna baaadhi ya Wakenya ambao ni wahusika katika kutumia utaratibu huu. Wanatumia mbinu za kusikitisha badala ya kufanya mambo kiutaratibu hasa kwa kuzingatia mwongozo huu ambao tunazungumzia. Kuna miradi ambayo inahitaji kufanywa kila mwaka lakini hucheleweshwa kwa sababu ya mwongozo ambao tunaotumia. Wale ambao wanahusika katika kuendesha haya mambo... Ikiwa tunaipenda nchi hii na tunataka haya tunayozungumza yawe ni mambo ya usawa na ukweli sharti tuhakikishe



kwamba tumetembea na mwongozo huu kikamilifu. Tusilete mvutano kati ya wahusika na kaunti.

Kuna wakati pengine mkandarasi amefanya kazi yake kwa utaratibu lakini inapofika wakati wa kulipwa, kwa sababu ya vigezo hivyo ambavyo tumeweka hapa, serikali ya kaunti inasema kwamba utaratibu ndio una matatizo. Hivyo basi, mkandarasi anachelewa kupewa pesa zake kwa sababu kama hiyo. Ninaamini kwamba ni mwongozo mzuri. Wakenya wanahitaji huduma bora. Mbali na hayo, ninaamini pakubwa huduma hizi zitapakitana ikiwa kutakuwa na mwongozo kamilifu na viongozi husika wataweza kumakinika na kuhakikisha wamekubali kufuata utaratibu na sharia zilizowekwa.

Magavana tunawajua. Sifa za wengi wao zinajulikana. Siyo wote wenye sifa za kupendeza. Udhaifu upo ndani ya baadhi ya ndugu zetu. Kutokana na hali hii ambayo tunajadili sasa hivi, ni vyema kuhakikisha kwamba mwongozo huu umewekwa vikwazo vya kisheria namna inavyotakikana. Hivyo, tutahakikisha kwamba yeyote ambaye ni mhusika katika kaunti ni mhusika wa kuendeleza kaunti. Masuala ya fedha yatadhibitiwa kwa njia ya furaha kubwa. Serikali ya kitaifa yafaa kuhakikisha kwamba imepeana mwongozo kwa serikali za kaunti kuhusu matumizi ya fedha.

Tumeshuhudia mara kadhaa matatizo katika kaunti tofauti tofauti. Mimi naona yamesababishwa na hali ambayo haikuwa hapo mbeleni ya kuweka utaratibu mwafaka wa kudhibiti hizi fedha za umma.

Ninaunga mkono marekebisho haya. Nawasihi wale wahusika wote katika jambo hili wahakikishe kwamba kuna mwongozo wa kujua kwamba hizi ni fedha za umma na zinahitaji kutumiwa kwa njia ya kuwanufaisha Wakenya. Sharti kila kitu kiwe mahali pake. Wale ambao wamepewa nafasi wasigandamize wengine kwa kutumia mbinu za kusambaratisha mambo. Wasiingize maono yao ya kibinafsi.

Mhe. Spika, ningependa kukomea hapo na kuunga mkono haya marekebisho. Fedha za umma zahitaji kuangazwa kikamilifu.

Ahsante.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I stand to support the proposed amendment to the Public Finance Management (PFM) Act. It is long overdue. First of all, I note that one of the issues the amendment is trying to do is clear the inconsistencies and errors that found themselves in the principal Act. As my colleagues have stated before, probably, the Act was hurriedly put up. Not enough time was given to countercheck and ensure consistency with the various laws. This is to align it with the Constitution and have it consistent.

Secondly, I join my colleagues who have raised concerns that, probably, some of the provisions we are making in relation to county governments could be infringing the Constitution. I leave that to the judgment of the Speaker and the people conversant with that area.

I just want to mention a few issues that have caught my attention and seem progressive. One is the issue of enhancing the mandate of the Parliamentary Budget Office to ensure that, truly, the role of Parliament as a budget-making body is enshrined in the law and not to just simply rubberstamp what has come from the Executive. Of course, the requirement that they can seek information from any entity at any given time is most welcome. That is because we have had so many challenges, even at the Committee level, in getting information from the various Government agencies, ministries and the rest. It is because there has not been any strong legislative framework to compel those agencies to provide Parliament that information. Even

though there is the Access to Public Information Act, that one is general matter. Therefore, it is important we get this clause approved so that we are able to get any information from Government entities at any given time and in a timely manner to enable decision-making. I just hope the Parliamentary Budget Office will do thorough research and prepare the Budget Options Paper that we can use to compare with the BPS. Of course, it might be necessary for the Parliamentary Service Commission to look at the staff establishment, the calibre and quality or experience of members of staff in that office. That is so that they, indeed, give us credible well researched and comprehensive reports that we can use to challenge reports from the national Government.

The second issue that seems to be progressive is Clause 10 of the Bill that requires any statement about budget to require disclosure on revenue, expenditure and borrowing requirements. Many a times, this goes to the county governments, they seem to believe they should only get funds from the national Government. As my colleagues have stated before, we used to have the local authorities under the repealed Local Governments Act before devolution. They were generally self-sustaining. They would collect enough revenue and meet their daily, monthly or annual expenditures. The question that we keep asking is what has gone wrong with the current county governments. They are unable to collect adequate revenue from local sources instead of, almost literally, relying on national resources to undertake their work.

On the issue of expenditure, I hope and pray that programmes and expenditure should be clearly aligned to Government policy and the need to enhance development and expand or improve the welfare of the people of Kenya.

The issue of public debt and borrowing is one that has occupied the minds of many Kenyans. Kenyans are getting a feeling that they have over-borrowed for infrastructure and development that have long term returns but they are not able to impact on the economy immediately. Probably, the requirement that governments must disclose borrowing requirements so that Members of Parliament or Members of the County Assemblies (MCAs) can thoroughly and effectively interrogate the need of borrowing or literally discourage the executive at the national and county level where it not necessary, is good.

Another positive aspect of the amendment is in Clause 32 which has clarified how emergency funds both at the county and the national Government can be used. In the era where anything qualifies to be an emergency, it is good that the amendments have narrowed it down to matters of loss of lives, human illness or injuries, homelessness or damaged property, disruption of food or water supply or provisional shelter and disruption of provision of services including health services. In the past, we have seen quite a number of government entities who have generally taken anything to be of emergency nature whenever they have wanted to get an opportunity to loot public funds. We do believe that the passing of these amendments will tighten that arrangement so that we can avoid this wanton looting of public resources.

The issue under Clause 36 on the single treasury account, on the face of it, looks a very prudent decision and a very good arrangement. Of course, there are a few challenges that will come with that provision. One, the Central Bank does not have branches in all the 47 county headquarters. Our concern is that quite a number of programmes and projects could require cash withdrawals and cash handling. In my county of Busia, for example, the nearest Central Bank is in Kisumu. Withdrawing millions of money driving all the way from Kisumu to Busia, obviously will amount to cases of the money disappearing in between. Cases of robbery with violence are going to be very common. This is something that we need to relook at thoroughly

and look at a different way of enforcing prudent financial management. I foresee a big challenge and trouble.

Under the same Clause 36 is the issue of imprest and petty cash. Petty cash and imprest can only be banked in government controlled or cooperative owned banks. I also see a danger here. We want to expand the financial markets, we want to strengthen the performance of our banks, but if we cannot trust our banks to deposit money there, then we are going to kill them. We are going to reduce business of those banks. Of course, we have a history of collapsed banks in this country, that is a fact and all over the world that happens, but I truly believe that many at times, this can squarely be blamed on the failure by Central Bank to exercise its oversight role. Probably, in the Committee of the whole House this clause will need to be interrogated thoroughly, so that we do not incapacitate or generally kill Government operations of county governments in far flung areas where we have very minimal banking facilities.

The question of amending Section 17 of the principle Act about not procuring three months to the election date is most welcome, but must be looked at *vis a viz* the annual procurement plan and last time we passed Government Contracts Act. We need to see how we can resolve the matter. The issue of pending Bills is killing local enterprises and as a matter of urgency both the national and county governments must deal with it.

With those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Shall we have Hon. Bunyasi John, Member for Nambale.

**Hon. Sakwa Bunyasi** (Nambale, ANC): Thank you, Hon. Temporary Deputy Speaker, I rise to make just a few broad remarks on this Bill but I will be looking forward to detailed review at the Committee of the whole House because this is an extremely important Bill. The PFM Act is, of course, the anchor to our financial governance system, both in county governments and in the national government. It is critically important to ensure that public resources are well utilised.

Having said that though, when I listen in and read the comments that have been made and the way the amendments have been structured, I worry a little bit whether in fact we are not coming in as prefects to try to lean heavily particularly on the county governments rather being promoters of good governance and looking at how we can encourage creativity in a way that is within the law. We cannot make the 47 counties be images of each other. My own expectation is that devolution would enable each county to do what they can do best and grow consistent to their input and that we do not seek to equalise everybody. It does not mean that if you have a County Executive Committee Member by a particular name, everybody must have the same across the Republic. I think that level of control is unhealthy. As you listen to people talk, you would think that the only places where monies are lost and there are pending bills are the county governments. Far from the truth. We have pending bills even at the National Treasury. We have them everywhere. That is the point I am trying to make. If we come out as punitive prefects, it will not have the desired effects. It will stifle the functioning of these institutions.

We should make rules, for example which financial institutions we are to use. They must be worded in a way that says “wherever possible, wherever feasible”. My colleague from Funyula, Hon. (Dr.) Oundo Mutenyo, has mentioned that, for example, for us in Busia the nearest Central Bank office is in Kisumu. You cannot go and do banking and come out with cash from that bank. I do not know which insurance companies would cover that and yet there are banks right in town, if they do not collapse because of taking out public sectors’ business. Public

sector business is important not just for the county governments but across all financial institutions. If Government were to stop doing business with any of these financial institutions, including banks, we would have great problems.

I have a feeling that we need to recalibrate; I hope we can do some of the recalibration during the Third Reading. We are in a promotional mode and mood. We should look at these entities that need to grow sustainably, not as if they are the culprits of everything that has gone wrong, which is far from the truth.

There are a number of specific areas that have already been discussed at length. I want to reserve my input for the amendments. But I can say broadly speaking that just as we listen to the National Treasury to tell us Budget highlights in June, I think we should institute a system, and I will make suggestions to insert them here. We need to get perhaps the Auditor-General working together with the Controller of Budget to give us some idea sometime during the beginning of discussions around the BPS, sometime in February and not later than the end of March, which gives a picture of what budget implementation looked like in the previous year so that as we move into the Budget cycle we have a chance to reward those that are best using it and to deny those that do not have the capacity. For example, in the PFM Act where we are saying that we will not allow entities to procure three months before time, what we must remember is that sometimes we get into the third quarter, like we are now, and we have received only Kshs10 million of NG-CDF. I know we will use all the money—if we got all the money now, there are programmes which are waiting—but if money is going to be released as late as May, which has been the case, are we saying you do not spend it at all in the year prior to an election? But even if it is not a year prior to an election, what kind of development process do we expect to take place following rules that are consistent with the PFM Act and other financial sector rules in procurement and audit when monies are released so late? Nobody ever thinks about what that implies.

First is delayed release of funds which affects the local economies; these are very essential inputs into the local economies where we live; we do not have the luxury of a big demand centre like Nairobi and so on. Even they are hurting because we have disrupted financial flows.

Secondly, we are not paying the pending bills hence stifling the private sector. That is an extremely serious thing and I hope if this Government is interested in the growth projections that are in Agenda Four, these are some of the things that we must do on a timely basis. Public expenditures are essential and valid when they have gone through screening of the type that we are tightening now. That is how every country around the world operates.

Expenditures on defence are huge in Japan and other big economies. Similarly, we must allow our money to circulate. It does not mean that whenever money is released, it is stolen. That is a bad attitude. We think that if a person buys a big car, then he has stolen money when he is actually in business. The Ndegwa Report allowed everybody to get into business. Let us loosen up and as we do that, let us not be slow to implement the law where it is already established. It must also be promotional and it is a good thing to have a devolved government and we want more of that.

Hon. (Prof.) Oduol touched on the share of the budget that goes to counties and what remains at the centre. Kshs 2.7 trillion of this current budget would be programmed for the central Government and Kshs 4.4 trillion would go to the counties. How much of it has been released? We hear the Press highlighting how they are only spending recurrent expenditure. This is

because they do not get the development expenditure and when they do, it is too late in the day and it is unpredictable in quantum and in timing. These are the things that we need to fix and hope that in looking at this we shall put some pressure. The usual excuse is that we cannot disburse what we have not collected. We have annual projections on collections and we know what the fall-back position can be. There must be a minimum that we can release.

Lastly, we put too much attention on control of expenditure. We do not put much attention on the management of revenue collection. The Kenya Revenue Authority is safely under the umbrella of the National Treasury and so they are not exposed to the criticism and comments that we would do with other institutions and yet there are big issues there. How much of it in the management and auditing of revenue collection are we doing? This is not a case where you can send in an auditor as we do on the expenditure side once a year to run through the payments. They should be embedded in KRA. I know we have some in the customs department and this is useful.

However, I have one concern with respect to revenue collection by counties. I would expect that part of the disbursement to counties as we mature in devolution would be reward for how much money they have raised in their own counties. Let us not shroud it into excessive bureaucracy. You collect the money, must send it to Nairobi and request it in a certain way as if it was the national Government transfers. Let us find mechanisms, even including the provisions in the Bill that give incentives to the counties to do more in their own revenue collection and to broaden the spectrum in which they make decisions around the funds that they have collected. If we do that we are going to have a creative arrangement and have counties bubbling and growing at different rates as they should be because we do not have the same resource endowment in every county.

With those few remarks and as I wait to make more substantive inputs and I am really excited about it, I support the intention of the Bill and the amendments that have been made.

Thank you, Hon. Temporary Deputy Speaker

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. (Dr.) Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. This is an extremely important Bill. In my mind, it is to some extent an implementation of the Constitution in relation to devolution of PFM. In a way, it does reflect a bit of failure on our part to adhere to the Sixth Schedule of the Constitution - the transition to Devolved Government Act and Transition Authority (TA) because these are the issues which should have been looked at very carefully during that process.

It also implies that even the Intergovernmental Relations Technical Committee (IGRTC) which took over from TA has not filled the gap. Therefore, we end up in a situation whereby we are implementing constitutional arrangements through amendments in the law which would have been done properly at the beginning. So, the danger I am seeing is that if we are not careful with these amendments, we will find ourselves thoroughly restricting the counties in their financial management and operations.

Looking at many of these clauses you will find that we are trying to look at what should have been done. For example, look at Clause 3, which wants to indicate the approval of county entities and the role of the Senate in it. These are some of the things we should have looked into earlier. Clause 4 guides on how the Senate and other players are to move resources from one county to another. How is it possible that we have been having the County Allocation of Revenue Bill yet, we were unable to see how money should be moved from one county to

another? Hopefully, this is based on the needs of the counties, since it is something we are doing now.

Looking at Clause 6, it is stating that the county assemblies should request the Parliamentary Budget Office for capacity building where necessary. Looking at the TA and the Transition to Devolved Government Act, that is exactly what they should have done. Now, we are bringing this through amendments. Looking at Clause 5, it has further amended to clarify that it is only external borrowing that is limited. Again, this is an issue we should not be talking about now.

Also looking at Clause 13, you wonder how it has been. It states about ensuring that exchequer issues are reported per programme and project for effective monitoring. When exchequer is being released both at county and national level, if we do not do this, then we will have a blanket provision of money. So, the PSs will apply the money as, where and when they wish. Whereas, if you are in programme budgeting which has been going on in this country for over two years, when the money comes, it will strictly state what it is meant for.

Also Clause 6 is being amended to state the relevant entity as the one being referred to. We cannot have a law where there is so much ambiguity. Therefore, I find this Bill extremely important but we must look at it carefully. In Clause 38, the amendment further proposes to extend time to allow county governments sufficient time to prepare their annual development plans. If we had done this properly at the beginning, we would not find ourselves in this situation.

As I have said in this House before, when we come to the Division of Revenue Bill, we have no clue what is happening in the counties, while we have a lot of details of what is happening at the national Government. That is the cause of the frequent disagreements between the Senate and this House. I also like the bit that is talking about waiving. I think that is not related to counties. It is true that the ministers should be the ones to waive any taxes or fees. Obviously, that will reduce the amount of money that we lose through waivers. So, what we are finding in this Bill is that everything is being mirrored. Now we are saying what is happening in the national Government must happen in exactly the same way in each and every county. I think we have to be cautious that we may find ourselves restricting the counties a bit too much.

I support this Bill but I must say that when we come to the Committee of the whole House, we really need to look at it in detail. We will look at the large number of amendments that will actually make sure that we are in line with the Constitution and that we support the counties. We need to give them flexibility to express their own governance capacities so that various people can benefit within the counties. This will depend on the abilities of the people they elect.

With that, I do support this amendment Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Next is Hon. Waihenya Ndirangu.

**Hon. Isaac Ndirangu** (Roysambu, JP): Thank you, Hon. Temporary Deputy Speaker, for allowing me this opportunity also to contribute to this PFM (Amendment) Bill. The proposed amendment in Clause 2 proposes to allow only the Central Bank of Kenya (CBK) to issue overdrafts. The proposed amendment in Section 2 of the principal Act amends the definition of the short-term borrowing to specify that it is only the CBK that will be allowed to issue overdrafts and no other banks. This is meant to curtail the practice of the national Government

and most county governments which borrow from commercial banks for short-term cash flow management leading to unchecked exposure to interest rate risks.

We have on record the Nairobi County where in the last five years they have been borrowing from commercial banks at exaggerated interest rates. It is important to stop the county governments from borrowing without reverting to the CBK. This is because in the first place it makes the county lazy and be unable to raise its own revenues. The City County of Nairobi has a lot of resources and it is only that they do not put sufficient efforts in making sure that all their income revenue streams are active. One of the reasons that make the counties unable to raise sufficient resources is because of corruption, particularly in licencing. You will find a *mama mboga* or a *mitumba* dealer has to visit the county offices severally for weeks or months before they can be issued with an operating single permit licence to do business. This sanction that has been proposed here will make sure that the counties are able to revitalise their revenue collection systems so that they do not have to wait for the government allocations.

It is very sad that during the time of the former Town Clerk, Gakuo - and may the Lord rest his soul in eternal peace - the County of Nairobi was able to meet most of its obligations. Today, you find that nurses and doctors are on the streets every day demanding payment of their salaries. Those roles also require the counties to make sure that they seek the concurrence of the Central Bank of Kenya in determining which banks and they will borrow money from and at what rate. This is meant to make sure that the county accounts and finance department does not collude with county officials to borrow money at exaggerated rates.

In the Finance Act, we passed a law requiring counties to collect presumptive tax on behalf of the national Government of Kenya. The National Treasury needs to work very closely with the counties otherwise the national Government will not raise any sensible amounts from presumptive tax. I say so because there are a lot of delays and inconveniences when counties issue licences. The national Government is relying on the county government to levy the presumptive tax when they are issuing the single business permit. It is important that the National Treasury and the Kenya Revenue Authority work very closely with CECs of all county governments to make sure that collection of revenue in the form of single business permit is done effectively, efficiently and without undue harassment to the hawkers, operators and businesspeople.

It is important to note that in Nairobi County, there has been a lot of trader displacement. When our hawkers, groceries and *mitumba* dealers who operate from small markets by the roadsides are displaced every day, their markets are run down. Their kiosks are demolished. It means that the counties, and particularly the County of Nairobi, is killing the potential of raising enough revenues from those people. Every time the National Treasury reads the Budget, they always commend the micro-enterprises for providing employment. However, when it comes to licencing or providing sufficient spaces for the creation of markets, the County of Nairobi has not been effective. We need to tell the County of Nairobi under Governor Sonko to wake up, create markets, improve the existing ones that have been run down and recover all the land and public spaces that have been grabbed. The traders of Nairobi only need the county government to provide space. They will build canteens and stalls for themselves instead of having to wait for the county to build shades and they are only empty promises. In the last five years, the people of Gikomba have been promised state-of-the-art markets by the World Bank and Government of Kenya but for the last five years, even after all these erratic fires which occur from time to time,

the county government and the national Government have not been able to deliver on the promise of building markets for the people of Nairobi.

I support these rules, these sanctions and these provisions which will make the collection and borrowing of money by the counties be according to good financial standards and the fair deals instead of having them borrow expensive loans which are eventually misappropriated.

With those few words, I beg to support.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, you will still have time, space and opportunity to engage on this important Bill in subsequent sitting as and when the House Business Committee shall schedule this item.

Hon. Members, the time being 7.00 p.m., this House stands adjourned until Thursday, 14<sup>th</sup> February 2019 at 2.30 p.m.

The House rose at 7.00 p.m.