

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 2nd March, 2017

The House met at 4.15 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, I do not think I need to communicate that you had already passed a Procedural Motion for this sitting.

Let us proceed.

PETITIONS

Hon. Speaker: I hope everybody has a copy of the Order Paper.

Hon. Members, in the usual manner in a sitting, all the orders must be read out. In this particular sitting, I have two petitions to convey to the House.

ESTABLISHMENT OF MEDICAL SERVICES COMMISSION

One of the petitions relates to the amendment of the Constitution to provide for the establishment of a medical services commission.

Pursuant to the provisions of Standing Order No.225(2)(d), I hereby convey to the House that my Office is in receipt of a Petition from the Medical Services Consumers Association requesting the intervention of the National Assembly in amending the Constitution so as to establish a new constitutional commission to be known as the Medical Services Commission, and further transfer various specific health functions from county governments to the national Government.

The petitioners, through Mr. Eric Barare Orina, who is the Association's Chairman, premise the Petition on the grounds that the prayers sought, if granted, shall provide for the proper implementation of a citizen-based health policy countrywide; lead to the implementation of the Kenya Medical Practitioners Pharmacists and Dentists Union's Collective Bargaining Agreement (CBA) and, protect consumers of medical services, among other attendant solutions.

The Petitioners, therefore, pray that the National Assembly introduces amendments to the Constitution of Kenya 2010 by adding a new Article 237(b) to create the Medical Services Commission, amending Article 248(2) so as to recognise the proposed Medical Services Commission as one of the Constitutional Commissions of Kenya, and by amending the Fourth Schedule of the Constitution so as to transfer county health facilities and pharmacies, ambulance services and promotion of primary health care from county governments to the National Government.

Hon. Members, this Petition, therefore, stands jointly committed to the Departmental Committees on Justice and Legal Affairs and Health for consideration. The committees are requested to consider the Petition and report their findings within 60 days in accordance with Standing Order 227(2).

Thank you, Hon. Members.

THE KBC AND LONDON COURT OF INTERNATIONAL ARBITRATION

Hon. Members, pursuant to the provisions of Standing Order 225(2)(b), I hereby convey to the House that my Office is in receipt of a Petition from Apollo and Company Advocates with regard to the matter of the Kenya Broadcasting Corporation, Channel 2 Group Corporation and the London Court of International Arbitration.

Hon. Members, the petitioners seek the National Assembly's intervention on matters arising in the application of provisions relating to Article 1(1) and (2), Article 10(2)(a), Article 34(4), Article 35(1)(a) and (3), Article 37, Article 95(2), Article 119, Article 156(4) and (6) and Article 201(a) and (d) of the Constitution, and the Kenya Broadcasting Corporation Act.

This Petition, therefore, stands committed to the Departmental Committee on Justice and Legal Affairs. The Committee is requested to consider the Petition and report its findings within 60 days in accordance with Standing Order 227(2).

Thank you.

Yes, Hon. Kajuju.

ENFORCEMENT OF 50 KILOGRAMME POTATO PACKAGING RULE

Hon. (Ms.) Kajuju; Hon. Speaker, this is a public Petition by farmers in Meru county regarding the enforcement of the 50 kilogramme potato packaging rule to curb exploitation of farmers.

I, the undersigned, on behalf of concerned farmers in Meru County, draw the attention of the House to the following:

THAT, Meru County is endowed with fertile soils and ample rainfall that heralds bountiful harvest of food crops that not only feed the local population but are also transported to many parts of the country.

THAT, the livelihoods of many households in Meru County are heavily dependent on proceeds from marketing the wide range of farm produce, particularly Irish potatoes.

THAT, Meru farmers invest a lot of resources, time, labour and energy to ensure that high quality and adequate potato produce to feed the county and the nation at large.

THAT, in spite of the fact that farmers continue to labour fervently to produce Irish potatoes that are both labour and capital intensive, farmers earn meagre returns from the produce as a result of manipulation by unscrupulous potato dealers.

THAT, whereas section 42 of the Agriculture, Fisheries and Foods Authority Act, 2013 provides that the unit measurement of the weight of all produce subject to regulation by the Authority shall be the kilogramme and each single package shall not exceed 50 kilogrammes, potato dealers blatantly violate this provision meant to cushion farmers from exploitation.

THAT, farmers in Meru County are coerced by dealers to package their potatoes in extended bags popularly known as *katafour* that weigh way above the prescribed 50 kilogrammes yet the same is sold at the price of the fifty-kilogramme bag.

THAT, by selling their produce at a price incommensurate to the standard weight, farmers accrue immense losses since the returns fall far below the cost of production;

THAT, if the market is left unregulated and the prescribed unit of measurement is not enforced, the livelihoods of farmers dependent on potato farming will deteriorate due to diminishing returns.

THAT, numerous complaints raised by farmers to enforcement agencies to intervene in the matter have not borne fruit.

THAT, the matter in respect of which this Petition is made is not pending before any court of law or constitutional body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Agriculture, Livestock and Co-operatives:

- (i) Intervenes through the Ministry of Agriculture, Livestock and Fisheries to cause investigations into the alleged violation of the provisions of Section 42 of the Agriculture, Fisheries and Foods Authority Act, 2013 related to the unit of measurement.
- (ii) Intervenes in liaison with relevant Government Ministries and agencies to ensure that enforcement of the law is carried on standard measurements so as to protect farmers from exploitation.
- (iii) Makes any other order and or direction that it deems fit in the circumstances of the case.

Thank you, Hon. Speaker.

BILL

STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

Hon. Speaker: Hon. Members, as you are all aware, you concluded debate on this Motion. What remains is for me to put the Question, which I hereby do.

(Question put and agreed to)

Hon. A.B. Duale: Hon. Speaker, I beg move that the Statute Law (Miscellaneous Amendments) Bill, National Assembly Bill No.45 of 2016, be now read a Third Time. I request Hon. Chepkong'a to second.

Hon. Speaker: Hon. Chepkong'a.

Hon. Chepkong'a: I second.

(Question proposed)

Hon. Speaker: I put the Question having confirmed that, of course, there is quorum.

(Question put and agreed to)

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

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD OF
SUPPLEMENTARY APPROPRIATION BILL

Hon. Speaker: The Leader of the Majority Party, you have the Floor.

Hon. A. B. Duale: Hon. Speaker, I beg to move the following Procedural Motion:

THAT, notwithstanding the provisions of Standing Order No.120, this House resolves to reduce the publication period of the Supplementary Appropriation Bill, National Assembly Bill No.9 of 2017 from seven days to one day.

The reasons are very clear. That is why we are, as per the Standing Orders, dealing with all the three stages.

I ask Hon. Jakoyo to second.

Hon Midiwo: Hon. Speaker, I beg to second. In seconding, I want to beg the House just to give us a few minutes because members are walking out. We beg you to give us ten minutes and we will be done with this very important Bill.

(Hon. (Ms.) F.I. Ali entered the Chamber)

Hon. Speaker: Hon. Fatuma is today really mobile. At some point, she was assuming the position of the Leader of Majority Party.

(Question proposed)

Hon. Members: Put the Question!

Hon. Speaker: Is it the desire of the House?

Hon. Members: Yes!

(Question put and agreed to)

BILL

First Reading

THE SUPPLEMENTARY APPROPRIATION BILL

*(Order for First Reading read – Read the First Time - Ordered to
be read the Second Time today by leave of the House)*

Second Reading

THE SUPPLEMENTARY APPROPRIATION BILL

Hon. Speaker: Let us have Hon. Mutava Musyimi, the Chairman of the Budget and Appropriations Committee.

Hon. Musyimi: I thank you, Hon. Speaker. I beg to move:

THAT, the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2017) be now read a Second Time.

After the approval of the Supplementary Estimates by the National Assembly, the Budget and Appropriations Committee is charged with the responsibility of introducing this Bill in this House and pursuant to the relevant appropriations in the Constitution and in the statutes.

The Appropriation Bill 2017 on Estimates of revenue expenditure proposes to permit the National Treasury to issue Kshs46,203,258,085 from the Consolidated Fund services and apply various increments and reductions on the Appropriations-in-Aid.

This matter has been variously debated and addressed comprehensively by this honourable House. I am satisfied that the relevant points for and against have been made on this matter.

It is now my pleasure to move that this Bill be read a Second Time and suggest that Hon. Sakuda seconds.

Hon. ole Sakuda: Hon. Speaker, I second.

(Question proposed)

Hon. Speaker: Yes, Hon. Gichigi.

Hon. Gichigi: Thank you, Hon. Speaker. I rise to support this Bill. As has been indicated, we raised various relevant and pertinent issues yesterday on this Bill. I only hope that when this money reaches various Government agencies that are supposed to spend it, they should do so wisely, economically and without any wastage. They should also do it expeditiously so that we do not have the issue of absorption at the end of the financial year. That way, Kenyans will receive the services that they elected this Government to render.

I support.

Hon. Speaker: Hon. Wamunyinyi, you have the Floor.

Hon. Wamunyinyi: Thank you, Hon. Speaker for giving me a chance to make a brief contribution on this Bill. We all understand the importance of the Bill before the House. Because of the timing and what we have before the House, I would like to say that I support it and appeal for quick passage.

Hon. Speaker: Let us now hear Hon. (Dr.) Pukose.

Hon. (Dr.) Pukose: Hon. Speaker, considering that this Bill has been debated exhaustively by the House, I request that the Mover be called upon to reply.

Hon. Speaker: Hon. Members, Hon. Pukose remembers that the Members debated the Supplementary Estimates. This Bill merely actualises what the House passed in the Supplementary Estimates. I better put the Question.

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

Mover!

Hon. Musyimi: Much obliged. I want to thank Hon. Members for their very positive engagement. Perhaps just to make one point that I made yesterday, if the Cabinet Secretary (CS) for Health was a member in this honourable House, the strike that has taken forever would not have taken that long.

I beg to suggest that when we bring our report as a Committee on the socio-economic audit, Members of this House will be seized of the matter and know that we carry huge responsibilities as the National Assembly.

I want to thank these Members for their input to this Report. I look forward to their further input when we come back to debate the socio-economic audit.

I thank you and ask Hon. Sakuda to second.

Hon. ole Sakuda seconded.

Hon. Speaker: Hon. Members, the Mover having replied, what remains is for me to put the Question.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House today by leave of the House)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Hon. Cheboi) took the Chair]*

THE SUPPLEMENTARY APPROPRIATION BILL

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, this will be a fairly quick one. So, be very attentive.

(Clauses 2, 3, 4 and 5 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): I want to give a chance to a few Members.

Hon. Members: Put the Question!

(First Schedule agreed to)

(Second Schedule agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): I must commend Members for being very vigorous in their response.

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, we have come to the end of the Supplementary Appropriation Bill. I will call upon the Mover to move reporting.

Hon. Musyimi: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2017), and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

Hon. Cheboi: Hon. Speaker, I beg to report that a Committee of the whole House has considered the Supplementary Appropriation Bill (National Assembly Bill No. 9 of 2017) and approved the same without amendment.

Hon. Musyimi: Hon. Speaker, I beg to move that the House doth agree with the Committee in the said Report. I want to request Hon. ole Sakuda to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. ole Sakuda: I second.

(Question proposed)

(Question put and agreed to)

Hon. Musyimi: Hon. Speaker, I beg to move that the Supplementary Appropriation Bill (National Assembly Bill No.9 of 2017) be now read the Third Time.

I want to request Hon. ole Sakuda to second.

Hon. ole Sakuda: I second.

(Question proposed)

(Question put and agreed to)

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

MOTIONS

ADOPTION OF REPORT ON OWNERSHIP OF MOMBASA CEMENT LAND

(Hon. Kihagi on 1.12.2016)

(Resumption of Debate interrupted on 1.12.2016)

Hon. ole Sakuda: Hon. Speaker, I beg to reply. On behalf of the Committee, it is our humble prayer that as this Report moves to the next stage of implementation, it will not stay for long like it has. I hope that it will be implemented as soon as possible.

(Hon. (Dr.) Nyikal stood next to Hon. (Ms.) Odhiambo-Mabona)

Hon. Speaker: Hon. (Ms.) Millie Odhiambo, please, move to the next seat so that Hon. Nyikal can sit next to you. That will be better than standing next to her.

(Question put and agreed to)

ADOPTION OF REPORT ON IMPLEMENTATION OF DEVOLUTION

(Hon. Baiya on 28.2.2017)

(Resumption of Debate interrupted on 28.2.2017)

Hon. Speaker: Hon. Irungu Kang'ata was seconding and since he is not in the Chamber, I will proceed to propose the Question.

(Question proposed)

Hon. Speaker: Before we proceed, I want to recognise students and from Tharaka University and College Student Association from Chuka/Igambang'ombe Constituency, Tharaka Nithi County. You are welcome to observe the proceedings of the National Assembly.

I have a request from Hon. Johana Ngeno.

An. Hon. Member: He is not in the House.

Hon. Speaker: Hon. Members, the Mover is not even here to reply. I, therefore, drop that business.

(Motion dropped)

Hon. Speaker: Let us have the Chairperson of the Departmental Committee on Defence and Foreign Relations, Hon. Gethenji, who is the Member for Tetu.

ADOPTION OF REPORT ON MARRAKESH TREATY

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled, laid on the Table of the House on Thursday, December 1, 2016, and pursuant to Section 8 of the Treaty Making and Ratification Act, approves the

ratification of the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled.
The Member not being present and nobody to move the Report, the business is dropped.

(Motion dropped)

Let us move on to the next Order.

ADOPTION OF REPORT ON DUTY FREE SHOPS

Hon. Speaker: Let us have the Chairperson of the Public Investments Committee (PIC), who is also the Member for Eldas, Hon. Aden Keynan Wehlye. The Chairperson not being in the House and there being no other member willing to move---

Hon. Wamunyinyi, do you desire to move the Report?

Hon. Wamunyinyi: Hon. Speaker, the Chairman of PIC, Hon. Keynan, who is also a member of the Parliamentary Service Commission (PSC), is involved in another meeting. But he will be joining us shortly. If you allow me, I can move the Report.

Hon. Speaker: Well, if you feel sufficiently equipped and being a ranking member of that Committee---

Hon. Wamunyinyi: Yes, I am a member.

Hon. Speaker: You are not just a member! You are a ranking member. Proceed, Hon. Athanas Misiko Wafula Wamunyinyi.

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

THAT, this House adopts the Special Report of the Public Investments Committee on Kenya Airports Authority Duty Free Shops contracts at Jomo Kenyatta and Moi International Airports - 1989 to 2015 - laid on the Table of the House on Tuesday, December 1, 2015.

Hon. Speaker, thank you very much for giving me this opportunity to move this Report. As you are aware, PIC is a Standing Committee established pursuant to Standing Order No.206 and is responsible for the examination of the workings of the investments. The Committee is mandated to examine the reports and accounts of public investments and reports, if any, of the Auditor-General on public investments.

The Committee also examines the context of autonomy and efficiency of the public investments with a view to establish whether the affairs of the public investments are being managed in accordance with sound financial business principles and prudent commercial practices.

I will give a brief background of the inquiry into the particular case. The establishment of the Kenya Airports Authority (KAA) was in 1991 under the Kenya Airports Authority Act Chapter 395 of the Laws of Kenya. It is charged with the umbrella responsibility of providing and managing a coordinated system of airports in the country.

KAA's main functions include administration, control and management of aerodromes; to provide and maintain facilities necessary for efficient operations of aircrafts to provide rescue and fire-fighting equipment and services. It also constructs, operates and maintains aerodromes and other related activities as well as constructing and maintaining aerodromes on an agency basis on the request of any government department.

KAA is also charged with the responsibility of providing such amenities or facilities for passengers and other persons making use of services or facilities provided by the Authority as may appear necessary or desirable to the board.

Finally, it approves the establishment of private airstrips and control of operations thereof.

KAA manages four international airports namely Jomo Kenyatta International Airport, Moi International Airport, Eldoret International Airport and Kisumu International Airport. The Authority also manages four other domestic airports namely Wilson Airport, Malindi Airport, Lokichoggio Airport and Wajir Airport. It also manages two airstrips namely Ukunda and Manda. The Authority is also in the process of upgrading airstrips in various parts of the country.

Currently, Jomo Kenyatta International Airport is the largest airport in East and Central Africa. It also serves as the hub for the region. Due to the growth of traffic at the airport, KAA embarked on an ambitious facility expansion and improved programme geared at expanding and improving the airport infrastructure with the aim of positioning it as a major aviation hub in the continent. This includes the development of Jomo Kenyatta International Airport Terminal 1A which culminated in the tender for the development and management of duty free master concessionaires.

Following the reports on alleged malpractices in the award of the tender for the development and management of duty free master concessionaires, the Committee in its sitting held on 26th February, 2015 resolved to inquire into the matter pursuant to Standing Order 206. To develop an understanding and contextualisation of duty free contracts, it required the Committee to undertake some historic trace of duty free shops concessions signed by KAA. To this end, the Committee resolved to not only inquire into KAA's tender for development and operations of duty free shops under a single master licence at the Jomo Kenyatta International Airport Terminal 4, Tender No. KAA/193/2003/2004--- It was also to trace the genesis of duty free contracts from 1989 to date.

The Committee specifically sought to inquire into the following matters as they relate to the duty free shops contract at the Jomo Kenyatta International Airport. That was termination of the 1989 duty free shops contract between the Government of Kenya (KAA) and World Duty Free. The Committee also inquired into negotiations for settlement with KAA following the eviction of the World Duty Free from the KAA premises in July, 2013 and the current status of compensation to World Duty Free shops following the August, 2013 eviction. The subsequent 16th September, 2013 press release at the Ministry of Transport and Infrastructure headquarters; the current status of all the pending court cases between KAA and the World Duty Free and finally, procurement process for the tender for the development and management of duty free retail master concessionaires at the Jomo Kenyatta International Airport.

A number of meetings were held in the normal way as we undertook our operations as a Committee. The Committee conducted a number of meetings between February and December 2015. It held 16 sittings to receive and examine both oral and written submissions from 11 witnesses who appeared as mentioned in this Report. Some of these witnesses included the leadership of KAA including the Managing Director and the Council, the Ministry of Transport and Infrastructure, the Director-General and the World Duty Free Shops. The records of evidence and adduced documents received by the Committee which form the basis of the Committee's observations and findings as well as recommendations are outlined in the Report and can be found in Parliament Library.

From April, 1989 to 2013, major operators of Duty Free Shops at the Jomo Kenyatta International Airport and Moi International Airport were Diplomatic Duty Free Limited and its closely related entity, World Duty Free Company Limited, which trades as Kenya Duty Free Complex Limited.

It is closely related to the Duty-Free Company Limited which trades as the Kenya Duty-Free Complex Limited. The basis of this operation was an agreement entered into on 27th April 1989 between the Government of Kenya and the House of Perfume. The agreement heavily favoured the House of Perfume by giving it exclusive rights to operate duty free---

(Hon. Wamunyinyi's microphone was switched off)

Hon. Speaker: Give him the microphone. He is moving. He is not bound by the ten minutes rule.

Hon. Wamunyinyi: Thank you, Hon. Speaker once again. The agreement that was signed between the Kenya Government and the World Duty Free Shops heavily favoured the House of Perfume in respect of the 3,000 square metres of duty free space at the Jomo Kenyatta International Airport and 2000 square metres of duty free premises at the Moi International Airport for a term of ten years, which was renewable upon expiry. Some of the features, for the benefit of the Members, were as follows:

1. The House of Perfume would have the exclusive right to operate duty free facilities at the premises and at any other premises which could be designated as an airport in future.
2. No other person or firm would operate a duty-free facility in an airport unless the House of Perfume gave its consent.

You can see that kind of loop-sided provision in an agreement which affected the Kenya Airports Authority and Kenyans at large. The House of Perfume was entitled to import without restriction or payment of duty or sales tax for all products which, it, or any of its subsidiaries and sub-tenants, would sell at duty free facilities.

Since KAA had not been established as a statutory body, the agreement was executed by the Permanent Secretary in the Office of the President and counter-signed by the Permanent Secretary, the National Treasury, and every effort was expended to try and show that the agreement was legitimate.

However, numerous public officers raised concerns regarding these agreements. As you would notice from what I explained earlier, it heavily favoured the House of Perfume. It raised a lot of concern from different departments of the Government and in a letter dated 28th April 1989, the Director of Aerodromes wrote to the Permanent Secretary for Internal Security questioning the wisdom in granting exclusive rights to the House of Perfume. Again, on 29th January 1990, the Director wrote to the PS, Ministry of Internal Security, raising concerns about why the House of Perfume was operating in restricted areas with exclusive rights and stated that being allowed to operate in restricted areas elicited fears of security nature.

In another letter dated 19th February 1990, the board of airlines representatives wrote to the Minister of State, Office of the President, to express grave concern regarding activities of the House of Perfume. On 24th June, 1993, the Attorney- General wrote to the then Head of Public Service as follows:

“Having carefully studied the matter, I have no evidence on record that the Attorney-General did certify in writing that the execution of the agreement on

behalf of the Government was done in accordance with the laws of Kenya. The agreement was not vetted by the office, at least, from the records that I have, prior to execution from a legal point of view. Therefore, all the conditions precedent to the effectiveness of the agreement were not met. The legal effect is that the agreement never came into force at all. Neither party can, therefore, rely on it to justify any action and/or omission”.

The Attorney-General was never consulted. Nobody sought legal advice before this agreement was signed as is usually the case. That tells you that there was, in fact, some conspiracy between quite a number of people to exploit the situation and enter into an agreement that was loop-sided and favoured foreigners.

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

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

On the 15th August 1996, the Monopolies and Prices Commission emphatically stated that the agreement was not only unwise, but was also illegal for contravening the Restrictive Trade Practises, Monopolies and Practises Control Act. From the foregoing, it is evident that numerous persons were concerned about the 1989 agreement. The House of Perfumes was a trading name used by the World Duty Free shops, which was the contracted company. World Duty Free is a company registered in the Isle of Man with the following as shareholders: Nazzir Ibrahim Ali and Dinki International, SA, a South African Company, owned by Nazzir Ibrahim Ali and his wife. The two owned the two companies that owned the House of Perfumes that has rights to operate at the Jomo Kenyatta Airport and any other person or trader coming in will only go through that company.

Mr. Kamlesh Pattni claimed that he had purchased all the shares in the World Duty Free Shops registered in the Isle of Man and that he was consequently the owner of the company. Mr. Nazzir Ibrahim Ali denied having sold any shares to Kamlesh Pattni. The two protagonists engaged in, perhaps, the most acrimonious dispute at that time culminating in the expulsion of Nazzir Ibrahim from Kenya. All of us remember what Kamlesh Pattni was capable of. Arising from the dispute, Mr. Nazzir was expelled from Kenya. Having had his rival expelled from Kenya, Mr. Kamlesh Pattni became the sole proprietor in this litigation. Kamlesh Pattni obtained the judgement to the effect that he was the owner of the shares in the World Duty Free Company.

Despite the foregoing legal victory, Mr. Pattni had to have ownership of the shares changed at the Companies Registry in the Isle of Man. The courts in the Isle of Man refused to give evidence to the Kenyan High Court judgement. Mr. Pattni then went to the British Virgin Islands and registered a company under the name of the World Duty Free, hence two different companies now exist in the name of the World Duty Free. The company which the Government of Kenya entered into an agreement with in 1999 was the World Duty Free Shops registered in the Isle of Man.

Mr Ali later took Mr Kamlesh Pattni to the International Convention for Settlement of Investment Disputes. Mr. Ali, in his submissions, confessed that he was granted the contract

through bribery to the Head of State in this country. This led to Mr. Ali losing the arbitration since the contract was executed fraudulently.

Having declared that he was the owner of the World Duty Free (WDF), registered in the Isle of Man, Mr Pattni after having traded as the owner of WDF Ltd for a period of time, requested that the leases be transferred to the Diplomatic Duty Free, a locally incorporated company and approximately 92 per cent of space which was occupied by the WDF was transferred to the Diplomatic Duty Free.

A number of leases expired on 31st March 2013 while the remainders expired on 31st July 2013. It had been a tradition that towards the expiry of leases, Mr Kamlesh Pattni would rush to court at the last moment and obtain *ex parte* orders, which would subsequently extend his stay at the shops. You can see this involved even tricks and ensuring that the leases do not come to an end.

The KAA appointed a team to discuss with the WDF the issue of expired leases, renewal thereof, if any, and related matters. This method of engagement is recommended in procurement law and practice. The KAA offered to relocate the bonded warehouse to the cargo village at the JKIA and the WDF was also requested to relinquish some premises. The WDF had in excess of 70 per cent of duty free space at the JKIA. Therefore, it was a monopoly. They held nearly the entire space at the JKIA and the Moi International Airport (MIA). The KAA, in addition, requested WDF to release the lounges to KQ, so that KQ could use them in their operations. Nairobi is possibly the only hub where for a long time, the local national airline had no lounge at the departure area of the airport, yet it is the airline's business to take care of their passengers.

Therefore, the KAA pushed the WDF to release some of the space which could be used by KQ for lounges to take care of the passengers going through the airport.

Despite the need to resolve the matters, WDF was not willing to release any of the shopping space which had been requested. Indeed, KAA's request to operate transparently as expected in the new dispensation was ignored by the WDF. The issue of renewal of leases was, therefore, not concluded at that time. This was not concluded because it was quite clear the WDF was not keen to have the matter resolved as this would interfere with their livelihoods as they were going to lose space at the airport.

On the repossession of the duty free shops at the JKIA, KAA had, despite all the provocations, refrained from repossessing the shops whose leases expired on 31st March 2013. The KAA hoped that the WDF would appreciate the need for honest and transparent conduct of business, so that holistic agreement could be reached. When the second batch of leases expired on 31st July 2013 - about four months later - it became quite clear that the WDF was not keen to have a transparent renewal process. This made it necessary for the Authority to repossess the premises. This was the beginning of trouble.

In a bid to minimise losses, KAA carefully removed all the items that belonged to the WDF Shop and packed them at various venues, in trucks and they later removed them to their storage facilities. The eviction process involved KAA personnel, the police, Customs officers, immigration and labourers employed for that purpose. The immediate achievement of the exercise was as follows: creating new passenger areas and comfort, creating departure gate and space for the national carrier (KQ), removing the bonded warehouse next to the old crew gate at Unit 1, which has created space for connection between Terminal 4 and Unit 1, and the construction of the arrival hall for Terminal 4. The two airline lounges at Gates 6 and 11 were repossessed by the KAA.

Operation of airport lounges is part of KAA's core business. Therefore, these have been restored and they paved way for KAA to engage in procurement processes of new duty free master concessionaires.

I have given some detailed background from when the WDF shops were established at our airports, the kinds of agreements that were entered into that heavily favoured them and the companies we dealt with that were registered at the Isle of Man by foreigners showing how the locals were not involved. Obviously, we know how locals could have been involved in this.

Having given this background following our deliberations, the Committee made the following findings and observations:

1. The International Centre for Settlement of Investment Disputes based in Washington, DC, found the lease agreement entered into between the Kenya Government and the WDF in 1989 to be shrouded in bribery allegations and, therefore, had no force of law, hence was declared null and void.
2. The KAA management purposefully designed and signed a flawed contract document with contentious clauses and it took the intervention of the CS, Ministry of Transport, to force a revision of clauses, which has led to the signing of the new agreement. The subsequent action taken by the management of amending the agreement has addressed the clauses which were in dispute or in question.
3. If the financial proposals for the tender KAA/193/2013-2014 were evaluated independently from the technical proposals, then KAA would have earned minimum yearly guaranteed concession fees of US\$626,000, approximately Kshs63.8 million.

You can appreciate the kind of money we are talking about. If it was today, we would be talking of billions of shillings. Indeed, that is the price difference between the highest yearly guaranteed concession bid of US\$4.1 million, that is approximately Kshs420 million per year, and the yearly guaranteed concession bid price of US\$3.5million per year by the Duty Free International AG, which was awarded the contract.

4. The Tender Evaluation Committee erred in considering a mandatory requirement, a minor deviation contrary to Section 64(1) of the Public Procurement and Disposal Act 2005, which states that a tender is responsive if it conforms to all the mandatory requirements in the tender documents.
5. The Committee observed that the KAA has never bothered to make provisions for the contingent liabilities of Kshs10.5 billion arising from the arbitral and High Court awards and professional legal fees arising, raising doubts as to the accuracy of its audited financial statements and putting KAA assets at risk of auction should the claims be affected.
6. The KAA and World Duty Free Shops have not filed consent in courts to set aside the arbitral awards made by the Hon. Justice Retired Toqbo. This obviously exposes the KAA and the tax payers' funds to a contingent liability of close to US\$ 49 million, approximately Kshs5 billion without interest.
7. The Committee observed that the sole intention of the World Duty Free Shops was to perpetually retain all the spaces at the airport, at the duty free area at the Jomo Kenyatta and Moi international airports, either in the name of World Duty Free or through other associated companies with different names. They had many names.

The Committee further observed that Eng. Michael Kamau, the former Cabinet Secretary (CS) in the Ministry of Transport and Infrastructure, on the 16th September 2013, held a highly publicised press conference jointly with the World Duty Free Shops officials categorically

stating that all court cases filed by the World Duty Free and its associates or subsidiary companies against the KAA by the World Duty Free Shops had been withdrawn.

However, Eng. Kamau did not table anything to show before the Committee that the cases had been withdrawn. So, during the taking of evidence, we established that there was nothing to show that the matter had been resolved as publicised by the then CS. Further, Eng. Kamau did not follow through to ensure that his public pronouncements on the 16th September 2013 were fully implemented and a deed of settlement entered into to protect public interest. This has led to an exposure of public funds of not less than Kshs17 billion arising from court awards that were made by judges during the hearing of the cases.

Notwithstanding that fact, there were other costs that were incurred by the KAA, including management and legal fees and other matters related to the case. The damages that arose from the process of forceful eviction were a huge cost that the Kenyan public had to settle.

The Committee observed that the deed settlement agreement between the KAA and the World Duty Free was never concluded in full because neither of the parties fulfilled the pre-conditions to meet their part of the bargain and this has contributed to the current stalemate. The Committee further observed that currently, Terminal 1A space is in use by the World Duty Free, Susan Duty Free, Duty Free International AG or other local duty free operator. However, despite the ongoing court cases, the spaces at Terminal 1 have been allocated to another company namely Meyer Duty Free limited on the pretext of temporary license which expired on September 2014 and renewed under unclear circumstances. This was extended without following the due process. This suggests that we are likely to experience further disputes even in the future with the current users of the space at the airport.

The Committee also observed that the allocation of space to Meyer Duty Free Limited in Terminal 1A, which is the subject of the Committee inquiry, seems to have been undertaken in total disregard of the procurement laws and procedures. No procedures were followed as required by law and, therefore, this was also illegal. The external legal team headed by Mr. Fred Ngatia hired by the KAA to help resolve the WDF cases, has not fully achieved the intended objectives in terms of resolving the cases, but instead, slapped the KAA with a hefty legal fee note of approximately Kshs350 million. The KAA has to pay the legal fees yet it has not realised anything out of that representation.

Mr. Fred Ngatia did not act in the best interest of his client, the KAA, in his representation of the same on the duty free cases. Despite numerous resolutions, he failed to advise the KAA to take the matter on the determination of the validity of the 1989 issue of lease agreement to court and instead advised that the international court had already determined the matter. He devised a strategy of forceful eviction of the World Duty Free from the airport and did not even follow through to ensure that the deed of settlement is registered in court. The consequence is that the World Duty Free has not withdrawn the case in court. Through his advice, KAA and the public stands to lose not less than Kshs7 billion. This is legal advice that misguided the KAA. It has exposed the Kenyan public and the taxpayer to a liability to the tune of Kshs10 billion.

The Committee also observed that one Lucy Mbugua, the then Chief Executive Officer (CEO) of the KAA, failed in her duty to effectively manage the external professional legal team that KAA had hired. Instead, she resorted to accusations upon the Legal Counsel, Mr. Fred Ngatia, for not co-operating with his client, the KAA, in the matter of settlement with the World Duty Free Shops.

The Committee further observed that Eng. Stephen Gichuki, the then CEO, presided over the hurried, forcible eviction of the World Duty Free from the JKIA at night using hired goons, without taking due consideration of the legal and financial implications of the action of the KAA and the businesses operating at the duty free shops in JKIA. Through his actions, the KAA and the public stands to lose Kshs7 billion, which the World Duty Free is claiming for losses incurred during the forceful eviction. The Attorney-General (AG) was not consulted by the KAA, as stated earlier in the background, in drafting and reviewing the contract between the KAA and Dufry International AG in the arbitral award of Kshs4.3 billion to World Duty Free Limited in regard to the High Court Cases No.413 of 2008 and No.45 of 2015 seeking to refrain KAA from awarding a concession agreement to Dufry International AG.

The Committee further observed that Prof. Githu Muigai, the AG, was present at the press conference on 16th September 2013, when the CS made the pronouncements I have earlier explained. The circumstance and role of the AG, Muigai, and that of the Office of the AG at the press conference is not clear. The failure by the Government officials present at the press conference to ensure that a deed settlement is entered into by the KAA and the World Duty Free shop has exposed the KAA and the country to a contingent liability of not less than Kshs17 billion.

Finally, the Committee observed that World Duty Free Kenya Limited, in which Dufry International AG is a shareholder, is a duly registered company in Kenya.

The Committee, arising from the background and observations, made the following recommendations:

- (1) The EACC investigates Madam Lucy Mbugua, Mr. Victor Arika and all other past and present officials of the KAA involved in designing and subsequent signing of the flawed agreement between the KAA and duty free shops operators at the JKIA and Moi International Airport.
- (2) The EACC investigates the allocation of duty free shop spaces at Terminal 1A to Meyer Duty Free Limited and duty free operators at Terminal 1A, which seems to have been undertaken in total disregard of procurement laws and procedures.
- (3) The Committee recommended that Eng. Michael Kamau, the former CS, Ministry of Transport and Infrastructure, should be held individually responsible for his failure to follow through and ensure that a deed of settlement is entered into between the KAA and the World Duty Free shops to protect public interest. As the CS, he had the responsibility of ensuring that funds belonging to the Kenyan public are protected. This failure has exposed the KAA and the Kenyan taxpayer to a contingent liability of more than Kshs17 billion.
- (4) The Committee also recommended that the AG takes over, as a matter of national interest, all the Kenyan airports duty free cases that were being handled by external legal teams and ensure that a deed settlement agreement between the KAA and World Duty Free is quickly concluded in an amicable manner to protect interests of our citizens.
- (5) The Committee recommended that the KAA, in consultation with the AG, works towards an amicable finalisation of the matter of an arbitrary award of Kshs4.3 billion granted to World Duty Free Limited in regard to the High Court Case No.413 of 2008;
- (6) The Committee also recommended that Eng. Stephen Gichuki, the then CEO, be held personally and civilly liable for abuse of office by executing the forceful eviction of

World Duty Free shops from the JKIA at night using hired goons without taking due consideration of the legal and financial implications of the action on the part of the KAA and the businesses operating at the duty free shops in the Airport. Through his actions, the Kenyan public stands to lose not less than Kshs7 billion which is being claimed for the losses incurred by the shop operators and the damages that were caused in the course of the eviction.

- (7) The Committee recommends that joint assessors be appointed by the KAA to evaluate the actual losses incurred, if any, by the World Duty Free Limited arising from the 2013 forcible eviction by the KAA.

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

*[The Deputy Speaker (Hon. (Dr.) Laboso)
took the Chair]*

Hon. Deputy Speaker, we appreciate the gravity of this matter. We are talking about billions of shillings involving the Kenyan public. This is a case of interest to the Kenyan public and it is important that we get all of the Committee's recommendations.

Hon. Deputy Speaker: You have ten minutes, Hon. Wamunyinyi.

Hon. Wamunyinyi: I am just finishing. I am on the recommendations, Hon. Deputy Speaker.

- (8) The Committee also recommended that the AG immediately starts the process of domesticating the ruling by the International Centre for Settlement of Investment Disputes based in Washington, DC, that found the lease agreement entered into between the Government of Kenya and World Duty Free Shop in 1989 to be shrouded in bribery allegations and, therefore, had no force of law. The AG, the Ministry of Transport and Infrastructure, the Inspector of State Corporations Efficiency Monitoring Unit and the KAA should form a technical team to audit the institutional framework, mandate and performance of the KAA since its inception. This is to address any legal and institutional shortcomings hindering the efficient operation of KAA and delivery on its mandate.

Hon. Deputy Speaker, the AG, EACC and the Public Procurement and Oversight Authority (PPOA) should also form a technical team for the adoption of this Report to review all existing contracts that have been signed between KAA and other parties.

The Committee recommends that the AG and the KAA should review the Kenya Airports Authority Act (Cap.395) to conform to the Constitution of Kenya and the emerging global security challenges experienced in the aviation industry.

I wish to conclude, first by appreciating Members of PIC, who committed a lot of their time to ensure that the Committee undertook an inquiry into this matter to its conclusion. And on behalf of the Committee, I want to record our appreciation to the Office of the Speaker, the Office of the Clerk of the National Assembly and the leadership of the National Assembly generally for facilitating the fulfillment of our mandate. The Committee is also grateful to all the witnesses, Government officials and agencies that adduced evidence before it. Further, the Committee is grateful to the staff of the Office of the Auditor-General, who are friends of the Committee, and who have been very helpful in the course of our operations. We are also grateful

to the Inspectorate of State Corporations and the National Treasury for the services they rendered to the Committee in the course of the inquiry.

With those remarks, I beg to move and call upon Hon. Kiragu, a Member of PIC, to second.

Hon. Deputy Speaker: Hon. Kiragu.

Hon. Wamunyinyi: He was here, Hon. Deputy Speaker. If he is not in, I invite another colleague, Hon. Ng'eno, Member for Emurua Dikirr, who is also a Member of PIC, to second.

Hon. Deputy Speaker: Hon. Ng'eno.

Hon. Kipyegon: Hon. Deputy Speaker, I beg to second. I wish to thank you and the Mover of the Motion. In the process of inquiring into this matter, as a Committee, we took a lot of time listening to presentations made by witnesses who appeared before the Committee, especially on the issue concerning the KAA. In all the issues we looked into, we felt, as a Committee, that there are some issues which need to be seriously relooked into especially the matter that concerns the World Duty Free Limited, which is the House of Perfume. We found many issues which were not up to date especially those we felt were illegally undertaken.

You must understand that on the World Duty Free Limited, which dealt with the House of Perfume, we found that majority of the shareholders - and it is registered outside the country - have had some weird undertakings in this republic.

We also looked at how most of the tenders were awarded. We found out that there were some occasions where, in one way or another, when some leases had expired, ways of renewing them were not properly followed. We felt, as Members of the Committee, that this matter must be given further consideration.

I do not want to delve much into the issues that have been raised by the Mover of the Motion, but I want to touch on a few issues and recommendations which we felt should be dealt with. One of the recommendations is that the EACC should investigate Ms. Lucy Mbugua, Mr. Victor Arika and all other present and past officials of KAA involved in designing and subsequent signing of a flawed contract agreement between KAA and WDF operators at JKIA and Moi International Airport. Those individuals have had rocky dealings at KAA. When you look at the dealings there, you just wonder how those people were put in those positions in the first place, unless they were put there with the intention of making few quick deals or were placed there by authorities to meet whatever they intended to have.

We recommend that the EACC should investigate thoroughly the individuals named in the Report. We also recommend that the EACC investigates the allocation of Duty Free Shops spaces at Terminal 1A to the World Duty Free Limited. This was allocated with total disregard of procurement laws and procedures. Most of the tenders which have had issues in this country are those that have been done in total disregard of the laws that govern the procurement process.

We also felt that the EACC should also come in and ensure that all the matters that we have here are looked into seriously.

We also recommended that Eng. Kamau, the suspended Cabinet Secretary, should be held individually responsible for his failure of not following through and ensuring that a deed of settlement is entered between KAA and the World Duty Free Limited. He was the Accounting Officer in that Ministry and should have stopped the process which was flawed from the initial stages before the taxpayer lost a lot of money. He is the person who was supposed to protect the interests of the public in that particular institution. So, we felt that he should be held responsible, answerable and accountable to this republic despite his suspension from the Ministry.

Hon. Deputy Speaker, we have also recommended that the Attorney-General should take over, as a matter of national interest. He should take over all the Kenya Airports Authority (KAA) duty-free cases that were being handled by the external legal team and ensure that an agreement is reached between KAA and World Duty Free (WDF) as quickly as possible, and in an amicable manner. That way, he will be protecting public interest. In this particular case, we were also looking at how the issue of National Cereals and Produce Board (NCPB) was handled. Until the time when this Committee intervened, the NCPB had a very tumultuous arbitration process and even court proceedings that made it to be held liable to a fine of over Kshs800 million. That money was meant to be paid by the taxpayers. Failure to pay the fine meant that the equipment owned by NCPB had to be attached. We looked at that issue as a Committee and we felt that the Attorney-General should take over before the matter goes out of hand.

We have also recommended that KAA, in consultation with the Attorney-General, works towards amicably finalising the matters of arbitration, specifically the arbitral award of Kshs2.3 million granted to WDF with regard to HCC 412 of 2008. The reason we usually blame those who sit in the procurement institutions is that when it is later found that the right procedures were not followed and then the tenders are cancelled, there are interested people who usually go to court to seek reprieve. In the process, we lose millions and sometimes billions of taxpayers' money. It is because the penalties or fines incurred by those institutions are normally paid by the taxpayers. The reason we felt those individuals must be investigated is that, at the end of the day, it is the innocent taxpayer who is going to suffer.

We also felt that Eng. Stephen Gichuki, the then CEO, should be held criminally and civilly liable for abuse of office by executing the forceful eviction of WDF from JKIA at night using hired goons. He never took due consideration of the legal and financial implications of the actions on KAA and the businesses at the duty-free shops in JKIA. When we listened to the presentations by the witnesses, we learnt that even if WDF and DDF had issues, legal procedures of eviction should have been followed. What the people of Eng. Stephen Gichuki did - and maybe they were hired goons, led to--- What they did at midnight was obviously illegal. There is no eviction which should be done at midnight. That was contrary to the law and that is what made WDF to take action against KAA. Finally, I wish to request as a member of PIC---

Hon. Deputy Speaker: Give him the microphone so that he concludes.

Hon. Kipyegon: Hon. Deputy Speaker, I wish to end by saying that the reports that we normally table in this House must not gather dust in the shelves. EACC must take serious action. We now have a new man at the helm of EACC; that is the Archbishop. During the vetting process, some of us expressed total encouragement. We felt that the retired Archbishop was better placed to head that institution. We saw him as the last resort in terms of reviving that office. Therefore, we are calling upon him to ensure that he takes up these matters and save the situation at KAA. He will also be keeping safe the institutions that are run by taxpayers' money.

I wish to second.

(Question proposed)

Hon. Deputy Speaker: Hon. Members, we have a letter from an advocate relating to this matter. The Constitution of Kenya, under Article 35, states thus:

“(1) Every citizen has the right of access to—
(a) information held by the State; and,

(b) information held by another person and required for the exercise or protection of any right or fundamental freedom.

(2) Every person has the right to the correction or deletion of untrue or misleading information that affects the person.

(3) The State shall publish and publicize any important information affecting the nation.”

It is on the strength of that constitutional requirement that I would like to read the following letter from Ngatia and Advocates addressed to Hon. Justin Muturi, the Speaker of the National Assembly, and recorded as, “Very Urgent. It is titled “World Duty Free Saga” and states as follows:

“We write to protest the report that was issued by the Public Investments Committee, which is currently being discussed by the National Assembly for the reason that, despite clear evidence that we presented, the Committee Chair prepared a report that is in complete variance with the evidence. The report is intended to validate bogus claims by Kamlesh Pattni, which are the subject matter of pending cases in the High Court.

We write to request you to halt the debate to enable us present to you and the entire House the cases which are currently before the High Court and which the Report intends to validate.

Truly, the House cannot be made to pass resolutions whose primary purpose is to validate bogus and fictitious claims. Evidence on the complicity of the Chairman of the Public Investments Committee would also be submitted to you.

Yours faithfully,

Ngatia and Associates.”

Hon. Members, going by that letter and given that we do not have Members at the moment who want to make contributions on this matter, I have been advised that we halt this matter and allow those good Kenyans to come and make the submissions that they have requested to make before we continue with the debate on this subject. So, I will halt the debate and move to the next Order on the Order Paper.

(Motion deferred)

BILL

Second Reading

THE OFFICE OF THE ATTORNEY-GENERAL (AMENDMENT) BILL

Hon. Deputy Speaker: I cannot see the Chairman of the Departmental Committee on Justice and Legal Affairs. He is not here. We shall move to the next Order.

(Bill deferred)

MOTION

Hon. Members, we will move to the next order, which is the Adjournment Motion. Given that the recess is less than 10 days, this Motion should be prosecuted for not more than half-an-hour. Hon. (Dr.) Shaban.

ADJOURNMENT OF THE HOUSE TO A DAY OTHER
THAN THE NEXT NORMAL SITING DAY

Hon. (Dr.) Shaban: Hon. Deputy Speaker, I beg to move:-

THAT, pursuant to the provisions of Standing Order No.28 on the Calendar of the Assembly (Regular Sessions), this House adjourns until Tuesday, 14th March, 2017.

At the outset, I want to commend Members for carrying out their mandate. They have also made contributions diligently since the inauguration of the 11th Parliament.

During the first part of the Fifth Session, we passed 10 Bills. They include the Statute Law (Miscellaneous Amendments) Bill, 2016 that we passed an hour ago; the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2015; the Hydrologists Bill, 2016; the Privatisation (Amendment) Bill, 2016 and the Public Service Commission (Amendment) Bill, 2016.

The Bills that were passed and referred to the Senate include the Division of Revenue Bill, 2017; the County Early Childhood Education Bill, 2014; the Public Finance Management (Amendment) Bill, 2017; the Public Appointments (County Assembly Approval) Bill, 2014 and the Public Private Partnerships (Amendment) Bill, 2016.

Similarly, we have debated and adopted several crucial Committee reports that include the Report submitted by His Excellency the President on:

- (i) the Measures taken and progress achieved in the realisation of national values and principles of governance;
- (ii) progress made in fulfilment of the international obligations through the Republic; and,
- (iii) the Annual Report to Parliament on the state of national security.

There was also the Report of the Budget and appropriations Committee on the First Supplementary Estimates for the 2016/2017 Financial Year. We also passed the Report of the Departmental Committee on Finance, Planning and Trade on the vetting of the nominee for appointment as Chairperson of the Commission on Revenue Allocation (CRA). The other important Report passed was that of the Departmental Committee on Health on ratification of the Agreement between the Government of the Republic of Kenya and the Government of the USA concerning co-operation and threat reduction of biological engagement programmes.

There was also an important Report by the Public Investment Committee (PIC) on the procurement and financing of the National Social Security Fund (NSSF), Tassia II Infrastructural Development Project that was passed.

Hon. Deputy Speaker, this House adopted Sessional Paper No. 2 of 2015 on the National Building Maintenance Policy and Sessional Paper No. 2 of 2016 on the National Slum Upgrading and Prevention Policy.

Upon resumption from the short recess, priority business will be on Budget related items, including the consideration in the Committee of the whole House of the Public Finance

Management (Amendment) Bill, the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2015 and several other Bills pending at various stages.

Various committee reports that will be prioritized include the Report of the Departmental Committee on Environment and Natural Resources on the investigation into wildlife poaching in Kenya and the Report of the Departmental Committee on National Security and Administration on the investigation into the Garissa University College terror attack.

Finally, the Report that we await to debate is from the Departmental Committee on Agriculture, Livestock and Co-operatives on the inquiry into importation of a consignment of fertiliser by the Ministry of Agriculture, Livestock and Fisheries through the National Cereals and Produce Board (NCPB). I urge the Committee on Delegated Legislation to take advantage of the break and expedite the consideration of various elections regulations referred to them and table the reports once we resume from recess.

Looking forward, priority business after recess will be:

- 1) The State of the Nation Address by His Excellency the President.
- 2) The consideration of the budget estimates for the Financial Year 2017/2018.
- 3) The Division of Revenue Bill, 2017 once it is received from the Senate.
- 4) The Appropriations Bill, 2017.
- 5) The County Allocation of Revenue Bill.
- 6) The Finance Bill, 2017.
- 7) Any election related regulations.

As we go for this short recess, it is important for all of us to consider that this financial year has “sort of” been shortened because of the forthcoming General Elections. So many things had to be done not following the regular way we have been doing things. The focus now will be on the budget and forthcoming elections. We need to expedite and make sure that everything is done and put in place before we finally proceed to go and prepare ourselves for the General Elections. As people go home for this one week, as much as it is a short recess, I urge my colleagues to go and talk to voters and their constituents to make sure that they are aware of most of the programmes which have been carried out and, more so, for members who have been patrons and, with the change of the law, who have been involved in the National Government Constituencies Development Fund (NGCDF). They should go and oversee all the projects which have been undertaken.

In accordance with the calendar of the Independent Electoral and Boundaries Commission (IEBC), party primaries will be held in April 2017. Quoting the former Speaker of Parliament, Hon. Francis ole Kaparo, as we near the General Elections, our airspace gets saturated with choppers. Political temperatures have risen. Politicians and political aspirants will perfect the art of persuasion and sometimes trickery. I want to state categorically that the Jubilee Party will ensure that the party primaries will be free, fair and devoid of any intrigues. The party will ensure that the voters will exercise their democratic right of choosing candidates, instead of imposing leaders on the people as that will undermine our quest to win more elective seats across the country.

On the same note, according to Article 27 of the Constitution, it is important for us to encourage as many women as possible to contest for elective positions so that we can realise the goal of our Constitution which, even in its generosity, looked at a way of increasing the numbers of women. It is not enough to have too many nominated women. We need to see as many women as possible vying for elective posts and not only vying, but winning them.

I appreciate Committees and, indeed, all members for their resilience, commitment, consistency and good work despite the substantial workload that is before the Committees and this House. I beg to move and ask Hon. Regina Muia from Kilome to second.

Hon. (Ms.) Muia: Hon. Deputy Speaker, I rise to support this Motion. Members of Parliament need this break more than anything else. When you look at this Chamber, people are trying to use any available time to go to their constituencies.

Currently, some people have started campaigning as if elections are going to be held next month. Most of those people, even in my constituency, are spreading lies that the Jubilee Government has not done anything. We need this time to go out there and tell them that they have done a lot. These days, women deliver in hospitals for free. We need to tell them about such things because we cannot do it while in the Chamber.

Hon. Wamunyinyi: On a point of order, Hon. Deputy Speaker.

Hon. (Ms.) Muia: I can see that there is a Member who wants to interfere. I will not give you space. It is my democratic right. I do not want any points of order.

Hon. Deputy Speaker, we have Constituencies Development Fund (CDF) projects. There is a lot of pressure to inspect what our locals and our communities are doing with the money CDF has given them. For as long as we are here, we can do very little. I may be lucky because I can dash home for two hours and come back. Some Members require about two or three days to reach home. I am sure we will do a good job in the ten days that we are going to the constituencies. We are going to inspect projects and write reports about CDF. We will also inspect the other projects that we are undertaking.

Politics has freedom. You are free to say what you want. You are free to say the truth or tell lies. So, do not get hurt because you have heard me say something. We are going out there to correct some of the things because we are unable to do them while we are here. We are also going to give committees time to look at the reports. Immediately we come back, some of the committees will finish their reports. Then we shall pass the Bills before we go for elections. We needed this time. We are very happy and we have been looking forward to it. We have been so busy doing the registration of voters. I am happy that Jubilee areas have registered the highest number of voters. That is a sign that even on the 9th of August; those numbers are going to be a reality. We are going to translate that into voters.

Thank you so much. I want to support this. I second.

(Question proposed)

Hon. Deputy Speaker: Hon. Johana Kipyegon

Hon. Kipyegon: Thank you, Hon. Deputy Speaker. I also wish to support this Adjournment Motion. I know most of the Members are in the villages, their constituencies and some in their counties. Most of us are contesting for the same positions we have, others are going higher above like gubernatorial positions. I know how tough those positions are. Most of the Members are really out there. I wish to thank this House for most of the activities we have had during this Session on most of the Bills that will go down the history as affecting the lives of our citizens. The Mover of the Motion has talked of the Bills that we have passed here. I wish to clearly say that, that is our mandate

The only problem is that campaigns in this country start early. Therefore, most of the Members do not have time. As you can see, the House is almost empty because there is fear by most Members that their seats *zinayumbayumba kidogo*.

I am one of those people who would wish to have some free time not purely tied to the activities of the House, so that I can attend to activities that I have in my constituency. Remember for those of us who come from marginalized counties, and on this, I must thank the National Treasury – although they released the money late. If they released the money on time, especially the money for the Equalization Fund, we would really appreciate. My constituency is one of the beneficiaries, among the many other constituencies in the 14 counties. This is the best opportunity for us to go and identify the roads and projects which that money is going to work on. I must thank the National Treasury, although they delayed with that money.

Next time, I urge them to release the money yearly as per the Constitution. The Constitution provides for the release of that money just like the money budgeted for counties, the national Government and any other activity. The money is supposed to be released each and every year. So, we wish to urge the CS for the National Treasury to make sure that next time, he does not delay with that money because people from marginalized areas need it.

We are also looking forward to finishing the projects that we have started for this financial year. We are hoping that before the end of next month, we should have had all the money released to the constituencies so that we can make use of it.

I wish Members, especially those who are going for campaigns, peaceful campaigns. I can see Jubilee and CORD are panicking. I am happy because I am neutral. I just see how people are moving: and which side is moving in which direction. If Jubilee is collapsing then, of course, it cannot collapse with us. If CORD is collapsing, it cannot collapse with some of us. We just want to support the area that we see has the right policies for this country. I wish NASA to pick the best candidate to send this team home. Otherwise, if you pick a wrong candidate, do not blame us again.

Hon. Deputy Speaker: Hon. Wamunyinyi.

Hon. Wamunyinyi: Thank you, Hon. Deputy Speaker. I hope it is going to be peaceful. We take the word of Hon. Ng'eno. We are going home for this short recess. I do not think we are entirely happy as one of my colleagues here was trying to suggest. You cannot say that Jubilee has done very well and Kenyans are very happy; mothers are giving birth in hospitals without being charged when there are no doctors! Doctors are not at work in public hospitals to ensure service delivery. Where are the public hospitals that those mothers are giving birth to babies free of charge? There are no doctors in the hospitals. Lecturers are on strike. Everybody knows that lecturers are on strike and the Government has failed to ensure they get back to work. Everybody knows that so many projects have been launched more than three times. In Bungoma, I saw the road to Kakamega being launched by the Deputy President. It was again launched by the President in Nambacha. I think they will be planning another launch. I have seen other roads that were earmarked for construction. But they have not been constructed because Jubilee is not doing well. So, we would not like to hear someone rising up and saying... We have not received the funds. We are getting into a new financial year as we budget. We have not received funds in our constituencies for us to be able to undertake our services and deliver our mandate. We must get funds flowing.

Hon. Deputy Speaker, we are talking about the security of Kenyans in the Rift Valley, specifically in Baringo and Turkana, where people are being killed every day. We cannot, therefore, be enjoying here and saying that the Jubilee Government is doing well and yet, Kenyans are dying! It is the responsibility of the Government to ensure the security of every Kenyan and their property. When Kenyans continue to be killed daily, we cannot laugh and say that the Government is doing well. It has failed in the delivery of its constitutional mandate of

ensuring that Kenyans are protected! This Member who is here is enjoying because she joined Jubilee. She is praising Jubilee and even has the guts to talk about mothers delivering babies for free in hospitals and yet, we know doctors are not there. The children are dying! The newspapers today have reported that some babies have died in hospital because they were not attended to. Is this what we want to praise? It is very unfortunate. We need to work together because we are all leaders. The Government has the resources to do this work.

So, I agree with Members who have said that as we go into recess, we need to ensure that we conduct meetings of peace in our respective constituencies. That way, we shall be preaching peace to our people. With those few remarks, I thank you.

Hon. Deputy Speaker: Let us have Hon. Mary Wambui.

Hon. (Ms.) Munene: Thank you, Hon. Deputy Speaker for giving me this opportunity to support the Motion for Adjournment.

It is not in order to abuse the Government that it has not done anything when we know that the Jubilee Government has done a lot of work for this country. It is not true to say that the Jubilee Government is commissioning projects which are non-existent. The Jubilee Government is doing many projects such as hospitals and roads. People are talking lies in this country.

(Hon. Wamunyinyi stood up in his place)

Hon. Deputy Speaker: Order!

Hon. (Ms.) Munene: We are not going to allow people in this Parliament to abuse the Government when we know that it had done a lot of work. I support the Motion, but we are not going to allow the Government to be abused by people who are telling lies. They have been in the Government previously and they never did anything even in their own constituencies. Why are they abusing the Government?

(Loud consultations)

Hon. Deputy Speaker: Hon. Mitaru.

Hon. (Ms.) Mitaru: Thank you, Hon. Deputy Speaker, for giving me this chance. I have been waiting to share this information. We should respect the Government of the day, whether we are in Opposition or not. We are all happy that we are going for recess. We now have time to meet our people and work together as a team. We should talk to our people and help the Government work well. We need to tell our people what we have done for this country.

I wish to tell my honorable brother seated there that he should not be annoyed. He was given a chance by his people to be in this House. He should respect this nation.

We must take care of each other emotionally and physically.

Hon. Speaker: Hon. Harrison Kombe. Hon. Members, it is already 6.30 p.m. I will be magnanimous and give five minutes to allow Hon. Kombe and Hon. Anami to contribute.

Hon. Kombe: Ahsante Mhe. Naibu Spika. Ningependa kuchukua nafasi hii kurudisha shukrani kwa Waheshimiwa waliopata nafasi kufika kwa mazishi ya mamangu, na wale ambao walinyoosha mikono yao. Mwenyezi Mungu awabariki.

Mhe. Naibu Spika, ukweli wakati mwingine ni mchungu, lakini haina budi usemwe. Zote tulikosea tulipochukua kitengo cha afya na kukiweka kwenye ugatuzi na tukakisambaza kwenye kaunti. Tunapolalamika kwamba madaktari hawako, ni muhimu tukumbuke kwamba sio jukumu la Serikali ya Kitaifa kuhakikisha kuwa hospitali zote zina madaktari. Kaunti zimepewa pesa na

ni wajibu wao kuhakikisha kwamba madaktari wanalipwa vyema na kuona kwamba kitengo hicho cha afya kinatiliwa maanani vilivyo. Wale ambao walipigania ugatuzi ni kidonda hivi sasa kwa Serikali ya Kitaifa na hawataki kukubali kwamba zote tulikosea. Ukweli usemwe na uongo ujitenge.

Ningependa kuwaomba magavana wote wawajibike na kuhakikisha ya kwamba wanawalipa madaktari vyema. Si vyema kaunti zingine zilipe madaktari vizuri na wanaendelea na kazi na wengine wapo nyumbani kwa sababu ya kutolipwa vyema. Wale wanaolipa vizuri wanatoka Kenya ipi, na wale ambao hawalipi vizuri wanatoka Kenya ipi?

Naunga mkono Hoja hii ya kuahirisha Bunge kwa muda mfupi kwa sababu nitakuwa na nafasi ya kumpokea Rais akiendeleza shughuli zake za maendeleo kwa upanuzi wa barabara kutoka Sabaki kuelekea Marafa, na kusambaza maji kwa wananchi. Hilo si jukumu la Serikali ya Kitaifa bali ni kazi ya kaunti. Serikali ya Kitaifa imejitolea mhanga kupitia Rais Uhuru Kenyatta kusambaza maji kwa wananchi. Ningependa kushukuru Serikali na kuwaomba wakaze mshipi na waendeleo kusambazia wananchi maendeleo, na waache wanaopiga mdomo waendeleo.

Hon. Deputy Speaker: Hon. Anami, I hope you will give Hon. Gaichuhie a minute to contribute.

Hon. Anami: I will definitely do that. I want to support the Motion because it an opportune time for us to go back to the people so that we can share their experiences; given the anxiety that is cutting across the country. The doctors' strike is not a small matter because of the impact it has on Kenyans across all villages. There are basic needs that our people want. We have students who are out of school because lecturers are on strike. Some of them will not even sit for their exams.

That means that they will have to go back to the parents. Although they have paid school fees in the universities, they will now become yet another burden to the families. It is important that while we are in this recess, we reflect on these matters and get together and participate in community issues so that we can be representative and honest to the people. I see a lot of excitement especially when we mention the performance of the Jubilee Government. Of course, the guilty are always afraid, but this is an opportunity for Jubilee to reflect on what their promise to the people is and just deliver on the promise. I support the Adjournment Motion.

Hon. Deputy Speaker: Hon. Nelson Gaichuhie.

Hon. Gaichuhie: Thank you, Hon. Deputy Speaker, for giving me this opportunity. I am shocked when my colleagues say that they are going on recess to go home and perform other duties. I thought we are going on recess so that we can look at the estimates which are in front of this House. I am very sure that almost all Members will be back here in their Committees. It is only that we will be on recess and we will not have Plenary. So, when I hear my friends say that they are going to see their constituents, maybe, it is good they be informed that we expect them to be in their Committees looking at the estimates because estimates and budgets are very important for this country. I hope they are saying that because they are in the Plenary, but I think we are going on recess so that we can retreat to our committees and look at the budget estimates. That is because this country has to run whether we have elections or not.

With those very few remarks, I thank everybody. We have passed so many Bills during the last two weeks. They are very important Bills for this country. Although the Chamber was always almost half empty, I want to say that it is good that people go on recess and retreat to their committees and do the budget estimates because this country has to run whether we are there or not. Thank you, Hon. Deputy Speaker.

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, the time being 6.37 p.m., this House stands adjourned until Tuesday, 14th March 2017, at 2.30 p.m.

The House rose at 6.37 p.m.