

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 22nd February 2018

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon. Members, I wish to make the following communication.

(Hon. Members walked into the Chamber)

Hon. Members, do not do that. Just remain standing where you are.

NOMINEE FOR APPOINTMENT AS THE SOLICITOR-GENERAL

I wish to give this message. Pursuant to the provisions of Standing Order No.42(1) of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from His Excellency the President, seeking the National Assembly's approval of Mr. Kennedy Nyabuti Ogeto for appointment as the Solicitor-General, in exercise of powers vested in him under Section 9(1) of the Office of the Attorney-General Act, 2012.

Section 8 of the Public Appointments (Parliamentary Approval) Act provides that the relevant Committee of the House will consider the suitability or otherwise of the nominee, and table its report for consideration by the House within fourteen (14) days from the date the notification of nomination is conveyed to the House. Further, the Act requires that the public be given seven (7) days' notification to submit their views regarding the suitability or otherwise of the nominee proposed for appointment to an office requiring parliamentary approval. In this regard, and in accordance with the provisions of Article 259(5)(a) of the Constitution as read together with Section 5 of the said Act, the seven (7) days' notification to the public shall start running on the day following the day when the notice is published in the local dailies.

It is advisable that the relevant Committee expeditiously proceeds to notify the nominee and the public; commences the approval hearing after the seven-day notification period; and tables a report on or before Wednesday, 7th March 2018, to enable the House to consider the matter within the statutory timelines.

This Message, together with the curriculum vitae of the nominee therefore, stands committed to the Departmental Committee on Justice and Legal Affairs for consideration.

PETITION

Hon. Speaker: The Hon. Members who are standing could either take their seats or remain upstanding so that we transact the business that is at hand. If you are coming into the House...Do not do that. That is not good enough.

REVIEW OF CONSTITUTIONAL PROVISION ON NOTES AND COINS ISSUED BY CENTRAL BANK OF KENYA

Hon. Members, pursuant to Standing Order 225(2)(b), I wish to convey to the House a petition signed by three citizens namely: Edward Nyakeriga, Jackline Kageha and Zachariah Momanyi on behalf of Republican Liberty Party. The Petitioners pray that in accordance with Article 256(1) of the Constitution on amendment of the Constitution through parliamentary initiative, the National Assembly introduces a Bill to amend the Constitution of Kenya, 2010. The Petitioners pray that the National Assembly amends Article 231(4) of the Constitution, which provides that:

“Notes and coins issued by the Central Bank of Kenya may bear images that depict or symbolise Kenya or an aspect of Kenya but shall not bear the portrait of any individual.”

The Petitioners contend that the manner in which Article 231(4) is framed is ambiguous. The Petitioners cite a number of jurisdictions whose currencies have portraits of their founding leaders and individuals, as an honour for their outstanding contribution to their countries. The Petitioners affirm that the portrait of the first President of the Republic of Kenya meets the exclusive standard to depict or symbolise Kenya or any aspect of our country. Further, they propose that the reverse side of the currency should bear the image of the National Parliament and Coat of Arms as the two images exhaustively depict the country’s key features.

The Petitioners, therefore, pray that the National Assembly, through the Departmental Committee on Finance and National Planning initiate the process of amending Article 231 of the Constitution by deleting Clause 4 and substituting therefore with the following text:

“Notes and coins issued by the Central Bank of Kenya may bear the portrait of the First President of the Republic of Kenya while the back of the Notes shall bear the image of the Parliament and the Coat of Arms.”

You may wish to note that there was a similar Petition to this House in the last Parliament but whose consideration by the relevant Committee was not concluded by the end of the term of the House. The Petition now stands committed to the Departmental Committee on Finance and National Planning for consideration. The Committee is at liberty to introduce a Bill proposing to amend the Constitution as prayed by the Petitioners or make recommendations as they deem appropriate.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Paper on the Table:

The Report of the Auditor-General on the Financial Statements in respect of the following institutions for the financial year ended 30th June, 2016:-

- (a) The Kenya Veterinary Board; and
- (b) Maseno University.

NOTICE OF MOTION

Hon. A. B. Duale: Hon. Speaker, further to the Notice of Motion I gave yesterday during the Morning Sitting, I beg to give notice of the following Motion:

THAT, pursuant to Article 127(2) of the Constitution, the National Assembly approves the appointment of Hon. Aisha Jumwa, M.P. and Sen. George Khaniri, M.P., as Members to the Parliamentary Service Commission, under sub-section (c)(ii) of the said Article.

Hon. Speaker: Hon. Members, I wish to draw your attention to the existence of a Supplementary Order Paper. I hope every Member has a copy of it. This has been necessitated by the inclusion of those two names in the Notice of Motion which has been given by the Leader of the Majority Party. There is a Supplementary Order Paper. I hope every Member has it.

STATEMENT

BUSINESS FOR THE WEEK COMMENCING
27TH FEBRUARY TO 1ST MARCH, 2018

Hon. A.B. Duale: Hon. Speaker, pursuant to the provisions of Standing Order No.42(2)(a), I rise to give the statement on behalf of the House Business Committee.

The Committee met on Tuesday this week at the rise of the House. Departmental Committees are expected to table their reports on the vetting of the various nominees to the offices of the Principal Secretaries, ambassadors and High Commissioners by Tuesday, 27th February 2018, to enable the House to debate and conclude on the reports by Wednesday, 28th February 2018. It is also anticipated that the Budget and Appropriations Committee will have concluded deliberations on the Budget Policy Statement with various stakeholders this week and table its report for consideration and adoption by Tuesday, 27th February 2018.

On Tuesday next week, we shall have the First Reading of the Land Value Index Laws (Amendment) Bill, 2018 and the Constitution of Kenya (Amendment) Bill, 2018, which is dealing with the matter of the two-thirds gender law. It is back again in the 12th Parliament. Members should note that this constitutional amendment is the one revisiting the issue of the two-thirds gender principle with regard to Parliament, so all Members should familiarise themselves with the content of that Bill. They can pick a copy from the Table Office.

We will also continue with the Second Reading of the Kenya Roads Bill should we not conclude it today. I call upon all Chairs of the Departmental Committees to expedite consideration of the Bills read a First Time and table their reports to enable the House to consider the Bills for Second Reading. In the same week, we shall consider the reports of the meetings of the Inter-Parliamentary Union (IPU) as well as the reports of the meeting of the ACP-EU Joint Parliamentary Assembly.

Finally, the House Business Committee will reconvene on Tuesday, 27th February 2018 at the rise of the House to consider the business for the coming week.

I wish to lay this statement on the Table of the House.

(Hon. A. B. Duale laid the document on the Table)

Hon. Speaker: Before we move to the next Order, it is good to remind ourselves as I stated yesterday that the Leader of the Majority Party does that on behalf of the House Business Committee. Again, he has given notice of Motion for the nomination of two additional Members to the Parliamentary Service Commission (PSC) on behalf of the House Business Committee.

Let us have Hon. Eseli.

POINT OF ORDER

GUIDANCE ON BILL TO AMEND POLITICAL PARTIES ACT

Hon. (Dr.) Simiyu: Thank you, Hon. Speaker. I rise on a point of order to seek your guidance and direction as to how we can sort out some problem. This happened in the last Parliament. A Bill was introduced by Sen. Khalwale in the Senate to amend the Political Parties Act. The Senate passed it but when it got to this House, it lacked a seconder so it flopped. Therefore, as per our rules and regulations, a mediation committee was set up to mediate that particular Bill. In the intervening period, Hon. Chris Wamalwa had also introduced a Bill to amend the Political Parties Act in the National Assembly, which was then passed by the National Assembly and was supposed to be transmitted to the Senate. However, going through the records, I realised that as the Mediation Committee met, it called Hon. Chris Wamalwa to its meeting. Hon. Chris Wamalwa was very clear to them that he felt his Bill was different and should proceed to the Senate for concurrence. However, this never happened and instead they mediated on the Bonny Khalwale Bill; brought the mediation report to this House and the Senate; this House and the Senate passed it; and, therefore, it was assented into law.

However, while Hon. Chris Wamalwa's Bill was not acted on, it is interesting that the mediation committee was set up to mediate the Bonny Khalwale Bill. How they started getting involved in the Chris Wamalwa's Bill is not clear. It is not clear how the mix up happened. I just wanted to ask for your direction and guidance as to how we can go about remedying this sort of situation where such a mix up has happened. I have traced everything through the HANSARD Reports, the Table Office journals, and the minutes of the Mediation Committee meetings on how the Bills progressed through the two Houses. I noticed that Hon. Chris Wamalwa's Bill was never introduced in the Senate. I would like your guidance as to how we can act from there.

Thank you.

Hon. Speaker: With regard to whether the Bill by the former Senator for Kakamega was mediated upon and some consensus arrived at, if as you say it was assented to, that is law. The Bill by Hon. Chris Wamalwa must have died a natural death as happens with the end of the life of each House of Parliament. Therefore, the available avenue would be republication, if Hon. Chris Wamalwa is still desirous of pursuing his legislative intentions. Of course, he may have given up hope or perhaps what he wanted to address has been addressed by the last general election. Should he be desirous of pursuing it, or should any Member be desirous of pursuing whatever was contained in it, it can still be republished just like we have seen several Bills that have been moved by the Leader of the Majority Party, which had previously been passed by this House but had never been passed or even considered by the Senate. This Bill, if there is intention to still revisit it, the only avenue available will be republication either in the same form or in a

different form. Either Dr. Eseli Simiyu takes it up because it looks like the Member for Kiminini, looking at his face, appears contented with its demise.

Hon. Wamalwa, you do not appear to be anxious as you usually are about matters such as this one; you may be the subject. Let us hear Hon. Wamalwa.

Hon. Wakhungu: Thank you, Hon. Speaker. First, I thank Hon. (Dr.) Eseli for bringing up this matter. Indeed, the purpose of my Bill was on the issue of political parties funding. The current sharing formula is based on the presidential votes, but we wanted to provide an alternative where if you do not use the presidential votes, you can as well use the number of seats that a political party has won in terms of the Senate, the National Assembly and the county assemblies. Political parties funding is very critical as far as the democracy of this country is concerned. This will ensure that we do not have a few individuals owning the political parties in the country. Obviously, we are interested in reviving the Bill. I do not have to personally revive it. Any other Member, like Hon. Eseli, can still pursue its revival so that we can expedite and resolve some of the problems that are likely to emerge very soon when it comes to sharing of the Political Parties Fund.

Thank you.

Hon. Speaker: I thought Hon. Wamalwa was also going to refer the House to the recent decision by the courts regarding the issue of funding of political parties. There has been a recent decision on that matter so that whatever it is that you will input in the new Bill takes into account the court's judgement. It will be good to make reference to what it is that the courts said.

Next Order.

MOTIONS

APPOINTMENT OF MEMBERS TO THE PARLIAMENTARY SERVICE COMMISSION

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

THAT, pursuant to the provisions of Article 127(2) of the Constitution, the National Assembly approves the appointment of the following Members of the National Assembly and Senators to the Parliamentary Service Commission-

- (a) Under sub-section (c)(i) -
 - (i) The Hon. Naomi Shabaan, EGH, M.P.
 - (ii) The Hon. Adan Keynan, CBS, M.P.
 - (iii) Sen. Hon. Beth Mugo, EGH, M.P.
 - (iv) Sen. Hon. Aaron Cheruiyot, M.P.
- (b) Under section (c)(ii)-
 - (i) The Hon. Ben Momanyi, M.P.
 - (ii) The Hon. Aisha Jumwa, M.P.
 - (iii) Sen. Hon. George Khaniri, MGH, M.P.

(Hon. S.S. Ahmed spoke off-record)

Hon. Speaker, you need to deal with the Member for Kisumu East. He is an independent Member. He defied his party and won his seat. That excitement should have ended on 9th August 2017.

The Parliamentary Service Commission (PSC) is one of the independent commissions in Kenya established under Article 127 of the Constitution of Kenya to deal with the smooth functioning of the Houses of Parliament. I want you to allow me to spend a few minutes to remind Members of the history of the PSC.

By 1999, Parliament was a Department of the Office of the President in the Executive. Staff used to be employed, deployed, transferred and fired at the whims of the Executive. Members used to make long queues at the Cash Office every end of the month to be paid their modest salaries. The Cash Office was situated at the current Deputy Speaker's Office, which was later moved to the office opposite the Speaker's Office. Their salary was so modest that it was paid in cash. As a matter of fact, Members used to eagerly wait to see the Land Rover ferrying their salaries from the Central Bank of Kenya (CBK) entering the gate of the Parliament Buildings and then went to queue at that office. This is the history of Parliament. There were no mortgages, car loans or any of the other facilities currently availed to Members of Parliament. However, that did not kill the legislative and oversight agility of Parliament. Despite not having car loans, mortgages and Constituencies Development Fund (CDF), with the meagre salary that was brought by Land Rover from the CBK to the Cash Office, hon. Members still performed their legislative and oversight role of Parliament. That is why many of the Members who served during that time are today living in abject poverty. The PSC needs to look at them.

In 1999, thanks to the then Member for Alego Usonga, Hon. Peter Oloo Aringo, with the support of my current deputy, Hon. Jimmy Angwenyi... Hon. Jimmy Angwenyi supported the initiative of Oloo Aringo and the following morning he was sacked as Assistant Minister. Therefore, Hon. Jimmy Angwenyi has a history of being sacked not because he did not perform but because he supported the amendment of the Constitution. In 1999, Hon. Aringo decided to initiate the process of emancipating Parliament from the Executive by introducing in Parliament the Constitution of Kenya (Amendment) Bill No.3 of 1999, which entrenched the PSC in the Constitution. This strengthened Parliament's independence and enhanced oversight, representation and law-making capacity. It is worth noting that Hon. Oloo Aringo contributed to the most initial reforms during his tenure as a Member of Parliament and a Member of the then PSC. Hon. Oloo Aringo will be remembered. He will also be remembered for... When we nominated him in the 10th Parliament to the Sarah Serem's Salaries and Remuneration Commission, he decided to kill the same baby. He became very old and I think he forgot the history of the PSC. He decided to strangle that baby that he was proud of.

We have had four commissions since 2000 which have, in my opinion, done a tremendous job. I want to inform my colleagues on the other side and say that matters of administration have no party lines. Matters of the PSC are not about which party one belongs to. It is about the welfare of Members and Parliament in performing its duty of overseeing and legislating. So, when I see my colleagues haggling over the commission's positions along party lines, I wonder why they think their nominees will go into the Commission to foster party interests and not cater for the welfare of Members to enable them serve effectively.

As we appoint these commissioners, I wish to inform them that their in-tray is full. I am sure the new Members are aware of the Parliamentary Service Commission Bill which has been in this House since the 11th Parliament. I urge them to expedite the consideration of that Bill in the House within the period of the 12th Parliament. The PSC is the only commission, and I want to repeat it, the only commission, that has never aligned its administrative role with the Constitution of Kenya 2010 – eight years down the line. The Judicial Service Commission has an

Act; the Public Service Commission has an Act; the Teachers Service Commission and, name them, have their own Acts. It is only the Parliamentary Service Commission (PSC) that does not have an Act for its administration. I think the Parliamentary Service Commission Bill will be introduced to the House soon. Through the commissioners, it will be approved by this House and we will deal with that matter.

It is very shameful that Parliament spends time overseeing other organs and making laws for other commissions but, when it comes to its own law, we either seem not to be interested or are taken round by the parliamentary mandarins. Just like the way we have mandarins in the National Treasury, we have mandarins in Parliament who really frustrated the introduction of that Bill in the last Parliament until it died somewhere. They used ethnic caucuses and they used political leaders. I remember, one afternoon at the height of the election, one of the leaders in one of the biggest parties in Kenya called me and told me “please, just shelve that Bill until after the elections”. I asked him why and he said it is going to give us problems in some regions. This Bill is important to all of us. We want to know the tenure of officers in this Parliament; we want to know how offices are run; we want to know what the rights of a Member of Parliament (MP) are and; the rights of a member of staff. If members are approved, I urge them to work immediately and address all the challenges that are currently pending before it.

One of the cardinal functions of the PSC is to look into the welfare of Members. How do you define welfare? Transport is welfare. A car grant is welfare. Security is welfare but it does not define whether security is from the National Police Service. Housing is welfare. One of the things these commissioners need look at, if they are approved, is why the mortgage of the Legislature should be pegged to five years. Why? Parliament can have a programme that even after five years, out of Parliament, one can still pay their mortgage. Cabinet Secretaries and Principal Secretaries are entitled to mortgages. Their houses are not sold when they are sacked. They are not told “pay today”.

(Applause)

But today, if any of us loses an election in a by-election, the PSC will the next day come and sell your property. Even in the private sector and Government, there is a procedure in which you negotiate for mortgage. It is not five years. I can pay my mortgage. I can take Kshs50 million and pay my mortgage over seven years. Why should it be pegged to the five years if the Member can pay or his bank can show? So, the mortgage facility must be relooked at on the aspect of paying within five years. It is not cast in stone. There are very good people in this House. Hon. Shollei is not here. When she was in the Judiciary, they had a mortgage package for the Judiciary. She did a presentation to us last weekend when we were in the Liaison Committee meeting. I am sure we can pick from that. Hon. Shollei can share with the PSC how mortgage can be managed in this House.

(Applause)

If these members are approved, they have a lot of work to do. Administrative matters including staff recruitment, deployment and promotions have been pending for the last one year and a half. We must stop the culture that it is a place to bring your next of kin to come and work in Parliament when you become a commissioner of the PSC. We will not accept that. In fact, we

need to do an audit of the staff of Parliament in terms of constituencies and counties. We must do it so that we know whether Parliament which stands for equity is practising equity.

(Applause)

So, Hon. Speaker, as our leader and Chairman of the PSC, you must protect it. It is not going to be business as usual. This PSC must change. It is not going to be a PSC where 10 per cent of staff working in Parliament comes from your county, from your clan or tribe. You are holding that position on our behalf. We either share the cake in a competitive way or ... Let us allow Parliament to employ the best of the best. We have the best men from the State Law Office in our Legal Department and Budget Office. We have the best men and women from the National Treasury. We also have such in legislation. We do not want Parliament and the National Assembly to be the dumping ground for mediocre staff just because they are related to certain commissioners. We are not going to agree on that. We mean business this time. They should also take their mandate earnestly and must be in touch with Members. You have been approved by this House. So, you must know our interests from morning to evening. You must not stay in your office in the County Hall. You must come to where we are having tea and confirm whether that tea is the tea of *matanga*, according to Hon. Junet. Hon. Junet is an expert on *matangas*.

(Laughter)

If you are the Chair of the Welfare Committee of the PSC, it is your business to go to the gym and check whether those machines are working. It is not that we appoint you a member of the Commission and then it is the last day we see you. The next time we see you is the beginning of another Parliament when you want us to renew your contract. We want value for our votes. Today, we are voting; we want value for these votes. If you do not want to work for us, we will not give you votes.

Some of the Commission's role is to provide service and facilities to ensure the efficient and effective running of Parliament. If all the facilities and services in this Parliament are up to the task and are good, then the efficiency and the effectiveness in terms of running of Parliament will be seen.

The other mandate or role of the Commissioners is to constitute offices in Parliament or the Parliamentary Service, appointing and supervising office holders. Services have deteriorated. If you go to Protection House... In the 10th Parliament, I am sure those who served will tell me, staff of Parliament used to bring the forms for mileage to us to sign. You would find members of staff bringing us our cheques even at the lounge when we were having tea. We never used to look for these facilities. I am told that today if you go to Protection House, you have to bribe a member of staff of Parliament before you are given any service. It is becoming bad! A member of staff has to be bribed for him to remove your file and for him to take that file to another officer.

Parliament has been turned into the animal farm - There are people who are more equal than others. My advice to colleagues: let us maintain the space between us and members of staff of Parliament. We have a role to play in that. We must have personal space. We are leaders. We are supposed to be role models. You can have your business with other people out there, but please to do not engage in funny business with members of staff of Parliament. If you want to be

respected by the members of staff of Parliament, you must show respect and defend the space between you and them. How do you relate to people in the human resource services? Parliament is a small enclave. The world outside is big. There are many things you can get outside. Let us respect ourselves.

I am talking from experience. I will give an example. At the Members' Lounge there is a sign board that says, "Sitting Members of Parliament Only". Yesterday, I found a Member of Parliament with five people. I asked him, "What is wrong with you? Can you not even read that sign board?" Let us respect the facilities as designated. Even the flow of people to your office in Continental House must be controlled. You must give right to the security personnel and the Serjeant-at-Arms to vet people. We do not want to have some monkey business going on. Tomorrow the whole image of Parliament... The crime of one of us, is crime of all of us. We are like in a school: if two of us are rotten, then the whole of Parliament will be rotten. Let us together protect the integrity of that term 'honourable'. I want to caution my colleagues that in Parliament you can destroy your image. We have become so close to some members of staff that even when we have a drink after an induction... How can you have a drink with members of staff of Parliament? Tomorrow morning, he is supposed to wake up as early as 6.00 a.m. to prepare the room for a meeting and prepare files and yet you were with him till 3.00 a.m. or 4.00 a.m.!

Hon. Member: Is it with him or her?

Hon. A.B. Duale: With him or her.

(Laughter)

When morning breaks, the member of staff would still be sleeping and so would be the Member of Parliament. There would be nobody to prepare the room! I am sure chairpersons of committees and Members agree with me. I am not saying these things because I just want to say them. It is the truth. The members of staff will respect you only when they know that a Member of Parliament is watching them.

The Commission is supposed to prepare estimates of expenditure. We agreed on this with the Liaison Office. They are the Budget-makers of Parliament. In my opinion, you cannot compare a House of 349 Members with a House of 67 Members. If the Budget of Parliament is Kshs27 billion, it must be divided by 418, then what you get you multiply by 349 and leave the money here. For our colleagues, you multiply by 67 and give it to them.

Hon. Speaker, please, add me one more minute. There is member of staff migration from the National Assembly to the Senate. The reason is that at the Senate, you do not work. Members of staff want to go to the Senate because there is no work there. Two, in the Senate, you will get trips like nobody else's business. They travel a lot. So, the Kshs27 billion this House passes... We have the powers because the budget-making process emanates from here; not the Senate. We only deal with the Senate when it comes to the Division of Revenue Bill and the County Allocation of Revenue Bill. The budget of the Parliamentary Service Commission is done in this House. We passed Kshs27 billion. We calculated the amount per capita so that a Member of the National Assembly gets Kshs5.9 million while a Member of the Senate gets Kshs9.7million. It is true. How is that possible? So, we are putting the four of you: Hon. Keynan, Hon. Naomi Shaban, Hon. Aisha Jumwa, Hon. Momanyi, on notice if you survive. It

will not be business as usual. We will collect signatures for your removal and we will ask the President to form a tribunal to remove you. You either work for us or you go home.

I have said a lot. I want to leave the rest for my colleague, the Leader of the Minority Party. I, therefore, beg to move and ask Hon. Mbadi to second. Hon. Mbadi, given the way I have spoken, you must also put these four great men and women we are nominating to task. Indeed, they are up to the task, but it will not be business as usual.

Hon. Speaker: Hon. John Mbadi.

Hon. Ng'ongo: Thank you, Hon. Speaker. The Motion before us is to make appointments today in form of voting to have in place Members who are going to form the PSC and who will take care of the interest of Members of Parliament. This is a very unique commission. It is unique in the sense that it is the only commission that the provisions of Article 259 or Article 260 do not really affect directly in terms of tenure. That a Member of this Commission, especially those who are appointed pursuant to Article 127(2) of the Constitution, can serve in the Commission for more than six years. I was pointing out that because I heard a number of my colleagues asking why some Members who have been in this Commission for five years or more are still being included yet commissioners are supposed to serve for a maximum of six years. Allow me to say the following: Hon. Angwenyi was not attentive. I have just said some Hon. Members were wondering why some Members are being re-appointed to this Commission and yet they have served for more than six years. I have said this Commission is unique in terms of Article 127(2) of the Constitution because the Chairperson of this Commission is permanently the Speaker. Whether the Speaker likes it or not, he has to chair this Commission. The Speaker maybe the Speaker for even 20 years, and so he would sit with the Commission and so are the Members of Parliament of both the National Assembly and the Senate.

As the Leader of the Majority Party rightly put it, the Commission's responsibility is to look at the Members' welfare in terms of provision of services. Today we are appointing men and women who we believe have confidence to serve us in this Commission together with three other Members, including the Speaker. They will ensure that Members are provided with services and facilitated well. Kenyans need to listen to this carefully: the Commission's responsibility is to look at the welfare of Members of Parliament, the facilities they use, the services they need in order to discharge their duties and responsibilities.

If any commissioner, including the Speaker of the National Assembly who is the Chairman of this Commission, speaks about the welfare of Members or services being provided to Members, it should not be seen as if he is making a personal statement or communicating a personal idea but, rather, speaking for people that he or she represents as a commissioner. And any commissioner must protect the interest of the jurisdiction that, that commission covers. If it is the Judicial Service Commission (JCS), you will see the Chief Justice (CJ) leading the team and defending the independence, integrity, budget, welfare, salaries, remuneration, name it, of the judges and magistrates, because that is the work for which they are put there. Therefore, when the Speaker of the National Assembly and his team will also be defending the interest of Members, it should be understood in that context.

In terms of agreeing on the membership of this Commission, both the leadership of the Majority and Minority are now in agreement. We must agree that at times people have different ideas; people must sometimes disagree. But you must also be alive to the fact that you will not always get what you want. Therefore, as NASA coalition, I want to confirm that we have

confidence in these three Members. We have Wiper representative in the name of Hon. Ben Momanyi. As NASA coalition, we carry him along as a member of NASA who is nominated to this Commission. The ODM had two slots and we requested you to give us more time to agree on our two names.

I want to report that we held a meeting this morning and agreed that ODM will propose and nominate Hon. Aisha Jumwa Katana as a representative, who is a lady, and then we would donate, in the spirit of the coalition, one slot which was an entitlement of ODM to Amani National Congress (ANC). Therefore, we have Sen. George Khaniri from the Senate as a member of the NASA coalition belonging to ANC. I want to talk to my colleagues in ODM who probably are not aware of this discussion that as the bigger brother in terms of numbers, and because of our magnanimity, we have decided that that one slot which was our entitlement we give one Sen. George Khaniri, who is the most experienced Member of Parliament in the Republic of Kenya. I think he is the longest-serving Member of Parliament; he is serving the sixth term. He served four terms in the National Assembly and is serving the second term now at the Senate. I think we cannot get a better representative than him.

I also wanted to mention that even the proposal that came through my office where we were trying to have Hon. Ben Momanyi out, we were still having a Wiper member. So it is not that we did not want Wiper party to be represented. It was only the question of who from Wiper was to come in. Now it is Hon. Ben Momanyi. We are agreeable to it. We live with it as the NASA coalition.

A lot has been said by my friend Hon. Duale, the Leader of the Majority Party. I wanted to also talk about it. It is also not correct to say that the previous Commission did not do much for this Parliament. Those of us who have followed the activities and deliberations since the introduction of the Salaries and Remuneration Commission (SRC)—because it is a new commission, a commission that the first Parliament that was affected by their decision was the 11th Parliament—we know the discussions that took place between the PSC and SRC. I know that a lot of decisions that were made by the SRC affected our service delivery, and many of us have been very unhappy. At the same time, the PSC has engaged quite well with SRC. So as Members we should not condemn the previous commission that they did not do much.

I just want to add that something that surprises me, much as I appreciate and I know that we need to rein in on recurrent expenditure which includes salaries, and which should cut across the board, I just want to remind SRC, I see so many people congratulating and praising SRC that left that they did a good job, I do not think that commission understood its mandate. That commission needed to have realised that they were going to look at the salaries of the whole public sector. It was not just a question of public relations and targeting Parliament which is in the eyes of the public, because that is exactly what they did. If you look at some of the decisions they made, they were very good. The decisions they made could have helped this country cut on cost if it was applied across the board.

But you cannot take away car grant of Members of Parliament but leave the Judiciary with it, leave the CSSs, PSs, directors—and someone was telling me even chiefs are being given motorbikes with fuel allowance—and you are telling Members of Parliament that they are the only category of State officers who are not supposed to get car grant and mileage. Much as that makes a lot of sense, if you apply it selectively then it loses meaning. Therefore, I want to ask the PSC: This time engage effectively well with the new SRC which will come so that this condemnation of Members of Parliament should stop. You need to explain to the public what we

are entitled to, because a lot of things that I read, a lot of money that I get is on paper; I do not get it in my pocket. In fact, sometimes I have been wondering that if I was actually getting the money that is being indicated that I get I would be better off financially than I am.

It appears that my time is up. But allow me to say something on relationship with staff, much as I also appreciate that the Members here are adults, we do not employ anybody below 18, so they know what they are doing. But I also think we need to be very careful while engaging because the image...

Hon. Speaker: Proceed. Just finish your point.

Hon. Ng'ongo: Thank you. I was just finishing my point that much as we appreciate that these people are all adults, we must maintain some healthy distance. I agree with the Leader of the Majority Party that when you destroy the image of this Parliament, all of us will be called *MPigs* and all sorts of names. So let us try as much as possible, those of us who are known to be maintaining some unhealthy distance with these staff, let us make it a bit healthier, slightly healthier. No one will arrest you because you are not committing any crime. These are adults but remember these are our staff. They are supposed to serve us in terms of professional work, not in other areas; in other areas we have options available.

Thank you, Hon. Speaker. I want to second.

(Loud consultations)

Hon. Speaker: Order, Members. Yesterday I announced that there is going to be a post-election induction seminar, and we will have guests from other Parliaments and jurisdictions. We do not want them to tell us that they shout to their Speaker to put a question to a Motion that has only been moved and seconded without being proposed, certainly not within the Commonwealth Parliamentary Association (CPA) jurisdiction. So just relax. Of course, both Hon. Duale and Hon. Mbadi have explained the functions, and most of you appreciate. I saw Hon. Angwenyi smile quite widely when he heard his name being mentioned, because he was in the House at the time when the Motion seeking leave of the House would be moved, even before you could propose a Bill. First of all you had to go through a Motion to seek leave of the House. That particular Motion on that Wednesday morning—I am sure Hon. Angwenyi remembers the sumptuous breakfast that was available on that particular day for Members of Parliament from one side of the divide—seeking leave of the House to introduce a Motion to amend Section 45(b) of the then Constitution. It was a very momentous occasion. So, Members, all I need to emphasise even as I propose the Question is that the Bill titled “Parliamentary Service (Amendment) Act” is intended to among other things align the provisions of the current Act with our Constitution.

It is actually shameful that we have enacted so many other laws and repealed several others to align them with the Constitution but have not been able to align ours. The current law does not recognise the existence of the other House yet the Constitution recognises in this Article 127 and several other articles and more particularly Article 93. Parliament consists of the National Assembly and the Senate. Hon. Peter Kaluma would want it to be in that order. It is not me it is the way it is stated in Article 93. It is really unfair and I just want to echo that point that we should consider, as a House, not even the Commission, because the Bill had already been published. If there are any provisions in it that the House feels should not be contained in it, in the normal way, we are at liberty to propose amendments. And if you have the numbers,

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whatever it is you propose would be carried. I think it is only fair. The 10th Parliament did not do it. So, those who were in the 10th Parliament do not be happy because the Constitution was promulgated on 27th August 2010. So, the 10th Parliament did not do it. The 11th for the four years and four months that you were in existence, we did not do it. I think it is only fair to prioritise that Bill.

I believe that other issues which have been captured are matters about facilities. We need to be very clear about facilities and services. The Commissioners must address that issue. For that reason, remember we also created a committee of this House for services and facilities. That Committee should engage with the Commission. So, Members, I am not part of the debate as you know. Article 122 of the Constitution says I do not even have a vote. So, the rest of the business is yours.

(Question proposed)

I know that the Member for Rarieda has indicated...Hon. Members, let us have Hon. Otiende Amollo.

Hon. (Dr.) Otiende Amollo: On a point of order, Hon. Speaker. I am guided by your previous directions that a question of constitutionality can be raised at any time.

Hon. Speaker, as for the seven names that have been presented, I have no problem with them at all. However, as the Leader of the Majority and the Leader of Minority said, these names are presented under Articles 127, 248 and 250 of the Constitution.

Specifically, under Article 127, the Speaker is the permanent Chair of the Parliamentary Service Commission. Article 248 of the Constitution leaves the PSC as one of the commissions duly guided by Article 250 of the Constitution. But, 250(6)(a) is very specific that unless *ex officio*, no person can serve in the Commission for more than one term. It is a fixed term of six years. I have heard the Leader of the Minority Party say that PSC is exempt from the provisions of the Constitution. I am unaware of such a provision. I would like to be guided as far as I understand it. Two of the seven Members appear to have already served. I am raising this not because I object their re-election but for posterity we have to be very clear. Are we guided by Article 250(6)(a) of the Constitution or not? If we are, then are we not in danger of doing an act that is unconstitutional by amending Article 250(6)(a) of the Constitution and allowing a Member to essentially serve for more than one term? I seek your direction, Hon. Speaker.

Hon. Speaker: Hon. Jimmy Angwenyi, the Floor is yours.

Hon. Angwenyi: Hon. Speaker, I want to educate that Member. Parliament is a specific and independent institution. The Constitution says a one term of six years. Can you serve six years if you are a Member of Parliament? You cannot. So, let us not subject ourselves to other commissions and rules.

Hon. Speaker, please advise our Members that we want Parliament to be independent and to operate within the law. And since we cannot serve for six years, you can serve two terms.

Hon. Speaker: Hon. Members, you will recall that the Leader of the Minority Party alluded to the same point that Hon. Otiende Amollo has raised. It does not appear like the contribution from Hon. Jimmy Angwenyi is actually addressing this issue. It is a matter that has been raised in the past.

Hon. Otiende Amollo, in fact, we know that the composition, as provided for in Article 250 of the Constitution, has no exemption. Article 250(1) states that each commission shall

consist of at least three, but not more than nine members. Members of Parliament serve for a maximum period of only five years – if that were to be an issue – but each Parliament has to appoint new commissioners. What do we do with the provisions of Article 250(1)? The Parliamentary Service Commission and Judicial Service Commission are as such commissions in their composition. Yet we know the membership of the JSC is 11 and the membership of the PSC is 10. Surely, it must be the case that these are the exceptions that are there in the Constitution. It cannot be that if Articles 250 and 248 were the only ones to be followed, then it means we would need to get an interpretation as to whether the JSC and the PSC, as provided for in Article 127 and 171, would be properly constituted in terms of Article 250. Hon. John Mbadi wanted to weigh into this matter.

Hon. Ng’ongo: Thank you, Hon. Speaker. I think you have explained it. I just wanted to say that Hon. Otiende Amollo is one of the renowned lawyers in this country. I cannot even pretend to match his knowledge in law.

However, I also understand because I participated in making the current Constitution. The Constitution is supposed to be interpreted in a manner that would promote its usage. If Hon. Otiende Amollo went even further to part (b) of what he read, he would realise that it says, “unless *ex officio* or part-time, shall not hold any other office or employment for profit, whether public or private.” The argument would be that no MP would sit in this Commission because all MPs hold other offices and are being remunerated and getting profit. It is clear to me; there is no ambiguity that the PSC is not guided by the provisions of this Article.

Hon. Speaker, this is the value of experience as opposed to knowledge. Because of my experience, probably I have something a little extra than my great lawyer colleague who would ordinarily represent me when the Government decides to misbehave by arresting me anyhow.

Thank you, Hon. Speaker. I just want to ask my friend to take that counsel.

Hon. Speaker: Hon. John Mbadi, what you have said would apply to the commissioners of the JSC, who are judges. When they sit in the JSC, they are paid their sitting allowances despite the fact that they are on salaries. It is unfortunate that Hon. Otiende Amollo was one of the Members of the Committee of Experts (CoE) that oversaw the putting together of the draft of the current Constitution. Maybe, the House needs to know that. So, if there are any ambiguities, they should be addressed to him. Maybe, as we move on, we shall benefit from what was the vision. What was the intention of creating some of these areas, which are grey? Did you want these commissions to function or not?

Hon. Otiende, by the way, it is good to hear your views on this.

Hon. (Dr.) Otiende Amollo: Thank you, Hon. Speaker. As the Leader for the Minority Party has said, I raise this not just as an MP but also as a lawyer, and one of those who wrote the Constitution. So, I do not raise it lightly, and it is not personal.

Hon. Speaker, there are two things that we must be clear on. Although a commission is not bound by the provisions of Article 250, what we are saying is that even if we want to remove a commissioner, we do not have to follow the elaborate mechanism laid out in the Constitution, of establishing a tribunal. That is what we are saying. Secondly, we are saying that the protection that commissioners enjoy under the Constitution are not enjoyed by them. Thirdly, we are saying that all the provisions of Article 250 do not apply to the PSC. If we are saying that, then we are walking on very dangerous waters.

Hon. Speaker, I respect your guidance on this matter. It is true that the membership of this particular Commission exceeds nine, but there are few commissions in the Constitution that

were designed to have in excess of nine members. However, only those which are specifically mentioned, which include the PSC, JSC and SRC, because of their unique composition, they must bring in other people.

The question of exceeding the number is specifically catered for; it is not an ambiguity. The question of the tenure is answered by Article 127 (5). It is very specific. The question is under Article 127 (4). When does a member vacate office? A member who is appointed by this House to the PSC will vacate at the end of the term of the House of which the person is a member of. However, it is saved by part (5), which says:

“Despite clause 4, when the term of a House of Parliament ends, a member of the Commission appointed under Clause 2(C) shall continue in office until a new member has been appointed.”

Therefore, technically, the Members we appoint here serve for five years but before the new ones come in, they will serve. They can actually serve for more than five years. What am I saying? There are no ambiguities. If we choose to ignore Article 250, let us choose to ignore it. Let us not say that it is because there are ambiguities.

I rest my case Hon. Speaker.

Hon. Speaker: Hon. Otiende Amollo, you seem to be answering the question that you raised yourself. Let us have the Leader of the Majority Party.

Hon. A.B Duale: Hon. Speaker, I want to confirm to my friend, Hon. Otiende Amollo. You might be an astute lawyer out there but when we are here, we are all lawmakers. This is a unique Commission. I will give him five reasons why this Commission is unique. All commissions, under the Constitution have selection panels provided for in the Act. The process of recruiting commissioners is set up in specific selection panels. After they are selected, the names are submitted to the President and the President sends the names to this House. The respective committees do due diligence through vetting. They can as well reject the nominees of the President.

In this case, the PSC is selected by political parties, with approval of this House. In fact, even when it comes to their discharge, Article 250 does not apply. It is for the same caucus to come back with reasons, write and bring a Motion for their removal.

More fundamentally, when a Member of Parliament serves for five years, that is the end of his term. If re-elected, he is serving a fresh new term. It is different from other public and State officers. So, if you even look at the process of how we arrived at these names this afternoon, it is totally different from the way the JSC, TSC, PSC and SRC arrive at the names.

The road map is different. It is like day and night. It is not President Uhuru Kenyatta who brought these nominees to this House, am I right? The Hon. Speaker did not read a message from the Executive. So, it is good that Hon. Otiende has raised it. He is within his right, and you have answered. We need to move and deal with this matter. This is a matter that the Departmental Committee on Justice and Legal Affairs can bring a petition on next time. One thing he needs to go home with is that as much as we agree with you, the question you need to answer is how these names arrive in this House, and how the Motion was crafted. This is different from how the JSC arrives at names. Right now, as we sit here, the Departmental Committee of Justice and Legal Affairs is dealing with three nominees who have been appointed to the JSC. Yesterday, they were being vetted.

The President has the powers to appoint. The question I want to ask you, Hon. Otiende Amollo, which I think is a legal food for thought, you need to go home with it: What about JSC?

The Chief Justice is the President of the Supreme Court and he sits in the JSC. The Court of Appeal has a similar representation as the Parliamentary Service Commission, the High Court and the Magistrate Courts. The only three people who come through the presidency and a selection panel are the three nominees who represent non-lawyers. They represent the public interest in the JSC. I think we are very different from them. Next time, if Hon. Otiende wins his seat in 2022, he might be eligible through ODM to be a Member of PSC.

Hon. Speaker: Hon. Members, for the information of the House, there are two other Members of the Commission appointed by Parliament who are non-Members. Even as we speak, those of you who can recall those two persons, one female and one male, were nominated and the formula used was that the Minority side produces a name of a female and she is still a Commissioner. The Majority side produced a name of a male...I still believe he is male.

(Laughter)

The said male resigned to contest and successfully become a Senator. As we speak now, he is a Member of the Senate in the 12th Parliament. Indeed, the Leader of the Majority Party, you may be failing the House by failing to submit a name to replace that male. Hon. Otiende, this is also another issue that needs to be addressed. This Constitution does not say how many years they should serve because they are non-Members. Do they serve for five or six years? Again, this is a grey area which members of the Committee of Experts did not provide for specifically. Indeed, the Leader of the Majority Party is supposed to bring another name. The records are there that the Minority Party submitted one name and the lady is still a Commissioner and continues to serve. But, it is a matter that perhaps will be contested by the public-spirited lawyers. There is the other guy who is very publicly spirited but he is not a lawyer. He seems to enjoy the status of a lawyer in Kenyan courts today.

Hon. Kajwang’: On a point of order, Hon. Speaker.

Hon. Speaker: The Member for Ruaraka, you wanted to say one small thing on this?

Hon. Kajwang’: On a point of order, Hon. Speaker. I think the mood of the House is that you put the Question but as you do that, let me add my voice.

Hon. Speaker, you have ruled on this issue before because I remember several communications from the Chair. You know law is interesting and that is why this Constitution which was done by my friend, Otiende Amollo and others, allowed Kenyans including courts of law and anybody else who is able to read such as Okiya Omutatah, to interpret it their own way. The only provision which you have referred to in the past that has not gone in the HANSARD today is Chapter Fifteen of the Constitution on Commissions and Independent Offices in Article 248. It begins with good words but the key words in 248(1) state thus:

“(1) This Chapter applies to the commissions specified in clause (2) and the independent offices specified in clause (3), except to the extent that this Constitution provides otherwise.”

In the 10 commissions, members serve a single term of six years and one is not eligible for reappointment. But Article 127 provides otherwise because Article 127(4) provides a term of five years. A question can be whether we are talking about only the term and not the qualification for eligibility. But, the way in which Article 127(6) has been worded the question of a single term is conjoined with the qualification of eligibility. Therefore, Article 127(4) talks about a term of five years, which we just have to live with, in my view, that it is the extent to which this Constitution provides otherwise.

Thank you.

Hon. Speaker: Very well. Order, Hon. Members!

Hon. Members: Put the Question.

Hon. Speaker: Hon. Members, if we are dealing with commissioners who are to serve in other commissions, I would have found it interesting that you are asking me to put the Question. Is it because these ones are your own? Is it the feeling of the House?

Hon. Members: Yes.

Hon. Speaker: Hon. Members, just a minute. I think some of the terms which Hon. Otiende Amollo and his team put in the new Constitution are quite exciting. Now everybody talks about diversity, regional balance, gender, age, youth and many other things. Hon. Members, I need to decide whether we move in one way or another because some of you are saying I put the Question while others want to debate.

Hon. Members: Put the Question! Debate!

Hon. Speaker: There are some like the Member for Endebess and the Member for Kikuyu who want debate. Hon. Members, can I find out what the mood of the House is?

Hon. Members: Yes.

Hon. Speaker: The only method that is available to us is for me to put the Question. Not even the Mover to reply.

Hon. Members: No!

Hon. Speaker: This is because there has been no debate. Hon. Members, therefore, let me find out whether that is the mood of the House.

Hon. Members: Yes.

Hon. Speaker: Obviously, the Member for Suna East, I am allowed to interchange the languages; Kiswahili and English. A former Member of this House used to say, *Kura yamakelele*. Hon. Members, I put the Question.

(Question put and agreed to)

Hon. Speaker: Obviously, the Ayes have it, not unless somebody is claiming for a division. Hon. Members, there was only one Member who rose in his place claiming for a division. That is the Member for Homa Bay Town. So, he did not meet the threshold of 30 members. Therefore, I will put the Question. As you have established, we have done this always. I will put the Question on each name.

Hon. Members: *(Off record)*

Hon. Speaker: All of them?

Hon. Members: Yes!

Hon. Speaker: Order, Hon. Members! Hon. Members, I do not have to keep reminding you about the famous words of Speaker Lenthall on 4th January 1642: "I have neither eyes to see, nor tongue to speak, in this place, but as the house is pleased to direct me, whose servant I am here". Therefore, if the House directs that I put the Question for all Members, I have no option. Again, Hon. Otiende Amolo will tell you that Article 122 of the Constitution says that the Speaker has no vote. So, again, let me find whether that is the position because it is you to decide. Hon. Members, listen. The proposal from the Floor is that I put the Question with respect to all the Members.

(Question, that the Speaker puts the Question on all the Members proposed to the PSC, put and agreed to)

I can resume my seat if there are any Members claiming for a division. So, Hon. Members, let us dispose of this Motion. I put the Question.

(Question put and agreed to)

(Hon. Keynan stood up in his place)

Hon. Keynan, the Motion is carried.

(Several Members walked out of the Chamber)

Hon. Members, the Business of the House is not over.

Hon. Keynan: Hon. Speaker, I want to take this opportunity, on behalf of my colleagues... Hon. Speaker, we need your guidance.

Hon. Speaker: Hon. Members, it looks like...

ADOPTION OF SESSIONAL PAPER THE NATIONAL HOUSING POLICY

THAT, this House adopts Sessional Paper No. 3 of 2016 on the National Housing Policy, laid on the Table of the House on Thursday, 15th February 2018.

(Hon. A.B. Duale on 21.2.2018)

(Resumption of Debate interrupted on 21.2.2018 – Morning Sitting)

Hon. Speaker: Hon. Members, let us go back to business. Debate on this Motion was adjourned with a balance of one hour 40 minutes and the records show that one Hon. Mwangi Gathiru was on the Floor when debate was adjourned and has a balance of eight minutes. If the Member whose face does not seem to ring a bell for me is present, he can resume. The Member is absent. His chance is dropped. So, any other Member is at liberty to contribute to this debate on the Adoption of the Sessional Paper No.3 of 2016 on the National Housing Policy.

Hon. Speaker: Member for Langata, Hon. Nixon Korir. Is he the one? He seems to have changed his appearance. How can I know only the name but not the face?

Hon. Korir: Thank you, Hon. Speaker. You have to change a little bit after campaigns. I rise to support this Motion on the Adoption of Sessional Paper No.3 of 2016 on the National Housing Policy. Houses in Nairobi have become very expensive. Majority of Kenyans cannot afford to buy houses right now. It is only good that as Members of Parliament we support the Government right now because it shows the intention of providing affordable, comfortable and decent houses to Kenyans. As you are aware, this sector has been left for a long time to the private sector. Some of the private sector players have taken advantage of this. Most of the

houses are not affordable to a common Kenyan who is working in the *jua kali* sector or earning a decent pay in the public sector.

I want to support this Motion because it is giving the Government an opportunity, policy and the framework that it needs to provide affordable Houses. I come from Langata Constituency. I represent the people living there. I have so many slums where very many Kenyans are living in very bad conditions. As you are aware, about four weeks ago, we had a very bad incident in Kijiji where 6,000 Kenyans were displaced by a fire incident.

QUORUM

Hon. Speaker: Hon. Korir, there is a point of order from the Member for Nyando.

Hon. Okelo: Thank you, Hon. Speaker, for the opportunity. Seemingly, the debate that we had on the appointment of Members to the Parliamentary Service Commission ought to have stolen thunder from us. I have done a quick head count. We are actually below the threshold of the number of Members to transact business. So, I seek your indulgence. The Motion before us is important and critical. It should marshal the right number of Members of Parliament in the House. So, I seek your direction. I think we should adjourn in light of that and we suspend this debate to another day.

Thank you, Hon. Speaker.

Hon. Speaker: Be specific. You cannot just seek the House to adjourn.

Hon. Okelo: Hon. Speaker, the point I am bringing home is that Standing Orders require that we marshal 50 Members of Parliament for a debate to be carried out.

Hon. Speaker: Are you saying there is no quorum?

Hon. Okelo: There is no quorum.

Hon. Speaker: It is as simple as that. I know you are not saying that there is no quorum because you have not been around for some time. That is enough.

Hon. Okelo: Thank you, Hon. Speaker.

Hon. Speaker: I confirm that there is no quorum. You are 34 currently. Can you ring the Quorum Bell for the first 10 minutes?

Hon. Members, remember except the Whip, it will be an act of gross disorder for any Member to walk out during this time when the bell is being rung. So, those who are present must remain, including the Member who raised the issue. Hon. Okelo, we can only adjourn if we do not raise the quorum. You have to remain here now.

Member for Eldas, you are not allowed to walk out during this time. You know this. You cannot do this after you have been confirmed as a Commissioner of the Parliamentary Service Commission. Serjeant-at-arms, a Member cannot walk out at this time. Those are the rules. What is happening? Members do not listen. You cannot go out. Do not talk to the Serjeant-at-arms to give you permission. He cannot do that.

(The Quorum Bell was rung)

Hon. Speaker: Stop the Quorum Bell so that we can resume.

(Hon. Okelo Spoke off record)

Hon. Speaker: The person who keeps the count is the Clerk-at-the-Table and the Serjeant-at-Arms. We do not count the way you do it in the village. There is somebody who does it here. If you had been coming to the House, you would be familiar by now. You have been so much on the streets. When the Serjeant-at-Arms raises that paper, it means we have attained the number.

Member for Langata, you had a balance of seven minutes but because the Member for Nyando took a little of your time, I will give you the full 10 minutes.

Hon. Korir: Thank you, Hon. Speaker. I rise to support this Motion on the Adoption of Sessional Paper No.3 of 2016 on the National Housing Policy. As I had indicated before the point of order from the Hon. Member, housing is a right according to the Constitution. Government is mandated to provide decent and affordable houses to its citizens. In the past, the Government had neglected this mandate and left it to the private sector.

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

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

The private sector has taken advantage of this and housing is very expensive and very few Kenyans can afford to live in decent houses. The Government has shown interest in supporting the housing sector. As Parliament, we can only support it by giving the necessary infrastructure in terms of legislation. I believe the Government can use such legislation to provide affordable and decent houses to Kenyans.

I represent Langata Constituency and part of my people live in a very bad state. They live in slums. It is only proper, as their Member of Parliament, that I support this Motion so that we can ensure the Government gives these Kenyans access to decent houses. We had a fire incident in Kijiji slums and we lost five lives, property and 6,000 people were displaced. Right now they are trying to go back to their normal lives. If they had proper housing, the fire incident would have been managed. However, they live in a very bad state and the Government has neglected them. The Government has not provided them with decent and affordable houses. They get diseases because of the dirty water they consume. The environment they live in and the sewerage system are not properly managed. Now that the Government has shown interest by bringing this policy paper for adoption, we should support it so that we can provide infrastructure that ensures we have proper housing.

Hon. Speaker, in Nairobi alone, we need to put up 250,000 houses every year.

The Temporary Deputy Speaker (Hon. (Ms.) Tuya): Hon. Korir, you must be addressing an imaginary Speaker. There was change of Chair.

Hon. Korir: Sorry, I can see there was change of guard midway.

Hon. Temporary Deputy Speaker, I support this Motion. There is a programme being rolled out by the Government. We need about 250,000 houses in Nairobi every year, but the private sector can only provide 50,000 houses annually. There is a deficit of 200,000 houses in Nairobi alone. Therefore, through the Slum Upgrading Programme the Government has provided, in Langata alone, 900 houses in 13 years at Canaan Estate that were commissioned last year. There is a plan to provide a further 4,400 houses in Soweto, in Kibra, Langata

Constituency. This is still not enough. We need to support the Government so that we can get these houses available to the many Kenyans who cannot afford expensive houses put up by the private sector.

I support the Motion. Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Tuya): Hon. Muriungi Mutemi of Mwingi Central. He is not in. Hon. Wachira Kabinga of Mwea.

Hon. Josphat Wachira: Hon. Speaker, I want to contribute in the next Order.

The Temporary Deputy Speaker (Hon. (Ms.) Tuya): Hon. Members, you need to look properly at the person in the Chair. It is Madam Speaker. I would like to be addressed appropriately. Hon. Baya of Kilifi North? Hon. Wamunyinyi!

Hon. Wamunyinyi: Thank you very much Hon. Temporary Deputy Speaker for giving me the opportunity to contribute on this Sessional Paper. This Sessional Paper seeks to address important and fundamental issues which are also captured very well in our Constitution. But, before I make my comments on this, you will note that the mood in the House over the previous Order was one of excitement. Majority of Members walked out after it was concluded.

Before the establishment of the Parliamentary Service Commission, Parliament was then a department in the Office of the President and the Clerk and other officers were appointed by His Excellency the President. Members then were not facilitated and were neither housed nor given offices. They were not given facilities for work until the establishment of the Commission. So, it is such an important Commission which Members need to accord the seriousness it deserves. I hope those who have been nominated to serve in the Commission are going to do a good job. I trust Hon. Naomi Shaban who is one of the longest serving Members and was with us here at the time of the establishment of the Commission. We trust that you are going to deal with the issues that affect Members; that Members will be facilitated adequately in order to perform their mandate of representation, oversight and legislation. You will ensure Members go back to the constituency and come back; you will ensure that you do not employ your relatives in the Commission; you do not employ your husbands, children and so on so that Members are adequately served. I wanted to say that as a preamble then proceed to the issue of the Sessional Paper.

The Constitution particularly Article 43 is very clear that every person has a right to accessible and adequate housing and reasonable standards of sanitation. Further, in Article 21, the State shall take legislative policy and other measures including the setting up of standards to achieve the progressive realisation of the rights guaranteed under the Constitution in Article 43.

Therefore, this Sessional Paper seeks to put in place measures to implement the provisions of the Constitution. More particularly, it is important for Members to note that if you look at the policy paper, it captures and provides the aim which is very clear to enable the low income households to access housing.

The Member for Lang'ata, my younger brother, Nixon Korir, who represents a major slum, mentioned the problems and challenges that are experienced by our people. This is real. Kenyans are expected, as provided in the Constitution, to access reasonable housing. People are living under very deplorable conditions in the slums. They live in shanties and they do not have food. They have nothing. The Government made a good move. The introduction of this Sessional Paper is timely. It seeks to ensure that the people of Kenya access what they are entitled to, as provided in the Constitution. This Paper also proposes the upgrading of slums. This goes towards addressing the same problem - slum improvement including income generating activities that

effectively would combat poverty of the people living in the slums. This is a very good Paper. I trust that Parliament will adopt this Sessional Paper and have it implemented as per the policy. With these objectives, it is going to help turn around the lives of many Kenyans.

Looking at the projections and the statistics provided, the growth in the population is one aspect that must be matched with the projections for housing in the country. It is projected by statisticians that by 2030, the Kenyan population will be about 150 million. There was a projection from 1963 at the time of independence when we were at 5 million. It moved on. Right now, we are at 50 million. Those projections are reasonable. If we are serious about ensuring that our people benefit and grow, and are able to lead better lives, we must be able to match the growth of the population.

This morning, I was blocked by cows along Lang'ata Road as I was coming to town. The cows were many. They have destroyed all the grass and the flowers and anything that is being grown there. The County of Nairobi has laws and regulations about grazing animals. These are things that must also be taken into account when doing projections and planning development. Animals must also be planned for. We need a specific number of animals and some place for grazing. Those with animals in Nairobi should be given some alternative place to grow some grass for them. The Government can arrange and grow some grass for them instead of allowing them to come and eat the flowers on Uhuru Highway, causing traffic jam every morning. The point I am trying to raise is that there has to be collaboration, coordination and planning. Even as we approve this good policy, we must also look at other related issues.

Another issue I thought is important specifically is to ensure that this growth is maintained. You initiate a paper and set in motion good aspects like growth in housing but for how long? Is this going to be sustained? There must also be a good plan to ensure sustainability, to ensure that whatever you are undertaking is going to go on for posterity and that it will be continuous and progressive. The aspect of resource mobilisation, expertise and all related aspects need to be taken into account so that as we move forward, our people benefit from this.

I can talk about many things that I see in this Paper but also I take into account the fact that some of the colleagues who are here want to speak. I want to encourage that Government also works towards ensuring that we undertake legislation that will ensure that we align ourselves to the Constitution.

With those few remarks, I thank you for giving me the chance.

The Temporary Deputy Speaker (Hon. (Ms.) Tuya): Hon. Members, I notice a lot of names of Members who are not in the Chamber. Some of you have logged in in anticipation of the Roads Bill. If you are not intending to contribute to the housing policy, please take out your card so that we do not have confusion.

Hon. Member for Igembe Central.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Sessional Paper No. 3 of 2016 in regard to housing and urban development.

This Sessional Paper is timely and we need to assess it and more so pray and believe that it will see the light of the day and gets implemented. Before I go to that one, I congratulate the Members who have been unanimously elected by us to join PSC and challenge them to be up to the task and make sure that all the interests and the welfare of Members is looked into. Because they are part of the same family, they know our problems and they need to address them quickly and expeditiously.

Having said that, Hon. Temporary Deputy Speaker, housing is the most important aspect of human life. We talk of health; we talk of food and then we come to housing. At the end of the day, without shelter, we might be living in the Stone Age where people were living in the bush. In the current world, it is up to the Government to see to it that its citizens are housed – the rich and the poor; the educated and the uneducated, and without discrimination.

Therefore, it is prudent that we adopt this Sessional Paper which encompasses and incorporates the planning of housing in our republic and also sets standards which need to have health considerations. Sanitation should be properly addressed. More so, even accessibility should be factored in. We have incidents where fires have broken out and the fire engines cannot access the buildings because of the poor planning. We need to be able to access houses in our areas.

We are talking of diseases which are coming up every time. If there is a cholera outbreak in Runda, maybe it will affect the family or few individuals. But if there is a cholera outbreak in Mathare, it will sweep the entire slum. These are the things which need to be addressed by this Sessional Paper. It has put them in place. It is now the task of the Government to implement the same.

On affordability of houses, we are talking of everybody getting a house. Let us get not only a good clean house with all the amenities but also affordable. These things are there. We have people who have been employed in this city and many other cities and they cannot afford accommodation because of the high cost of living. I happen to have gone to Singapore and I found that every institution which employs people has their houses next to the institution. If it is parliament, parliamentarians are housed in an estate somewhere they can walk to parliament and that is catered for by the Government. There are people who are employed in industries; Export Processing Zone areas. You will find that people scramble to look for accommodation. If that industry invests in putting up houses for its employees, it will be cheaper and it will be convenient. Employees can always walk to their places of work. This is already catered for in this Sessional Paper.

If we do that, we will get rid of houses which are put up by incompetent architects. We will eliminate poor structures which are weak and are collapsing in estates, killing people and causing mayhem. We need proper houses which are properly constructed with the correct workmanship so that we can at least stop all these accidents by collapsing buildings. After all this is said and done, we need to set aside finances and also have a programme to continue to put up buildings. The Government will need to budget for these houses annually. That is so that the process continues every year. Let us not congest these houses in our cities, towns or urban areas. Let us go into the rural areas. Let us put electricity in the rural areas and we shall develop the countryside.

The other day we passed Sessional Paper No. 3 of 2017 on the National Policy on Climate Finance. I spoke to the same and said let it not be water under the bridge. Let it not be put under the carpet. Once we pass these documents, they should go to the right ministry for proper budgeting and planning. We can adopt all these papers and keep them in the Table Office or offices, but if we do not implement programmes, it will be an effort in futility. I do not think that is the spirit. The spirit is to actualise what we pass here. I strongly believe that the Ministry in charge of housing will take up the matter and implement what has been suggested. Once the Sessional Paper sees the light of the day, we shall say that we did a good job and it has been appreciated by the citizens of this country.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Tuya): Member of Alego Usonga?

Hon. Atandi: Thank you Hon. Temporary Deputy Speaker for giving me this opportunity to ventilate on this very important policy Motion.

I want to say that any serious policy on housing must address the question of financing housing. If you look at those countries that have been able to address the question of housing, countries like the Asian Tigers of the East, countries in Europe such as Canada and Australia have vibrant financial sectors. Financing of housing is not only a preserve for Government. It is also something the private sector, through the financial system, has also incorporated. I speak as an expert and a top professional in the financial sector before I came to this House. I wanted to say that in our present Kenya, we have not been able to succeed in this area because our financial system is not that vibrant that it is capable of answering this question.

If you were to go into a bank to take a mortgage, it is very expensive. The reason it is expensive is because our previous legislations in this House on the financial sector have mostly been geared towards disrupting or what I call trying to undermine investors in that sector. Monies that you receive from banks to finance mortgage are very expensive because banks rely on short-term deposits from customers. So, you will find that investors in the housing sector have to sell their houses very exorbitantly. You know most Kenyans cannot afford. Even in this House, you know very well that many Members of Parliament are unable to use our mortgage system to finance houses in upmarket areas such as Karen.

Just to take you back, when the Leader of the Majority Party was making his statements on the Motion on the nomination of members to the Parliamentary Service Commission, he made a reference to the experts in this sector. If Commissioners of the PSC are here, I want them to note that I am a very important resource in that area and that I am willing to donate my knowledge so that we have Members in this Parliament really accessing those mortgage facilities with better information.

Coming back to this issue, how do we as a country get to be able to support Government in the area of housing? This is something that I believe the drafters of this policy paper need to look at. One, we have an option for what we call housing development bonds in this country. They are ideally affordable. Any investor in the financial sector could take advantage to bridge the gap that will be left by the Government's budgetary funding. The other issue is the fact that we presently tax the housing development bonds. So, it is also very expensive. This is one avenue that would really help this economy to spur the development of housing.

As a recommendation, one of the things that this House must do is to try and make the financial sector as vibrant as possible, so that it is able to support Government initiatives. You know that the Government budgetary allocation for housing has continued to dwindle in the recent past years. This is not by design because our revenue generation projections have not been met and so the Government does not have sufficient resources to fund the development of housing. My proposal is that, as a House, we must think far and wide and bring in proposals that will be capable of making our financial sector vibrant and, therefore, capable of supporting the Government initiative towards the development of the housing sector. I have noted that this Policy has been well crafted except in the area of financing to which it has paid lip service. I think it is the most critical and most important.

The other issue that I want to raise is how as a House we can support our financial sector to do this. In the last Parliament, this House attempted to make certain proposals to tame the

financial sector, namely, to tame banks and to discourage investors in that sector. In my view, we need to relook at that legislation so that we can address the question of how we can fund our financial sector. How can we fund our banks with cheap money so that the cheap money can benefit the other sectors of the economy, including our housing?

Thank you, Hon. Temporary Deputy Speaker, I support this policy document.

The Temporary Deputy Speaker (Hon. (Ms.) Tuyu): Member for Fafi, Hon. Mohamed Osman. He is not in. We are still suffering from the same fate. Hon. Commissioner Namsi.

Hon. (Dr.) Shaban: Thank you, Hon. Temporary Deputy Speaker. First of all, I want to take this opportunity to thank the membership of this august House for giving us an opportunity to serve in the Commission. The Parliamentary Service Commission Motion awaits the decision of the Senate, but I am sure we are going to sail through. I want to thank all the Members honestly from the bottom of my heart. This has been a long and protracted battle, but we are finally here and we should be able to serve the people. I give my promise that we will work and make sure that the welfare of Members improves, so that we can serve our people in a better and more relaxed manner, because of the issues that we have been facing over the years.

This Sessional Paper No.3 of 2016 is such an important Paper. I believe that it should have come earlier because our housing facilities in this country have been a big mess. Housing falls within the big four agenda of the Jubilee Government. Affordable housing has taken centre stage in Jubilee objectives. It is very important for Kenyans to be sheltered. Our Constitution, in Article 43, states very clearly that housing is a right. The Bill of Rights advocates for affordable housing. I believe this Policy will take us a long way in ensuring that we realise what is contained in the Bill of Rights.

It is important for us to point out that you cannot have a complete housing policy without referring to land issues. Land issues are a major problem in this country. Acquiring land has been a nightmare. Quite a bit of land was given out erroneously and illegally to some people. Getting that land back means that the Government will have to spend a lot of money in terms of compensation. The Government needs that land for purposes of carrying out projects which are going to be beneficial to Kenyans.

Our environment has been a mess. The other day we were discussing the Sessional Paper on Climate Finance. The Government has looked into the matter seriously and now we have a policy on that. We need to look at the issue of housing broadly. Housing cannot be a stand-alone issue. We need to look at other issues related to it. A lot of issues have been discussed about this Policy, including matters about the environment, land and even how far this Policy has come and where it is intended to take us in terms of affordable housing.

It has referred to urban migration, which has been a pain and a very serious problem that we have been facing in this country. Everybody is running away from the rural areas and coming to the big cities and towns to look for livelihood. People are after getting employment. Therefore, this housing policy is quite comprehensive in the sense that it also addresses policy issues on how the Government intends to tackle some of the problems facing the people, including urbanisation and unemployment.

The components in the big four agenda that the Jubilee Government is looking at are all related. This housing policy will go a long way not only in giving us affordable housing, but also addressing issues of health. When people are not well housed, they do not have proper shelter and a clean environment certainly, health issues kick in. All that is put together. The food security issue has something to do with where we can put our houses. In the rural areas, most

people stay where they do their farming. It is important that all these issues are put together so that the Jubilee Government can give our people what is in the robust Bill of Rights.

I am asking our colleagues to read through this Policy because most of those issues have been tackled here. I know the Government is keen on making sure that these issues are carried out. We cannot say we have implemented the Constitution if we do not seriously look at affordable housing. That is why our President Uhuru Kenyatta, decided to make it a centre piece in our development agenda for his second and final term.

There are issues concerning the other infrastructure which goes with housing. We cannot have proper housing if we do not have good roads, clean water and a good sewerage system. All these things go together. Our people should be housed where they can be sure of health preservation in their families. Most of the families suffer for lack of proper housing, clean drinking water, proper sewerage system and sanitation facilities.

This document is very comprehensive. I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Tuyu): Hon. Member for Nyando, are you on intervention?

Hon. Okelo: Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Tuyu): You want to contribute, not an intervention?

Hon. Okelo: Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Tuyu): So, it is just a trick?

Hon. Okelo: I do not know how to call it.

The Temporary Deputy Speaker (Hon. (Ms.) Tuyu): Go ahead.

Hon. Okelo: Thank you, Hon. Temporary Deputy Speaker. First, allow me to congratulate my colleagues whose names have just been passed to join the PSC. I pray to God to grant them good health and the strength to discharge their mandate in accordance with the law.

This is a very important Motion before us, namely, the Adoption of Sessional Paper No.3 of 2016 on the National Housing Policy. The Constitution of Kenya in Article 43 pays credence to good housing and good standards of sanitation to the citizens. This Motion is very timely. It is very important to pass it without much ado so that the Kenyan people, mostly those who live under squalor, can then enjoy the fruits of good governance.

Because of rural-urban migration, we have seen pressure being put on the few houses that we have in our urban setups. I think even as we focus much attention to the need to expand housing not just within the urban setups, but we should also consider job creation and decent housing within the rural areas. This will ease a lot of pressure that our people have been exposed to when it comes to matters housing.

We also must pay much attention to provision of water services and sanitation within our areas. This has been tested and tried to be the best arbiter and the best intervention when handling diseases such as cholera that are quite rampant within this country. Waste management is something that we must also consider even as we improve houses and structures, so that we handle both liquid and solid waste and pay much attention to their management.

We all know that those who live under dilapidated state cannot be productive to the society. Therefore, the multiplying benefits that will come with adequate, decent housing will also include production within this country. The issue of housing becomes one of the best indicators to a thriving economy. If we have the populace living under decent roofing, then that is a testament and a manifestation that the country is heading towards being put under the First

World economy. Those are the things that I think even as we begin to do national census next year, we should come up with real figures as to how many people are homeless. This kind of intervention will straightaway go to those who are most needy across Kenya. That is also another way of looking at Vision 2030 and its attainment. This country set very clear goals that must be achieved and attained within possible space of time, and 2030 has been set as the barometer upon which our industrialization, decent living, job creation and all those good things that come with it shall be pegged on.

We need to also carry out research on why most Kenyans do not enjoy good living standards. Is it because of the traditions, perhaps, that we have had for a long period of time that may need to be amended by various communities? Is it because our people consider urban setups to be the best place to live in and discard their rural setups? These are things that Parliament, together with the laws that will be amended, must put a very serious commission to seriously address these most fundamental issues about housing. Therefore, the Sessional Paper before us is a very good one. We need to universally support it for the welfare of the country and the welfare of those who are destitute within the Republic of Kenya.

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

The Temporary Deputy Speaker (Hon. (Ms.) Tuya): The Member for Kikuyu.

Hon. Ichung'wah: Thank you, Hon. Temporary Deputy Speaker. I also note you have noticed where I am seated, since you had earlier referred to Hon. Nixon Korir, the Member for Lang'ata, as the Member for Kikuyu, in my name.

The Temporary Deputy Speaker (Hon. (Ms.) Tuya): Apologies, and I think the HANSARD will correct that. It was not you.

Hon. Ichung'wah: Yes, it was Hon. Nixon Korir, Member for Lang'ata in Nairobi County, while I am from Kikuyu in Kiambu County. But we are related in the sense that Nairobi and Kiambu counties are some of those counties....

I rise first to support the Motion for the adoption of the Sessional Paper. I was saying that Kiambu County enjoys proximity to Nairobi City in Nairobi County. That is why I relate to the sentiments of Hon. Nixon Korir on the need for a proper housing policy in this country, one that will enable the Government to fast-track the provision of not just housing, but what has now been called affordable housing. I am told that is the politically correct term, not low-cost housing because there is nothing low cost in it. It is just affordable for those who could not afford the high prices of housing in Nairobi and its environs. Nairobi and Kiambu share very close similarities and the fact that we neighbour Nairobi, we have had to accommodate very many people working in the City. Therefore, I am very excited by the prospects that will come with this Sessional Paper.

I must commend the Ministry and the Department of Housing and Urban Planning in coming up with this Sessional Paper because it addresses a number of issues that have made housing unaffordable in this country. Principally, the question of land is key. Many Kenyans are not able to afford housing not just in Nairobi and its environs, but even in the rural areas because of the cost of land. The cost of land is so high and this is not because of the services that have been provided on that land. Case in point is Kajiado. If you go to regions of Kitengela, and now it has gone all the way to Isinya, the sides of Pipeline, Kiserian and other outlying areas, even in my constituency in a ward that neighbours Kajiado County called Nachu Ward, land is very expensive.

I have seen adverts on television saying “*ploti maguta maguta*”. To translate that from Latin, it means that they are selling plots that are very oily. The oil in the plots is in how liquid they make you once you buy them. A lot of Kenyans are being duped to buy land that is unserviced, largely inaccessible, and land on which you cannot farm or even inhabit since it is not serviced at all. This Sessional Paper talks to that aspect of the Government using its resources to service land and make sure there is sewer, roads, electricity and water. Therefore, this encourages private developers to come and develop housing that will be affordable to many Kenyans working in this City and other urban areas, but cannot afford housing. People are duped to buy those “*ploti maguta maguta*” in areas that are not accessible and this ties up a lot of capital.

Kenyans are working hard to save and invest in property because they have a desire to own a home for their families, but they end up buying plots in areas that they will not be able to build in the near future. Therefore, it is all tied-up capital and it is idle capital. Therefore, this is not just about housing. It is also speaking to a very good culture that Kenyans have unlike many other people in Africa. You must give Kenyans credit. They have a very good saving culture. The growth of the SACCO sector speaks volumes of our saving culture. You saw me consulting with the Chair of the Departmental Committee on Transport, Public Works and Housing. I also had opportunity yesterday to attend the vetting process for the nominee for the PS, Housing, who incidentally happens to have been my classmate at the only school in Kenya, namely, Alliance High School.

The Temporary Deputy Speaker (Hon. (Ms.) Tuya): Hon. Ichung’wah, you cannot be right. Do you want to intimate that the rest of us Kenyans did not go to school? You are totally out of order.

Hon. Ichung’wah: Hon. Temporary Deputy Speaker, I stand guided, but it is something we say with a lot of pride that there were only two schools in Kenya when I went to school, namely, the Alliance High School and the rest. So, I am not saying in any way that all the other schools you went to are not schools, but they were among the rest. So, those of us who went to Alliance High School, PS nominee being one of them is bringing in a lot of experience. I have even seen in this Sessional Paper an allusion to Johannesburg Social Housing Company in South Africa and he comes with that experience. I am excited that with energy and young vigor, the PS nominee, Mr. Charles Hinga Mwaura, famously referred to as C. Mwangi in our younger days in school, is bringing that expertise to this country. I have seen what he has done in South Africa. It is not just on the issue of housing. Those are the issues this document speaks to. The question of land across this country, the county governments with the advent of devolved system of government, took up land that belonged to the Government, but this Sessional Paper is talking about an audit of public land. Very many county governments, State Corporations and even Ministries own land that is just on paper. Nobody has ever audited to know where the land is. A lot of that land, and I will give you the example of almost 2000 hectares in Kikuyu that is owned by the Kenya Agricultural Research Institute (KARI), The Kenya Trypanosomiasis Research Institute (KETRI) and other research bodies under the Agriculture and Food Authority (AFA) Act, is only on paper.

A lot of that land lies idle. They could probably need just about 1000 hectares for research and allow the issues you see in this Sessional Paper of agro-processing and allow us to develop other alternative cities. We can have an agro-city based on that KARI land in Kikuyu. Nachu Ward in Kikuyu is being opened by the Standard Gauge Railway (SGR) which

transverses through Kiambu and Kajiado counties. Areas like Kibiku on Kajiado side, Nachu on Kikuyu side and all those areas that could be opened up by the SGR. In this Sessional Paper, we are talking about opening up new areas where we can have serviced land and then people can move in. It is not just about housing, but also infrastructure. We may build housing around Nairobi, but probably we will end up just crowding Nairobi.

I heard somebody speak about traffic jams in this City. One of the ways to decongest this City is by moving people to Isinya, Nachu in Kikuyu, Lari, Gatuanyaga on the other side of Thika, between Thika and Yatta and have proper mass transit systems that we would link these people to the capital city. This would also move people away from cities. Konza City is a living example. However, we are doing a city in Konza, but where will the people working there settle? You need to have a settlement plan around Konza. Also, the industrial park the Government intends to do in Naivasha, from Naivasha to Nairobi, with proper communication systems, you could probably take 30 minutes at most. You could live in Naivasha and work in Nairobi. Therefore, this Sessional Paper is speaking to all these issues. It is important that this House supports it. More so, we need to support the Government as it seeks to implement the housing policy. We also need to support the Departmental Committee on Transport, Public Works and Housing because from the vetting session, I got an opportunity to learn a lot even in my engagement with the Committee earlier this morning. We are also looking at opportunities so that we are able to tap into the private sector so that once the Government lays the infrastructure to provide land, then the private sector can come in and build the houses.

The issue of mortgage financing is also quite important. The debate that is ongoing around the issue of interest rates capping and questions around it are issues that we will address in this House when the Bills come to the House.

Thank you, Hon. Temporary Deputy Speaker for the time.

The Temporary Deputy Speaker (Hon. (Ms.) Tuyu): I will now give an opportunity to the current Chair of the Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing.

Hon. Losiakou: Thank you, Hon. Temporary Deputy Speaker. In order for people to understand why I am seconding this Motion once again, the docket I chair caters for Transport, Public Works and Housing. The matter falls under my Committee.

I rise to support this Sessional Paper and urge Hon. Members that, please, let us pass it. It has come at a very important time in our country when this country is trying to move towards making sure that most people have shelter. The Government is trying to expand the rights of the people to own shelter. Remember this is a right of the people. I wish to remind Members that it is enshrined in Article 43 of our Constitution. Article 43 speaks about people having affordable and decent housing. Even the Universal Declaration of Human Rights, 1948, talks about the same thing. That is why our country has been moving towards this direction for many years.

The Jubilee Government has gone full throttle to make sure that, at least, a number of people own houses in this country. That is why our President came up with that very good programme. He wants to build 500,000 houses for the people of Kenya. That is in the right direction and mood to respect the idea that the people of Kenya need to own houses. This Sessional Paper is coming at the right time when this is supposed to be implemented.

I am happy that the Members from both sides of the House are supporting this Policy. This is something good for the country. This is a bipartisan approach. Everybody needs a house and that is why as a Chair, I am grateful to support this.

Hon. Temporary Deputy Speaker, this Sessional Paper came up because, as a Government and the leadership of Jubilee, we want to provide houses to the people of Kenya, but there is a mismatch between our incomes and the cost of housing. Kenyans end up looking and admiring people's houses. Most Kenyans move around wishing they could own such houses. Most Kenyans only see some good houses in pictures. This Sessional Paper will try to set a policy direction by providing that for us, as a country, we must provide housing for the people of Kenya. There is also need to look at the prices. We need to look at where people will get money.

If you look at our future programme within our Committee, namely, the construction of 500,000 houses for the people of Kenya, together with the Ministry, we have been grappling with how we will buy the houses. One side will be to build, that is to supply, but the demand side is to acquire the houses, so that we do not build the houses for no one. That is why this policy Paper is timely.

We need to think out of the box or say think without the box. How will people access cheap mortgages? I am happy that Members are supporting the Policy because all of us here are beneficiaries of a relatively cheap mortgage. Let us translate this concept to the people of Kenya through such a policy. That is why institutions that should support mortgage financing are being proposed in this Sessional Paper. If it comes back again as a Bill, I will present it to the House. However, this is the direction we want to go. We are saying, could be, through the National Treasury or the NHC or what is being proposed, there should be a mortgage facility which should be accessible to all Kenyans – not just to Kenyans of higher social class or Kenyans in leadership – so that we can reduce the competition amongst the people wanting to be Members of Parliament. If Kenyans can own houses, we can reduce the competition of everyone wanting to become an MP. Then we can be here for a while and legislate. That is why in this Sessional Paper, we are proposing a cheap mortgage scheme for our people.

For the first time in the history of this country, Members have thought about the poor people living in the villages. We are proposing this so that we can achieve not only the goal of building 500,000 houses to one million, but also ensure that people can afford these houses. However, I would like to address something in relation to housing, which calls for leadership. We, in the Committee on Transport, Public Works and Housing, foresee a problem when it comes to compensation for land that may be compulsorily acquired. We have noticed this problem whenever the Government wanted to build a road or a dam. Whenever people hear that a road or a railway line is going to pass through a certain area, or that the Government wants to build houses in a particular location, they rush there and buy off the land cheaply. They wait until when the Government comes to buy the land and inflate the price so much that acquisition of such land becomes more expensive than the intended project.

We have to ask ourselves as a people, where are we going? The projects being implemented are for the good of the people. Why do we inflate the price of the land being acquired by the Government to an extent that it defeats the purpose of development? I am happy that the Land Value Index Bill is coming to Parliament. It will help us deal with the problems that we are facing as a country. We will be able to curtail the malpractices of members of the middle class, who have money. Whenever they learn that the Government is about to implement a project in a certain area, they rush there and buy off the land. This blocks the Government from implementing projects. That is why we are very concerned as Members of the Committee on Transport, Public Works and Housing.

We might have good thinking and intentions; that we need 500,000 houses for Kenyans. However, some greedy people make it difficult for the Government to acquire land for purposes of building the houses. I appeal that, as Kenyans, let us own our country. This country does not belong to the leadership or the Jubilee Coalition. It belongs to all of us. A few rich people should not be rushing to acquire land in areas designated for certain public projects and then resell the same land to the Government at inflated price. I wish the Land Value Index Bill could come to Parliament quickly so that we can take it through the Committee on Transport, Public Works and Housing. That is the direction in which we would like to move as a country, so that we can be sure that everybody has a home in which to live.

With those many remarks, I beg to support. I urge Members to adopt this Sessional Paper, so that we can implement it.

The Temporary Deputy Speaker (Hon. (Ms.) Tuya): Hon. Pkosing, the task of following up this matter for implementation lies squarely with your Committee. It is critical that you do so.

Let us hear the Member for Funyula; Hon. Ojiambo.

Hon. (Dr.) Oundo: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Motion for adoption of this Policy Paper.

As I do so, I take this opportunity to congratulate my colleagues who have been appointed to the PSC. I wish them well and hope that they will take good care of us. I also wish to take exception to the remarks made by the Member for Kikuyu. I must say that I sympathise with him. He went to school. Some of us went to an educational centre called Starehe Boys Centre and School, and we are extremely proud about it.

I speak again on this Motion, having an interest in the matter. I have been in this field as a practitioner and lecturer at the University of Nairobi. I must commend the State Department of Housing and Urban Development for having taken time to align the 2004 Housing Policy to the new constitutional dispensation. I also thank them for reviewing the Housing Policy of 2004 in order to align it to the realities of modern day life. For many years, we have depended on Sessional Paper No.5/1966/67 to fix the housing problem. The Housing Strategy Paper of 2000 could not help us solve the housing problem. I must mention that housing is a basic human right. I appreciate the Constitution of Kenya, Article 43(b), which has made housing one of the socioeconomic rights of every Kenyan. It states that every person has a right to accessible and adequate housing and to reasonable standards of sanitation.

The issue of inadequate housing is not just a housing problem; it is a complex problem that requires a multi-sectoral approach to address. I appreciate that we have passed many policies over the years that, together, ought to solve the housing problem in this country. The Land Policy, the Urban Development Policy, the Land Use Policy, and various policies related to the housing sector or built environment, will go a long way to solve this problem. Probably at the top of the problem in this country lie three diverse but interconnected issues. This has been captured in the definition of housing in the Policy.

Firstly, a house is as good as the infrastructure provided to it. That is why the UN Habitat has been very categorical and clear in the definition of housing. When you talk about expensive or unaffordable housing, in a way, we are looking at the cost of producing that housing unit, the cost of maintaining it and the element of housing finance. Therefore, I urge those in charge of the housing docket to partner with the county governments to ensure that the necessary infrastructure is provided to enable urban dwellers access decent housing at an affordable price.

Secondly, the UN Habitat defines housing in terms of its affordability. The demand side of the equation arises from two perspectives, namely; per capita income and the cost of accessing housing finance. The Member for Alego Usonga has alluded to the fact that the amount of finance devoted to housing in this country has been low compared to other economies of equal size. This problem arises from the high appetite for domestic borrowing that the Government of the day has.

The Government cannot be seen to be competing with its own people for financial resources from commercial banks. The Government will always out-compete its people because it has the muscle, it is sovereign and the risk of lending to the Government is low. Obviously, any typical banker dependent on short-term savings will tend to lend to the Government because of the security that comes with lending to the Government. Therefore, the finance mandarins and all technocrats in the housing sector need to implore upon the Government to reduce its appetite for domestic debt so that it can allow banks to devote much more money towards housing and other related factors.

The other issue that we need to lay emphasis on is the building or property rights. I have heard the Chairman of the relevant Committee mentioning something about high cost of acquisition of land intended for Government projects. I just hope and wish that the impunity we have seen elsewhere will not be allowed to pervade into this sector to an extent that an individual is deprived of his rights over land and housing simply to allow the Government to undertake projects. That is why we have the Land Value Index Bill, which will come before Parliament. I can assure you that those of us in this sector will scrutinise and interrogate it clearly to avoid cases where property rights are trampled upon. We will only allow the forces of demand and supply to set prices and allocate resources. I appreciate the fact that the low-income earners or the disadvantaged will have a challenge when it comes to accessing housing because in some other spheres, housing is an economic good and it is basically determined by the force of supply and demand. That is why it is upon the Government of the day to intervene for those who cannot afford and provide them with what we call social housing. The purpose of this is not for cost recovery, but for social housing to alleviate challenges of those who cannot afford.

The other area which seems to have been disregarded over the years is rural housing. Many of us have always believed that rural areas have no housing challenges. I can assure you that in many places in this country, the rural folks have a challenge of housing. On many occasions, we have been called upon to assist in construction of houses for the elderly, the disadvantaged in society and persons living with disability. I would have wished that the Government and the said Department of Housing and Urban Development looks beyond urban dwellers and generally tries all it can to allocate adequate resources towards housing in the rural areas. Many rural areas have no security of tenure, so to speak. They have no collateral to enable them access financing. So, they are basically left to their own devices. Of course, a few weeks ago, I cannot remember whether it was the other weekend or not, there was a comedy in the newspaper where an honorable Member of this House alighted from a helicopter to go and construct a mud-walled structure. That is the comedy and tragedy we have in the rural areas.

Thank you, Hon. Temporary Deputy Speaker. With those few remarks, I beg to support this National Housing Policy.

The Temporary Deputy Speaker (Hon. (Ms.) Tuya): Hon. Members, we are almost approaching the end of debate on this Motion. As I call on the Member for Ndaragwa to take his

time, I think in anticipation, I will ask the Mover to be kind enough to donate enough time to certain Members who are on the queue. Hon. Kioni.

Hon. Kioni: Thank you, Hon. Temporary Deputy Speaker. As the Mover struggles with what to say, allow me to take this opportunity to add my voice in support of this Sessional Paper. Before I talk about it, let me also take this opportunity to congratulate the Members who have been appointed to serve in the PSC.

Allow me to quickly point out that for some of us who have been here before, we can quickly attest to the fact that the quality of some of the work we are producing in the parliamentary committees is way below what was produced before. The quality of the members of staff we have has a lot to do with the PSC and so, it will be incumbent upon the Members who have been appointed to the Commission today to ensure that they engage persons who would add quality to the work Members of Parliament do. They do not need to be their family members! It does not mean that they should not offer employment opportunities to those who are related to them, but if they do so, let them employ qualified people who can add value to the kind of work we do.

On the same note, allow me to ask the PSC, to be careful when it comes to promotions. It is important that promotions in this institution are based on merit. It should not be done based on any other criteria because if that is the case, then you demoralise members of staff who have served for a long time. They should not be overtaken just because perhaps they do not come from the regions where the PSC Commissioners come from. They will not be able to perform as expected by the Members of Parliament and produce quality work which is expected from an institution of this nature.

Coming back to the issue of the Sessional Paper No.3 of 2016 on the National Housing Policy, it is right, opportune and encouraging to see the Government take this kind of a bold step. The reason is that members in the society, who may be classified as belonging to the poverty level, might never access housing if we leave them to the issues of supply and demand. The Government must step in to help them in a big way. This Policy seems to address that issue. I should take this opportunity to thank and congratulate Prof. Kaimenyi. This policy paper has come to the Floor as a result of the work he did while serving in this Ministry. I wish him well, wherever he has now been appointed.

Of course, that reminds me that I need to say something about a comment made by our good friend, the Chairman of the Budget and Appropriations Committee. I think that kind of a comment is unfortunate. He needs to be informed that it hurts deep and those are comments that at times have put us on the wrong side of the law and made Kenyans to fight each other. It is not proper to demean others who never went to study where you did. I do not even know whether he studied there. I am talking about him because of the casual nature with which he made that comment. Suffice it to say, that the Housing Policy Paper requires our support and it is good that all Members have supported it.

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

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

As I mentioned earlier, the poor people can only access housing if the Government intervenes in this way. I was involved in the allocation of houses in Dandora and Umoja---

(Hon. Odhiambo crossed the Floor without bowing)

The Temporary Deputy Speaker (Hon. Omulele): The Hon. Member who has crossed the Floor; Member for Gem, you know the rules of the House. Honestly, you cannot do that. Let us just respect our House.

Hon. Kioni: The House still remains the House even when there are no Members. As I was saying, I was involved in the allocation of houses in Umoja and Dandora areas. We had our own experiences during that exercise of allocating houses to the very poor. We need to learn from what came out of those allocations. If these houses are still given to the poor to own them, they will quickly sell them to the market and we would be back to where we are. The people who are going to implement this Policy will need to come up with a way of ensuring that these houses benefit the poor. I do not think that ownership of the houses is the most crucial thing. The issue of provision of housing is what should occupy us more than just allowing them to own the houses. This is because they will own them for a month or two and sell them in the market to the highest bidder. Again, they will be bought off and they will move on and create another slum in the neighbourhood of that housing estate. So, it is important that the Ministry addresses itself to that issue.

The other thing that I think is important is the cost of these units. While we appreciate that you cannot put up a house without an architect, a quantity surveyor and an engineer because we do not want to go through the collapsing of units and endangering the lives of the people, it is important we also pay attention to the kind of fees that they charge. What percentage of the cost goes to these fees? I think it is important we started addressing ourselves to that aspect. In the past, we know that a lot of money has been wasted. I am sitting next to one of them who may have been a beneficiary of these huge fees. I could also be a beneficiary in one way or another. I think it is important that we address ourselves to this. If we are going to achieve what is intended by our Constitution, we must address the fees that are charged by the various professionals who are involved in this. I speak as a Member of Parliament for Ndaragwa. Ndaragwa is one of the towns that I would be happy to see a housing project being undertaken. However, it will be difficult to do that because some of the areas we want to go to like Ndaragwa are still under the Forest Act and we will need to de-gazette them, so that we can benefit from this.

I come from Nyandarua where we have issues with the people of Laikipia. This is because what used to be our town – called Nyahururu – seems to have been easily taken away. If you can take people's property away that easily by just walking over and it becomes yours, then it worries many of us. When we come to do this housing project in Nyahururu, it will be interesting to see whether we will be doing it on behalf of the people of Nyandarua or for the people of Laikipia to have a bite at the pie twice. These are issues that the implementing Ministry will have to deal with so that this can be beneficial to the people in the rural areas. It is important that this project is spread to the rural areas. Let us not leave it within urban centres and towns. I know urban centres or cities are the ones that should benefit the most, but we need to see it spread in the rural areas because the housing level in the rural areas is also very poor and we have an opportunity to address the same.

Thank you, Hon. Temporary Deputy Speaker. I support this housing policy.

The Temporary Deputy Speaker (Hon. Omulele): The Member for Ndaragwa, you do not want Nyahururu Town to belong to Laikipia anymore?

Hon. Kioni: It is not an issue of want. It is that it belonged to Nyandarua since 1963. All the facilities that were meant for the people of Nyandarua have been located within Nyahururu Town.

The Temporary Deputy Speaker (Hon. Omulele): That was with a light touch.

Hon. Kioni: Overnight, they were taken by Laikipia just because at that time we did not have a say, but we now do have a say.

The Temporary Deputy Speaker (Hon. Omulele): I am sure you will be able to address it with the Independent Electoral and Boundaries Commission (IEBC).

Hon. Kioni: And with your support.

The Temporary Deputy Speaker (Hon. Omulele): That was a very good contribution. I have enjoyed your contribution. Hon. Members, I see a lot of interest in this particular Motion, but we have been caught up with time. You know we run by rules. It is incumbent upon me now to call upon the Mover, Hon. Washiali, to take to the Floor. He knows what to do.

Hon. Washiali: Thank you, Hon. Temporary Deputy Speaker. It is true that more than 40 Members of Parliament have contributed to this Motion and the interest is still high. I have about 10 minutes to reply, but with your permission, allow me to give, at least, one minute each to Hon. Mutemi, who was a Principal Secretary when we were building these Chambers; Hon. Bernard Shinali, Hon. Dido Rasso and Hon. George Kariuki, Member for Ndia. Members, you should understand that we are also limited with time. I cannot donate all the time and fail to reply. Okay, I will also donate another one minute to Hon. Bunyasi. Those will be five minutes and I will be left with five minutes to reply.

The Temporary Deputy Speaker (Hon. Omulele): So, you have donated to five Members. We shall proceed in the order that Hon. Washiali has read the names out donating the time starting with Hon. Mulyungi Mutemi. You have one minute.

Hon. Mulyungi: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion on Sessional Paper No.3 of 2016 on the Housing Policy. As we know, housing is one of the basic needs of human life after clothing and food. According to the World Bank and Appetent Survey, we run a deficit of 500,000 houses every year totalling to two million houses in the country. We know that 30 per cent of Kenyans live in urban areas, and the population continues to grow by 4.4 per cent. Out of these, 60 or 80 per cent live in the slums on about 6 per cent of the land mass while in the rural areas, most of us live in mud houses and grass-thatched houses. Therefore, this housing policy is very important, noting those statistics. The bitter truth is that the problems manifested by...

The Temporary Deputy Speaker (Hon. Omulele): We shall have Hon. Bernard Shinali. One minute is a very short time. So, please, consolidate your contribution.

Hon. Shinali: Thank you, Hon. Temporary Deputy Speaker. I thank the Whip of the Majority Party for donating this one minute to me. I waited to contribute to this very important Motion, which is touching on the livelihood of persons living on earth. Coming back to Kenya, I wish to congratulate the Government, but ask them to take a front lead. For a long time, the issue of housing has been left in the hands of middlemen who have fleeced Kenyans. The middlemen have constructed buildings which have killed Kenyans. It should be streamlined, so that we have a proper legal framework in place to check the structures and make sure that proper planning is done.

The Temporary Deputy Speaker (Hon. Omulele): One minute is a very short time. Let us have Hon. Rasso Ali.

Hon. Dido: Thank you, Hon. Temporary Deputy Speaker. I also thank the Whip of the Majority Party. I rise to support this Motion. It is very important and timely. It is an anchor on which both the national Government and county governments can build their future plans of housing our population. Housing has become the most expensive commodity in Kenya. The prices are uncontrolled. I think in the hierarchy of needs, as the Member who has just spoken before me has said, shelter is number one. For that reason, I think the Sessional Paper is timely. With those remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Hon. Omulele): Hon. George Kariuki.

Hon. Macharia: Thank you, Hon. Temporary Deputy Speaker. In support of this Motion, I would like to point out that one of the impediments to solving the housing problem in this country is the National Construction Authority (NCA). The amount of money NCA charges developers is too high and yet we do not know what they do with it. As we look at this Motion, I would like the Committee to get time and summon the NCA and get to know on what basis they charge what they charge and what they do with this money. As a developer, I have suffered because every time I want to put up something---

The Temporary Deputy Speaker (Hon. Omulele): Hon. Sakwa Bunyasi, Member for Nambale.

Hon. Bunyasi: Thank you, Hon. Temporary Deputy Speaker. I thank Hon. Washiali for giving me this minute. I am not happy with this policy paper. If I had the time to do full presentation, I would oppose it strongly for two reasons, for brevity. This is not supposed to be a plan. It is too long for a policy paper. It is a very typical United Nations (UN) type policy that tries to touch on everything. That is what disappoints me. Kenya is one of the most unequal countries in the world. Therefore, you should not start with that kind of background. I wanted to see two prongs. The first one is the poverty prong that would enable active construction of village polytechnics and other ways of activating it which provide housing to the poor, but not those houses in urban areas. The poor lie in the 70 per cent of our population.

Secondly, the others can be catered for through instruments of the Policy. The Government does not have to commit a budget in those ones. The budget should be dedicated to those who do not have options at this level of our development.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Sakwa, it is a tragedy of our rules. I know you had a lot of interesting things to say. I will allow Hon. Nduati, the Member for Gatanga, to contribute. He also got a minute from the Mover.

Hon. Ngugi: Thank you very much, Hon. Temporary Deputy Speaker. It is unfortunate that the professionals in this sector, Hon. (Dr.) Gideon Mulyungi and I, are being given one minute to contribute. I must say that we have done a lot in the housing sector with my colleague, Hon. (Dr.) Gideon Mulyungi. I know the challenges in housing. Before I talk about them, I want to support this Policy.

The challenges normally occur in the provision of materials. The alternative technology which we get in this country is still very expensive such that we cannot sort out our problem. The other problem is labour. The cost of labour is going up. The other problem is that we are not training our young people. As a country, we have unskilled people who execute problems. Before we embark on constructing these houses, we need to train our people, so that we can bring the cost of labour down.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, you will have to live with that. You have a balance of four minutes, Hon. Washiali.

Hon. Washiali: Thank you, Hon. Temporary Deputy Speaker. You can see the excitement associated with this Motion. When I was moving it, I did not expect that it will have full time participation by Members.

I have listened to a number of opinions which were given to us by the Members. I want to comment on what Hon. Bunyasi has said. The Motion is about adoption of the Sessional Paper. You either adopt it and if you are not adopting it, then you flag out areas that you feel need to be corrected. This is not like a report that we can amend. Members need to look at the Sessional Paper and flag out areas which need to be corrected. For the Sessional Paper to work, there are some attendant Bills that need to be generated out of it. That is why it is important that we do not end at the adoption level. As Members, we must flag out areas that we really need to develop Bills on, so that it can work for us.

Quite a number of Members, including the Chair of the Departmental Committee on Transport, Public Works and Housing, have a share of what may need to be decided in this Sessional Paper. Housing is one of the departments in the Departmental Committee on Transport, Public Works and Housing. I am sure the Chair of that Committee, together with the Chair of the Departmental Committee on Lands, need to work together to make sure that this works out for us. I was also happy when I heard the Member talking of a Bill that is about to be brought to this House about the land value index, which is very key in the actualisation of this Sessional Paper. I will request the Members, if they have time, to look at it, so that we can see how best that will work for us. Otherwise, as I reply, I want to request that the adoption of Sessional Paper No.3 of 2016 on the National Housing Policy is supported by all the Members.

Hon. Temporary Deputy Speaker, I beg to reply.

The Temporary Deputy Speaker (Hon. Omulele): Members, for obvious reasons, we will not put the Question. I will, therefore, direct that we move to the next business.

Second Reading

THE KENYA ROADS BILL

(Hon. A. B. Duale on 21.2.2018)

(Resumption of Debate interrupted on 21.2.2018)

Hon. Members, this is resumption of business that started yesterday. At the time of adjournment, Hon. Thuku Kwenya was on the Floor and he had a balance of eight minutes. Hon. Thuku Kwenya, the Floor is yours, if you are available. I can see that he is not available. Therefore, we shall apply the provisions of our Standing Order No.95A and declare his submissions closed. We, therefore, move to the next interested Member who is ready to contribute to this Motion. I can see interest from Hon. Wario Ali, Member for Bura. He is also not available. The next Member who I can see interest from is Hon. Mohamed Osman. He is not in the Chamber. I can see interest from Hon. Oyula Maero, Member for Butula.

Hon. Oyula: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this very important Bill, which is the Kenya Roads Bill 2017. I support the enactment of the Bill. We had a lengthy presentation yesterday from the Chairman of the Departmental Committee on Transport, Public Works and Housing on this Bill. A lot still needs to be looked into including the compensation that needs to be given to those who surrender their land for road construction. It takes a long time before the people affected by any road construction are compensated. In some cases, it takes almost a year. I propose that this Bill gives the limit of time within which the people affected should be compensated, not only on the acquisition of land for roads, but also on the quarry extracted from the land and those who provide it.

Hon. Temporary Deputy Speaker, the quarries are left open for a long time and they become very dangerous to children in the villages particularly during the rainy seasons. If accidents are to be prevented, the quarries should be filled up immediately after their use and owners of the lands compensated.

The other thing I would like to mention is about numbering of roads. We have Category S and Category A roads. I suggest that Category S and Category A roads be made trunk roads. They should be dual carriageways to avoid heavy traffic. For instance, if you are travelling to Nakuru from Nairobi, it takes longer than expected because of the heavy traffic. It is a Category A road that should be turned into a dual carriageway.

The Bill should define the roads that should be dual carriageways in order to avoid congestion of traffic. Rural roads, as it was mentioned yesterday, should be properly categorised as to which ones fall under county governments and which ones fall under the national Government. In some counties, the rural roads are very poorly managed to the extent that the long rains damage them within a very short time. The Government continues spending money on them. The Bill should define the areas to be left for the counties. The authorities being created should be very professional to ensure that roads are properly done to avoid constant repairs after a very short time.

The Kenya Roads Bill is very important and has come at the right time. I congratulate the Chairman who moved it yesterday. He should give time limits within which affected people are compensated. Also, classification should be done in a proper way.

I beg to support. Thank you.

The Temporary Deputy Speaker (Hon. Omulele): We shall have Hon. Korir, Member for Lang'ata. He is not available. We move to the next Member, Hon. George Macharia, Member for Ndia. He is not in. The next Member to contribute will be Hon. Kiaraho Njuguna, Member for OlKalou.

Hon. Kiaraho: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to air my views on this Bill. The primary objective of the Kenya Roads Bill, 2017, is to give effect to the Fourth Schedule of the Constitution in relation to the road sector. Infrastructure network plays a pivotal role in advancement of economies world over and Kenya is not an exception. The main objective of the Bill is to streamline for the better issues pertaining to the road sector.

There are some cardinal points in the Bill, which in my view are of great importance. I would like to point out just a few. Pursuant to the Fourth Schedule of the Constitution, county governments have a responsibility to develop and manage county roads in regard to this presentation. In regard to the presentation made by the Council of Governors, if looked at

critically, it was a very interesting scenario. Initially, they wanted to be allocated almost 50 per cent of what comes from the Roads Maintenance Levy Fund and usurp the role of KeRRA as currently constituted. This definitely had its shortcomings because, in my view, most county governments, first and foremost, do not have the human resource and capacity to undertake some of the works the roads authorities do. For instance, we know that quite a number of counties have been grappling with graft or corruption issues and so have been most constituencies. The few works KeRRA has done in the constituencies cannot be compared whatsoever with what some of the county governments have done.

Of interest is that county governments wanted 55 per cent, but later watered it down to 20 per cent. It is recommended they get about 19 per cent. Most importantly, even out of the 19 per cent, they are not just going to get the money in any manner. It has been recommended that it will be given as a conditional grant. This basically takes care of many issues which I do not have to mention here.

Another important issue pertaining to this Bill is the role of the Public Private Partnership (PPP). As we all know, we do not have sufficient funds in the Exchequer. The PPP has been anchored in the Constitution, but we need to come up with a clear legal framework to govern the PPP to ensure optimum development of roads. Allocation from the Exchequer is not sufficient.

It has been recommended in this Bill that KeNHA should operate toll roads as one of its functions because some county governments can be very notorious. We should also note the emphasis which has been given to the composition of the three road agencies. It needs to be revised to ensure that the relevant institutions are represented. In the current composition, you may think that some of these authorities are small clubs because of the wanting membership. In my view, and it has been looked into in a serious way, the composition of the boards should constitute representation from the relevant institutions and the public taking into account ethnic and regional diversity of our society.

The Bill recommends that the head of these authorities should be an engineer. This is something that needs to be changed because as far as I am concerned, the role of a Director General of an authority is that of a manager. Good examples are Kenyatta National Hospital (KNH) or Equity Bank. If you compare KNH and Equity Bank, you will appreciate that KNH does not have a doctor head yet it is operating very well. With Equity Bank, you can see the way it has excelled. So, this is an issue that the Bill has tried to look into. We must move from that culture that, the person heading these institutions must be an engineer. If someone has good managerial qualities, let it be so.

Another important issue which this Bill has picked up is with regard to the Kenya Roads Board. This is one board where they are seeking to be allowed to withhold funds which are due to various agencies, including the county governments. If they do not meet the standard as prescribed by the CS for Transport, Infrastructure and Housing, then the funds are withheld. This is very important because as I mentioned earlier, there is the package that is going to the county governments. Out of experience, we know that if this money is not well checked, anything can happen. The request by the KRB to be in charge of the funds should be taken in a very positive way.

Another issue which this Bill has pointed out, which I feel is of utmost importance, is the general powers of an authority. They are asking for the power to acquire land to prevent accidents and so on. A good example as far as the issue of acquisition of land is concerned is that, looking at what happened when we were implementing the first phase of the SGR, you

appreciate that there are characters who look ahead. They knew the roadmap of the railway line. So, they went ahead to acquire some land in that area and then sold it to the Government at exorbitant prices. Apart from that, we have areas where we have had numerous road accidents, like the Salgaa area. Also, if you look at somewhere like Naivasha, where we have a toll station, we have a lot of traffic snarl ups. That is one area this Bill has tried to look at. For instance, in Gilgil, where we have the toll station, the Ministry is trying to create extra lanes to take care of the traffic jam. I imagine a situation where the Government wanted to acquire that piece of land, but they did not have legal backing. If the Government feels that it is for the public good to acquire land that is privately owned, the Government should automatically have the right to acquire the land. That is also an area which this Bill has tried to take into consideration.

In Part III, the Bill has recommended that the CS may, from time to time, review the classification of the national trunk roads and the county roads. This is a very important aspect because in the final analysis, we would want the CS in charge of infrastructure to be in charge. If such powers are conferred to him, some of the issues that crop up from time to time can be well taken care of. We would want the CS to ensure that road classification accurately reflects the functions served by each category of roads. For instance, no part of the country has reasonable access to national trunk roads or county roads.

Another issue that I would like to touch on as far as this Bill is concerned is the establishment of the Public Roads Standards Board. This will basically be an advisory board to the CS on the standards of roads and bridge materials. It goes into ensuring that we have value for our money and we also take into consideration the issue of safety. If this Bill is passed as recommended, I am sure it will go to the extent of streamlining this particular sector which is very pivotal in the development of our country.

With those few remarks, I would like to end here as far as this is concerned. I hope the Members will look at the issues that have been raised and pass the Bill as it is. Before I sit down, I am a bit surprised because this is one Bill that touches almost every Member of Parliament. However, if you look at the attendance in the House both today and yesterday, it is wanting. I hope we will not go so far only for some Members to start saying that they had not seen this-and-that. I actually appeal to my colleagues that when such important Bills are on the Floor, we should make a point of looking at them critically and give our points so that we come up with a healthy Bill which will be good for us and for the people we represent.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Omulele): Very well, Hon. Kiaraho. I believe you are a Member of this particular Committee and you have made very important observations about where we need to tweak this Bill. I hope your contributions will go a long way in improving this Bill. I will give this opportunity to Hon. Mulyungi Mutemi, the Member for Mwingi Central.

Hon. Mulyungi: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Kenya Roads Bill, 2017. I also happen to be a Member of this Committee. We discussed this Bill and we realised that it is a good one. The Bill intends to retain the roads authorities as they are, namely, KURA, KeNHA and KeRRA. However, the Bill changes KeRRA to the Kenya National Secondary Roads (KNSRA) to clear the ambiguity about rural roads. The Bill is now clear in the sense that what is not an urban road or a highway is a secondary road.

We also looked at the composition of the boards and authorities created by the Bill. We realised that some of the members of those boards are elites and not necessarily the major road

users. We, therefore, suggested that we accommodate the Matatu Owners Association as members of the board and also the Kenya Association of Manufacturers. We removed the LSK and accountants from the membership of the boards because they were not going to add value.

Communication is an integral part of life. Roads offer connectivity in terms of trade and even socialisation. This Bill is intended to enhance that social part of life which is part of our common need. In this Bill, we are trying to diffuse conflict between the national Government and county governments. There has been a fight as to who should control which roads and who should not. Therefore, we are trying as much as possible to draw the line between what is a county road and what is a national road.

In terms of regulations, and through the CS's gazette, the classifications of roads must be very clear on what a county road is and what a national Government road is. For example, in my Mwingi Central Constituency, I realise I have only six national roads. The rest of the roads, over 90 per cent, are county roads. And county governments do not have enough resources to maintain these roads. So, most of these roads are not properly maintained. Whereas the ones done by the national Government are being done to even murrum level, the ones being done by the county governments are only graded, nothing much happens. This Bill should address that matter to ensure that there is a balance of resources to ensure that all the roads in the rural areas are properly maintained.

In terms of resource allocation, we have tried to increase the allocation of resources for the secondary roads, which were initially rural roads, from the initial 22 per cent to 30 per cent, so that rural roads can be properly maintained. In the presentation of KeRRA to this Committee, they indicated that they have so far developed 5,000 kilometres of road since the Jubilee administration came into power, which was contrary to what the Leader of the Majority Party was saying. He said that the Jubilee administration has done 9,000 kilometres. Maybe the 9,000 kilometres is what is in progress. What they presented as done is only 5,000 kilometres.

This Bill, if enacted, will assist the Jubilee administration to realise its dream of building even more kilometres. I can see that energy of trying to develop infrastructure. This Bill will energise that and give them the stamina and catalyst to do that.

Hon. Temporary Deputy Speaker, with those few remarks, I support. Thank you.

The Temporary Deputy Speaker (Hon. Omulele): Very well, Hon. Mulyungi. We will give this opportunity to Hon. Rasso Ali, Member for Saku.

Hon. Dido: Thank you very much, Hon. Temporary Deputy Speaker. I actually thought that I was not going to get this chance. You are gracious.

This is a very important Bill. I am glad the Chairman of the Committee just walked in. As we discuss these Bills, it is important for the Chair and the Vice-Chair or a Member of the Committee to be in the House, so that, at least, somebody takes note of our observations.

When we build roads, we build them for our people to access their produce and get to different destinations. Secondly, the roads are built for safety. It is important that safety must be addressed as the cornerstone of any road, whether it is KeRRA, KeNHA, KURA or even those secondary roads. Thirdly, it is about land. Roads are built on land, either belonging to people or fallow land that had already been surveyed that a road at some time in the future will pass there.

When we look at this Bill, there are many things that come to mind. There are many issues that we must raise during the Committee of the whole House stage. Like what Hon. Mulyungi who just talked before me has said, during the Third Reading, it is important that many of us are in the House in order to seriously contribute to this Bill. This is because it affects all of

us in a big way, more so, the Jubilee administration. Their agenda is to build 10,000 kilometers of road both tarmac and well surfaced murrum. They are looking at putting this money into good use.

Hon. Temporary Deputy Speaker, one observation I want to raise on this Bill is the aspect of coordination between KeNHA, KURA and KeRRA. I want to see this coordination in the Bill and how the different authorities are coordinating. The other issue is on the membership of the different boards. While they have clearly pointed out the suggested membership, we must have representation from the national security or the Ministry of Interior and the Kenya Private Sector Alliance. They will be representing transporters, the Matatu Owners Association who use roads in a big way.

Finally, on membership, we really want to see the National Land Commission represented on the boards because the roads will be passing on land. When it comes to the acquisition of lands and the NLC is not involved, it is going to cause some issues. Clearly, there are two areas I would like to observe with regard to county roads. What we want to see in this Bill is periodic or timely upgrading of roads particularly classes C and D, so that counties clearly know what roads they are supposed to take care of.

Finally, with regard to the term limit of the Director-General, the office has been given an open-ended term that he or she may serve for 10 years or even more. It is an important post that we must cap the term for an individual.

With those remarks, I beg to support this Bill. Thank you.

The Temporary Deputy Speaker (Hon. Omulele): Very well. We shall now have Hon. Koskei, Hon. Member for Sotik.

Hon. Dominic Koskei: Thank you, Hon. Temporary Deputy Speaker for this opportunity to contribute to this Bill.

I am a Member of the Departmental Committee on Transport, Public Works and Housing. I, therefore, thank the Members for having burnt the midnight oil to come up with this Bill and its amendments.

Hon. Temporary Deputy Speaker, you know that roads play a pivotal role in economic development of any country. Therefore, when we are talking about development, we cannot avoid mentioning the roads sector. The Kenya Roads Bill, 2017, therefore, creates a platform for us to spur the economic growth of this country. I wish to draw the attention of the House to some major points that we need to note in the Bill. The first one is the public roads standard spot.

This Bill gives powers to the CS to leverage standards in the whole country on the quality of road construction. I would notify this House that over and above what you see in the road sector in the country, most of the time, county governments go ahead and build roads. We have been told of public relations issues where roads are built in three months and in the next six months, the roads were in bad condition. We have had cases of wastage of resources. This Bill gives us an opportunity for roads standards to be established. Once that is done, those standards shall be implemented.

Hon. Temporary Deputy Speaker, I want this House to note the classification of roads which is in this Bill. We have had several arguments, be it with the county governments or the national Government on the issue of classification of roads. This Bill will put to rest those arguments as we will have a standardised classification of roads in the country. We also have the creation of authorities to manage the road sector in the country.

I seek the indulgence of this House that we all adopt this Bill. Even though there will be change of names in some of the authorities responsible for the various categories of roads, we will still be having all those institutions in place. We are renaming the Kenya Rural Roads Authority (KeRRA) to become Kenya National Secondary Roads Authority (KNSRA). The Kenya Urban Roads Authority (KURA) retains its name. It is good to note that county governments will be forced to create agencies to deal with roads in their areas of jurisdiction. We expect those agencies to be a bit autonomous. I hope the roads sector will be better than it is even at the county government level.

I know of several cases where we have had incidences of public participation with all stakeholders. They made us know that county governments have been wasting resources more so because they do not have the capacity to make roads in worthy manner. On the composition of the board of management of the authorities being created, the Bill has given leeway for creation of positions to represent the people of this country. The existing Act provides for a board of management for KeNHA, KeRRA and KURA. The composition of that board needs to be representative of the people of Kenya. We are giving authority to the CS to nominate its membership based on regional balance to ensure that the entire country is represented. Even farmers' organisations and the Matatu Owners Association will be represented in the board.

Hon. Temporary Deputy Speaker, you will remember the chairman of the board that was running these institutions. This time round, the CS will have the authority to appoint. We have burnt the midnight oil to come up with this Bill. Therefore, I request the Members to adopt it.

Thank you so much.

The Temporary Deputy Speaker (Hon. Omulele): We shall have, Hon. Sabina Wanjiru, the Member for Murang'a.

Hon. (Ms.) Chege: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I was almost asking myself whether this House considers gender balance because I have heard a lot of contributions from men and yet we know that women are also road users. I need the women's voice to be heard.

From the outset, I support the Bill. I have gone through the Report of the Committee and I can see the principal object of the Bill is to give effect to the Fourth Schedule of the Constitution of Kenya, 2010. According to the layman's understanding, the Bill mainly provides for the classification of roads between the national Government and county government and assigning them in their unique functionalities. You may have noticed that during the last three or four years, starting from the Kibaki Government, a lot of resources have been used to improve our roads and the road network. It is important that there is harmonisation especially on road maintenance. I want to point out something about the work done by KeNHA in road maintenance. I would like to cite Thika Road. It is a great road, but poorly maintained. Sometimes when it rains, it floods. It is high time we had proper communication and consultation on how to maintain our roads because we invest a lot in them. We have very good roads, but sometimes when they are not well maintained, they become dangerous. For most roads, you will find that drainage is not well done, the general sweeping and marking of the roads is not done. So, the roads become a source of many road accidents.

I am excited, looking at this Bill, to see that there is a requirement for long-distance vehicles to have recorders. It is important for them to have recorders because truck drivers either due to pressure of work or because of wanting to get to the port early enough, put in many hours on the road. As a result, they cause accidents. It is not because they are willing to do so, but it is

because of tiredness. As you know human nature, there is so much that you can push your body to do. I think this requirement is important.

On the issue of classification of roads, it is important for us to know the roads that are taken care of by the county governments. Sometimes there is a pull and push between county governments and the national Government. For example, initially, when Members of Parliament were allowed to construct roads, a Member would want to construct a specific road either through KURA and then the governor would also want to construct the same road and there would be misuse of resources. I feel when we have these various bodies coming in, then there needs to be a lot of consultation so that taxpayers' money does not go to waste.

On the issue of erection of structures near roads, other advertisements on our roads are distractive and can cause accidents. Therefore, we hope that the relevant bodies will do a good job. Kenyans are busy people and are known for creating many bodies. I was just going through the Bill and I saw that a new body is being created, namely, the Kenya National Secondary Roads Authority. I hope this is not going to be a source of more fights on who is going to be in charge of what.

Hon. Koros: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Koros, Member for Sigowet/Soin what is out of order?

Hon. Koros: Hon. Temporary Deputy Speaker, the Kenya Roads Bill No.47 of 2017 is very important. Some of us have already contributed and I wish we could allow more time for Members to contribute. It is because of that that I want to raise the issue of quorum in the House.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Koros, you must be new to the way we do things here. If you want to raise the issue of quorum, you just do so. You do not have to give excuses.

Hon. Koros: It is just the issue of quorum, Hon. Temporary Deputy Speaker. I feel we should give this Bill enough time. So, it is good if it can be brought up again next week because there is no quorum now.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Koros, you are out of order because we are discussing this Bill right now. This Bill has been given time by the House Business Committee. It is in session right now. Any Member who is willing and ready to contribute to it is free to do so. So, you cannot say that it has not been given time. That is not correct, Hon. Koros. You are out of order in that respect.

Hon. Sabina, kindly proceed.

Hon. (Ms.) Chege: Thank you, Hon. Temporary Deputy Speaker. If I would have advised my brother, I would have told him that he would have just gone straight to the point. Maybe he wanted to say that we have no quorum. However, since he did not convince the Chair, I am glad to go on.

On Clause 18, I was saying that there is the Kenya National Secondary Roads Authority that is going to be a body corporate. It is going to be responsible for the management, development, rehabilitation and maintenance of secondary national trunk roads that are classes C and D. I was just saying that I hope, as we create these authorities, they will not fight about who is in charge of what, but we are going to have a very clear direction of what each authority is going to do and they will be consulting one another.

When I looked at the submissions that were done before the Committee because I was going through the Report of the Committee, I saw the CoG raised the issue about the roads that are classified under Class D. They proposed that they should be left to be dealt with by the county governments. It is a matter of concern because I do not know whether the governors have really exhausted the other classes or they have enough funds to take care of them. It is a very good idea because it is there in the Constitution. However, I think in the spirit of devolution and the working relationship, it is important to have smooth working relationship between the country governments and the national Government.

When I looked at the Bill, I saw the issue that was raised by KeNHA. It is true that public private partnership is the only way to achieve optimal development of road infrastructure in Kenya. So, it is good that we have a clear legal framework governing the tolling system by the relevant agencies. We already have one, and maybe, others will be coming in as we make the superhighways and build more roads. Of interest are the roads that are not governed by the respective authorities. I want to note the roads that pass through national parks and reserves which are under the management and control of the KWS. I am interested because in my county, we have one road that connects Murang'a County to Nyandarua County through Gatare Forest. Gatare Forest passes through the entire Aberdares.

Hon. Thuku: On a point of order, Hon. Temporary Deputy Speaker.

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

QUORUM

Hon. Thuku: Hon. Temporary Deputy Speaker, looking at the House, there is no quorum and this is a Bill of national importance. I guess, with your permission, we could postpone debate and maybe, resume when there is quorum in the House.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Thuku, I hear you to be raising the question of quorum.

Hon. Thuku: Yes.

The Temporary Deputy Speaker (Hon. Omulele): Well noted. I can clearly see that the quorum is not correct. I, therefore, direct that the bell be rung for 10 minutes.

(The Quorum Bell was rung)

The Temporary Deputy Speaker (Hon. Omulele): Very well, I direct that you cease ringing the bell. I ascertain that after the Quorum Bell has been rung for 10 minutes, we still do not have the requisite quorum for us to transact business. I, therefore, direct that Hon. Sabina Chege, who was on her feet when the question of quorum was raised, will have a chance to continue with her contribution when this Bill is again set for debate. She has a balance of six minutes.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, the time being 6.55 p.m., the House stands adjourned until Tuesday, 27th February 2018 at 2.30 p.m.

The House rose at 6.55 p.m.