

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 30th April, 2015

The House met at 2.30 p.m.

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

PRAYERS

PETITIONS

REVIEW OF HEALTH CARE SYSTEM/MISMANAGEMENT OF MURANG'A UNIVERSITY

Hon. Speaker: Hon. Members, I have a petition relating to two issues; review of the health care system and alleged mismanagement of Murang'a University College; it is Petition No.8 of 2015.

Hon. Members, Standing Order No.225(2)(b) requires that the Speaker reports to the House any petition other than those presented through a Member. I therefore wish to convey to the House that my office is in receipt of two petitions. The first is signed by one Mr. Bernard Kiprotich Cheruiyot, a resident of Bomet County, regarding the review of the health care system nationally. In that petition, the Petitioner prays that the National Assembly, through the Departmental Committee on Health:-

(i) initiates a process of amending the Constitution and all the relevant laws to rearrange the health care system in order to revert certain aspects of health service provision, particularly those affecting human resource, to the national Government;

(ii) empowers county governments to venture into other aspects such as infrastructure development and procurement of drugs; and

(iii) establishes a new Health Service Commission that will offer incentives to medical practitioners in order to curb brain drain and equitably distribute professionals across the country.

Hon. Members, pursuant to the provisions of Standing Order No.227, the petition now stands committed to the Departmental Committee on Health. The Committee may attempt to address some of the concerns raised by the Petitioner during its consideration of the Health Bill, 2015, which is scheduled for First Reading today.

Hon. Members, the second petition is signed by 13 residents of Murang'a County and concerns allegations of mismanagement of Murang'a University College. The Petitioners pray that the National Assembly:-

(i) conducts an inquiry into the representation of locals in the University Board of Management and the entire establishment; and,

(ii) initiates a review into the conduct of the University Principal and the Registrar of Administration and Planning.

Hon. Members, pursuant to provisions of Standing Order No.227, this second petition stands committed to the Departmental Committee on Education, Research and Technology for consideration.

Thank you.

PAPERS LAID

Hon. A.B. Duale: Thank you, hon. Speaker. I beg to lay the following Papers on the Table of the House today Thursday, 30th April, 2015:-

The National Treasury Budget Estimates and the Budget Summary for the Financial Year 2015/2016 pursuant to Article 221(1) of the Constitution and Sections 37 and 38 of the Public Finance Management Act, 2012.

The National Treasury Estimates of Revenue, Grants and Loans of the Government of Kenya for the year ending 30th June 2016.

The Budget Estimates for the Medium-Term Expenditure Framework period 2015/2016 and 2017/2018 for the Judiciary and the Judicial Service Commission.

The Report of the Auditor-General on the Kenya Institute for Public Policy Research and Analysis for the 13 months period ending 31st July, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Nyayo Tea Zones Development Corporation for the 13 months period ending 31st July 2014 and the certificate of the Auditor-General therein.

Thank you, hon. Speaker.

Hon. Speaker: Very well, the first two Papers; the National Treasury Budget Estimates and the Budget Summary for the Financial Year 2015/2016 as well as the National Treasury Estimates of Revenue, Grants and Loans to the Government of Kenya for the year ending 30th June, 2016 and the Budget Estimates for the Medium-Term Expenditure Framework 2015 to 2018 for the Judiciary and the Judicial Service Commission are accordingly referred to the Budget and Appropriations Committee of the House.

Next is the Chairperson of the Departmental Committee on Energy, Communication and information, hon. Kiptanui.

Hon. Kiptanui: Hon. Speaker, I beg to lay the following Paper on the Table of the House, Today, Thursday, 30th April, 2015:-

The Report of the Departmental Committee on Energy, Communication and Information on the Scientific Visit to the International Atomic Energy Agency in Vienna, Austria from 3rd – 7th October, 2014.

Thank you.

Hon. Musyimi: Hon. Speaker I beg to lay the following Papers on the Table of the House today, Thursday, 30th April, 2015:-

The Report of the Budget and Appropriations Committee on:

The First Quarter Budget Implementation Review Report for the national Government by the Controller of Budget for the Financial Year 2014/2015.

The First Half Budget Implementation Review Report for the national Government by the Controller of Budget for the Financial Year 2014/2015.

Thank you, hon. Speaker.

(Hon. Musyimi laid the documents on the Table)

Hon. Speaker: Hon. Members, I want to encourage you to look at the Report by the Budget and Appropriations Committee. This is because these are those reports that the Committee has been able to look through. I think it is important that Members familiarize themselves with that report and more particularly the recommendations that the Committee has made in those reports. It is important and I have emphasized time and again that we need to look at those reports of the Controller of Budget as committees. Now the Budget and Appropriations Committee has looked at them and analysed those reports and made some recommendations; it is only fair that this House, as a whole familiarizes itself with what it is that the Committee of this House has recommended in those two reports.

Hon. Asman Kamama, Chair of Administration and National Security Committee.

Hon. Abongotum: Hon. Speaker. I beg to lay the following Papers on the Table of the House, today, Thursday 30th April, 2015:-

The Report of the Departmental Committee on Administration and National security on:

The Inspection Tour of Shimo la Tewa, Kilifi, Kodiaga and Kakamega Prisons from 5th to 8th March, 2015.

Consideration of a Petition by residents of Mukutani Division, Baringo County on cattle rustling.

The Petition by the Kenya National Commission on Human Rights and others seeking the establishment of a Parliamentary select Committee to investigate incidences of insecurity in the country.

Consideration of a Petition regarding the utilization of funds meant to compensate internally displaced persons in Kisii County.

The National Honours (Amendment) Bill of 2014.

(Hon. Abongotum laid the documents on the Table)

Hon. Speaker: Very well. Again, I think this goes to Members of the House Business Committee (HBC). These reports are many and I think there is need for the House to debate them. They are just piling up.
Next Order.

NOTICES OF MOTION

REPORT OF MULTI-AGENCY TASK FORCE ON POST-ELECTION VIOLENCE

Hon. A.B. Duale: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, this House notes the Report of the Multi-Agency Task Force on the 2007/2008 post-election violence related cases submitted by

His Excellency the President on Thursday 26th March, 2015 and laid on the Table of the House on Tuesday, 31st March, 2015.

ADOPTION OF REPORT ON BUDGET IMPLEMENTATION REVIEW REPORT

Hon. Musyimi: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Budget and Appropriations Committee on the First Quarter Budget Implementation Review Report for the national Government by the Controller of Budget for the Financial Year 2014/2015 and the First Half Budget Implementation Review Report for the national Government by the Controller of Budget for the Financial Year 2014/2015 laid on the Table of the House on Thursday 30th April, 2015.

Hon. Speaker, while on my feet kindly indulge me to, perhaps, remind my fellow chairs that now that the Estimates for the Financial Year 2015/2016 are before this House, they are not just committed to the Budget and Appropriations Committee, but are also deemed to be committed to the appropriate committees of this House. We have met as the Budget and Appropriations Committee and, without wishing to anticipate debate, it is our hope that we will make the decision to go on recess and will not come back until after sometime. It is hoped that during the recess much time will be given to the reviewing of the Budget Estimates, so that we can report back to this house soonest possible after we come back.

Hon. Speaker, I would wish to kindly, through you, request that the committees be aware that this has happened because we intend to meet in second or third week of the month of May hopefully to look at the reports from the committees. We will scrutinize the reports and then table a report thereto before this House soonest possible. Mine is to kindly request you to mobilise the offices under your good care, so that the committees of this House do their work soonest possible, so that there are no delays in the Budget-making process.

May I also say that with respect to the Mediation Committee, which I am chairing, as I said yesterday, we have met twice since we were constituted and we had a long meeting yesterday greatly assisted by the National Treasury. We had another long meeting today and it was my hope that we would have reached some kind of conclusion, but that was not possible. I am also aware that whatever decision is made, we have 30 days--- Article 113 of the Constitution will not in any way stand in our way when prosecuting the assignment before this House. For the avoidance of doubt, I would like to make that very clear.

I also take this opportunity to speak to the county governments and make it clear to them that they too must go ahead and do their budgets. This is because whatever changes may or may not be made will not be of material nature, and there is no reason why the Budget-making process should delay simply because the Mediation Committee has not arrived at some conclusions the soonest possible.

Thank you, hon. Speaker.

Hon. Speaker: Well, the only thing is that whatever they may be doing will be preparatory work. Otherwise, the strict requirement of the law, the Constitution, is that

the county governments prepare their budgets on the basis of a Division of Revenue Act not Bill.

Given the process of mediation, if you read clearly the provisions of Article 113, they anticipate a situation that for any Bill that goes to mediation: (a) The Mediation Committee can agree on a version which is tabled before both Houses, and for it to start working both Houses must agree with the Mediation Committee report. (b) The Mediation Committee can itself be unable to agree. The Mediation Committee can agree on a report, place it before both Houses but one of the Houses may disagree with it, and the net result is that the Bill falls flat.

I am sure those of us who have been agitating for this or the other may not quite have addressed themselves to that reality, and in keeping with our own rules, any bill or any business that is defeated by some resolution of either of the Houses may not be reintroduced until after the expiry of 6 months. I note the cautionary advice by the Chair of the Budget and Appropriations Committee to the county governments to continue with preparations and I believe they have all been preparing. They all read what was contained in the Budget Policy Statement (BPS). It is also fair to appreciate that the process you are engaged in as mediators is one fraught with the real danger of disagreement, and a further danger of disagreement between the two Houses, which is graver. Unfortunately, that is our procedure; it is a process we have given ourselves in the Constitution, and so we must be bound by it. Nevertheless your advice, I believe, is well meaning. More importantly to the chairs of committees now that the Estimates of the national Government, other national organs, the Parliamentary Service Commission (PSC), the Judicial Service Commission (JSC) and the Judiciary have already been tabled before this House, are asked to prioritise consideration of the Estimates in their next meetings, even during the recess. This is because as expected in our own Standing Orders, your reports will find their way into what the Budget and Appropriations Committee finally tables before the House.

Hon. Musyimi: I stand guided, Hon. Speaker.

Hon. Speaker: I am not spelling doom to the counties but it is the reality of the process that we have adopted. The process of mediation, which everybody out there seems to think is panacea for our problems, and is within Article 113, is fraught with the danger of disagreement and the consequences of disagreement either among the Committee Members, between committees or between the two Houses. The consequence is that ominous.

Hon. Musyimi: Hon. Speaker, nobody is more aware of that than I am. This is the second Mediation Committee that I am chairing. Indeed, before giving my caution advice, and I thank you for that word, to colleagues here and also to the county governments, I had lengthy conversations with the Principal Secretary and the Cabinet Secretary of the National Treasury this morning, and we are all aware of the other options both on accounts and--- I am aware that the whole process might easily fall flat but life must go on. It is very important that we be seized of the assignment before us all facts notwithstanding laws. What you are saying is correct. At the end of the day, that process must fall within the legal framework that we have established.

Hon. Speaker: Those clerking various committees are also accordingly advised to advise the Committees and Committee Chairmen of the need to consider to prioritise the consideration of the Estimates.

Next Order.

Hon. Speaker: Are there some interventions or it is the Leader of the Majority Party?

Hon. A.B. Duale: Hon. Speaker, I will give my statement later. I am still consulting and knowing that there is an adjournment Motion; so, I am---

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD

Hon. Speaker: Who is moving the Motion? Is it Hon. Chepkong'a?

Hon. Chepkong'a: Yes, Hon. Speaker.

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

THAT, notwithstanding the provisions of Standing Order 120, this House resolves to reduce the publication period of the following Bills from fourteen days to one day:

(i) The Constitution of Kenya (Amendment) (No.3) Bill (National Assembly Bill No. 18 of 2015);

(ii) The Vetting of Judges and Magistrates (Amendment) Bill (National Assembly Bill No. 19 of 2015); and

(iii) The Two-Third Gender Rule Laws (Amendment) Bill (National Assembly Bill No. 20 of 2015).

The reason for seeking the reduction from 14 days to one day is to allow the said Bills to be read for the first time. You are aware that the Supreme Court gave a judgement in which it required the National Assembly and the Senate to ensure that there is compliance with Article 27(8) of the Constitution that requires that not more than two-thirds of either gender in elective positions will sit in one House; this will not be allowed in a constitutional framework. So, the Committee deliberated and held various discussions with stakeholders starting in Naivasha and Mombasa and came back to Nairobi. We later went to Windsor Golf Hotel and Country Club in Nairobi. It took quite some time for us to arrive at some sort of a consensus, under which we are now changing the constitutional amendment and the various laws that are proposed to be amended.

The reason why we are seeking that these Bills be read for the First Time is to allow the committees to conduct public participation as required by the Constitution. Secondly, the Constitution requires that a Constitution amendment Bill must be published for at least 90 days before it is introduced for Second Reading. We were not anticipating the adjournment Motion. Looking at the calendar of the House, it is expected that the House will adjourn today for, at least, over one month. If we do not have these Bills read the First Time, particularly the constitutional one, we will not have time to consider these constitutional amendments as required, by 27th August, 2015, so as to have in place procedures to ensure that we comply with the Supreme Court Judgement. The last day for filing a constitutional amendment is 27th May, 2015. If we go by the calendar of the

House, we will be in recess that time. So, we will not have the constitutional amendment filed before it is time-barred.

If we do not put in place procedures to ensure that we comply with Article 27 (8), it means that this House, together with the Senate, will be unconstitutional as from 27th August, 2015. The consequence is that any Kenyan can seek the dissolution of the two Houses for failing to comply with a constitutional requirement. The National Assembly, as it is right now, does not have the one-third gender, particularly of women who are fewer than one-third.

So, the importance of the constitutional amendment without discussing the substance--- We are seeking an amendment in the Constitution of Article 81 to require that the implementation of Article 27(8) of the Constitution be progressively achieved over a period of time by ensuring that we enact legislation that will ensure that, that particular provision is complied with.

With regard to the vetting of Judges and Magistrates (Amendment) Bill, we are seeking the amendment of Section 23(3) of the relevant Act. The reason why it is also very urgent is that at the moment Section 23(3) states that: “The Chief Magistrates and the Principal Magistrates ought to have been vetted by 28th April, 2013.” Unfortunately about 29 Chief Magistrates and Principal Magistrates were not vetted as of that time. We have about 29 Chief Magistrates and Principal Magistrates who are still waiting to be vetted.

The second problem that we have is that the term of this Board expires on 31st December, 2015 and we do not intend to extend the time for them. We want them to complete the vetting by 31st December, 2015. The third other issue is that these Chief Magistrates and Principal Magistrates cannot be promoted to be judges because they have not been vetted. So, they are suffering silently because of this particular provision that was put in this Act. So, I move that the time be reduced to allow the committees to hold public participation during our recess. I would like to request the Leader of the Majority Party to second.

Hon. A.B. Duale: Hon. Speaker, I beg to second the Procedural Motion. I want to thank the Chairman of the Departmental Committee on Justice and Legal Affairs and its Members for publishing the Bills. On the Two-Third Gender Rule (Amendment) Bill, 2015, even if they call it progressive, it is for the House to decide whether it will agree with them. Because this is a constitutional Bill and it will give an opportunity to the Committee to look at it; the 90 days period can be reduced as we approach the 27th August deadline.

The Vetting of Judges and Magistrates (Amendment) Bill, 2015 is also important in unlocking the crisis that the Act has created for a number of Principal Magistrates either in terms of career progression or their own vetting. There is also the Constitution of Kenya (Amendment) Bill, 2015, where the Committee is looking at a number of election and political parties reforms in the form of amendments to various Acts. So, this is in order and I am sure the Committee and the public will do what the Constitution provides. Public participation engagement creates a discourse. So, it is a simple matter. We are anticipating debate. If we go on recess today, the Committee can carry on the public participation on those three Bills. I am sure by the time the 90 days are over, the House will have gone through the Second and the Third Readings.

With that, I beg to second the Procedural Motion on the reduction of the publication period.

(Question proposed)

Hon. Member: Put the Question!

Hon. Speaker: Hon. Ng'eno, do not sprint in the House. You are in the august House and you might break your legs. I will put the Question, hon. Members.

(Question put and agreed to)

Hon. Members, this is an indication that there is fear of dissolution. I had expected Hon. Chepkong'a to also tell us whether any Kenyan can go to any other court and seek the dissolution of the Supreme Court as presently constituted for not also complying with Article 27(8) of the Constitution, which is in the Bill of Rights. Why is it that it is easier to deal with political institutions and not other institutions? It is food for thought.

Hon. Mutava Musyimi, you want to make an intervention?

Hon. Musyimi: Hon. Speaker, now that you have raised the matter, it is important for this House to know that about this time last year, they did approve the whole process of the socio-economic audit of the 2010 Constitution. In the meantime, we know that there is a programme called *Okoa Kenya*. I do not know which Kenya *inaokolewa*, but that programme is out there. More importantly, in a bipartisan professional process that was put in the public interest, supported by both sides of the House, we set aside quite a bit of money and agreed to have an audit lead by professionals like lawyers, experts in public administration and others using the Kenya National Audit Office. This morning, I was sent by my Committee, and had a session with the team in the Office of the Auditor-General. I can confirm that the interim report of the socio-economic audit of the 2010 Kenya Constitution will be made public at the Boma Hotel on Tuesday, 18th May, 2015. It is important for the Members to know the importance of that document.

Hon. Speaker: Just a correction, hon. Mutava. The 18th will be a Monday. Just check your calendar. I happen to have mine permanently in my head. It will not be a Tuesday, but a Monday.

Hon. Musyimi: Hon. Speaker, you are too sharp for me. I stand guided again, and that is why you sit on that Chair. You are quite right. It will be Tuesday, 19th May at 9.00 O'clock at the Boma Hotel. We shall be having a meeting of the Budget and Appropriations Committee to consider the report from the Committees as we said earlier. So, we decided to take the opportunity to invite the Auditor-General together with other auditors to tell us how we are fairing on.

They will tell us how devolution has worked, how the Judiciary has worked and how much we need the Supreme Court. How busy are they? What about the two chambers of Parliament? Are we too big? What about our mandate? What about the county governments, the assemblies, the independent commissions, the national

Government and the complete work of all the institutions created by the 2010 Constitution.

It is the right thing to do for us to come back to our professional duty to audit a process that was so important and for which we worked so hard; we worked very hard to get the 2010 Constitution. It is important to ask ourselves how we are fairing on as a country. This is an important process.

As I said, it is led by KENAO. It has people with experience from public administration, lawyers and public finance. We even have a judge of the High Court, so that no institution feels left out. I am hoping that during the recess, Members will take an interest in the interim report that will be tabled before the Committee on Tuesday, 19th May, 2015.

Thank you.

Hon. A.B. Duale: Hon. Speaker, I totally agree with the Chair, but I want him to make a clarification. We are approaching the 19th May launch of that draft, and this was a parliamentary process. The Budget and Appropriations Committee allocated money and an expert team was formed. I want him to clarify to the country and this House; we are talking about devolution and county assemblies. Could he clarify whether the Senate, as another House, input was taken?

To our knowledge, sometime back the leadership of the National Assembly appeared before that Committee. The Senate, through its leadership, has declined to appear before those experts. I want the Chairman of the Budget and Appropriations Committee to tell the country that the Senate as a House, the Speaker and rest of its leadership, has declined to appear before those experts. If they did, then we are fine. If they have not appeared and their input is not in that report, then we need to do serious consultations before the launch of that report. We cannot get the feedback on how devolution, as a chapter in the Constitution, is working when the input of the people who are mandated by the Constitution has not been put into the report. I am not sure. Maybe the Chairman has information and can tell us if the leadership of the Senate, at a later stage, agreed to give its expert opinion. This is the Speaker, the Clerk and everybody. For us in the National Assembly, we did. If they have not done it, then we need to do serious consultations between now and 19th May. We want to carry everybody in the auditing of the Constitution and its functions. We cannot present a document or a draft, to the people of Kenya when such an important legislative organ called the Senate has not had its input. I am not sure if they have changed their mind and presented their views.

Hon. Speaker: No, I will not allow that because the report has not been given. We will be veering into a report which is in the custody of the body that was appointed and gazetted. So, why do we not wait for them to make a report? They will tell the whole country who appeared before them and who did not appear. If we begin debating who did not appear - I am not the one to whom the report will be presented - I will be presiding over another debate. It has not quite matured.

Hon. Musyimi, let us not go into what is in that report because I do not know what the report is like. Let them be given the leeway to present it to you.

Hon. Musyimi: Much obliged, hon. Speaker. Would I be in order to inform the House, through you, that the concerns raised by the Leader of the Majority Party were also communicated to the team by me? Would I also be in order to say that I personally

went and met with the Speaker of the Senate, Hon. Ekwe Ethuro, to convey the concerns that had come up? Would I be in order to also say, through you, that an interim report is an interim report? The House is not seized of the matter in a conclusive way until the final report is finally tabled before this House. Would I be in order to make those comments?

Hon. Speaker: Let it remain where it is. So, I will not have this debated.

Hon. Ochieng': On a point of order, hon. Speaker.

Hon. Speaker: Hon. David Ochieng', what is your intervention?

Hon. Ochieng': Hon. Speaker, thank you very much. The matter being canvassed now is a very weighty one. As a member of the Departmental Committee on Justice and Legal Affairs, after the Budget and Appropriations Committee (BAC) had acceded to and given money for this process - I want your guidance because I do not know whether you have been consulted on this - I thought the best body that would have been reporting to us on this matter was the Constitutional Implementation Oversight Committee (CIOC). We cannot have the Budget and Appropriations Committee proposing the monies to be used and then going down--- Our problem is with the Chairman of the Committee being the one spearheading this process. I thought we had a Committee in this House in charge of matters of implementing the Constitution. From the vibes we hear on these issues, you realise that this is being spearheaded by the wrong Committee. I wanted to know whether you have been consulted on this, or whether it is your opinion that the Budget and Appropriations Committee is the right committee to be managing this process.

Hon. Speaker: There is no process being managed.

Hon. Ochieng': Hon. Speaker, it is being managed. That is why the Chairman is reporting.

Hon. Speaker: There is an interim report.

Hon. Ochieng': Hon. Speaker, my issue is: Is it the Budget and Appropriations Committee that should be doing this or the CIOC in conjunction with the Departmental Committee on Justice and Legal Affairs? We will miss the issues.

Hon. Speaker: There is nothing here. You guys always want to cause a debate where there is none. The Budget and Appropriations Committee came up with the idea. All that is proposed to be done is to receive an interim report. Remember the matter is with the Kenya National Audit Office. When it comes here, whatever the report, we can refer it to the relevant committee responsible for implementation of the Constitution.

I see Hon. Johana Ngeno.

Hon. Kipyegon: Thank you, hon. Speaker. Mine is different but it is a very important and burning issue. There is a report which was requested by Hon. Neto, who is a member of the Parliamentary Human Rights Caucus, which I am also a member of. He requested a report from the Departmental Committee on Lands on issues that affect the squatters in Narok. The Report has been tabled in this House. However, the problem is that it has not been slotted for discussion. The matters in that Report are going on in Narok right now. People are being evicted and houses burnt. Citizens of this country are sleeping in the cold with their children. In this Report, some of the issues which are happening now would have been---

Hon. Speaker: Hon. Ng'eno, I get your point. Do not go into debate. You are saying that you would like the Report to be prioritised for debate.

Hon. Kipyegon: Well said, hon. Speaker.

Hon. Speaker: You are taking all the time saying that.

Hon. Kipyegon: I wanted to express my---

Hon. Speaker: Obviously, you know which date it is and the calendar of Parliament.

Hon. Kipyegon: Not even that, hon. Speaker. I really wanted to express the impatience and anger people are having, especially when this Report is still lying in this House without being debated and, probably, implemented. The issue is very fresh. It affects me and---

Hon. Speaker: Okay, Hon. Ng'eno. The House Business Committee (HBC) is seized of the matter of many Reports that have been tabled and have not been debated. There are Reports which are not necessarily for debate, and there are some which are for debate. The HBC addressed that issue on Tuesday this week. If it was not for the fact that the House is scheduled to go on recess today, you would have seen very many of those reports lined up. It has been determined by the HBC that those reports must be given priority.

However, Members will also have to agree that, because the reports are so many and we have so many committees, there are some for which we do not require 349 Members to express themselves. There are some for which if we got 10 Members speaking to, it is sufficient for the House to make a decision. After all, the reports have come from our own committees. In order to do justice to those Reports, we will have to agree that the time will have to be limited, as we normally do in terms of Standing Order No. 97, before every one of those debates commences.

That is going to happen when the House resumes.

Hon. Kipyegon: So, am I allowed, hon. Speaker, to make a special request that you prioritise it?

Hon. Speaker: There is no special request. It has been heard and we have already taken a decision that we will look at the way those reports have been tabled. That is the instruction we have given to the Clerk's Department. They will look at all of them, when they were tabled and place them on the Order Paper for debate, so that Members or members of the public who made the petitions can also get to know how the House has expressed itself on the issues. That has been decided.

Hon. Kipyegon: Most appreciated, hon. Speaker. Thank you.

Hon. Speaker: Hon. Members, I see several interventions. Hon. Njagagua.

Hon. Njagagua: Thank you, hon. Speaker. I am just seeking a clarification from you on the matter that has been raised by Hon. Mutava Musyimi regarding the audit of the Constitution. As we are all aware, money was voted for by this Parliament and given to that Committee to undertake a socio-economic audit of the Constitution. I have heard Hon. Musyimi, who is the Chairman of the Budget and Appropriations Committee say that the report will be released to the public on 19th May, 2015. I am, therefore, seeking your indulgence and directions. Will the Committee receive the report and make it public on that day, or will we receive it, discuss it and then properly table it in this House? Are we supposed to release it to the public before it is brought to this House?

Hon. Speaker: According to the invitation, the report is going to be released in-camera. I do not think it will be released in public. Perhaps, hon. Mutava Musyimi can tell us.

Hon. Musyimi: Thank you, hon. Speaker. Before I address the matter raised by my colleague from Mbeere North, let me say a word or two concerning my colleague from Kisumu County and tell him that he looks very smart.

Hon. Speaker: He is the Member for Ugenya. It is only that Ugenya is a big constituency.

Hon. Wambugu: Indeed, hon. Speaker!

Hon. Speaker: He may not be physically the same as the size of the constituency but he is the able Member for Ugenya Constituency, hon. David Ochieng.

(Laughter)

Hon. Musyimi: Hon. Speaker, the reason as to why the Budget and Appropriations Committee, in a very bipartisan manner, came up with the recommendation that was adopted by this House was that we were concerned about the way money was being misappropriated by most of the spending agencies. We looked at this matter from a programme point of view. We appreciated the fact that we have a nation that has a new Constitution after almost 50 years. No institution in any country is bigger than its government and people. It stands to reason that any intelligent society will, after four to five years, want to ask themselves how a new Constitution, or the mother law, is being implemented. Are we getting value for money? So, it started as an issue related, especially to how money was being spent. That is why, in broad terms, so that the exercise could be inclusive, we called it “a socio-economic audit of the Constitution”. That is why the matter is before my Committee.

Coming to the question raised by hon. Charles Muriuki Njagagua, the interim report will be released to the Budget and Appropriations Committee by the team led by the Auditor-General, in the presence of the media. That is what will happen. Because it is a public process, the report must come to the Committee in a manner that is public. So, the media will be invited but the interim report will be released to the Committee. Thereafter, there will be a lot of reactions. That is the whole purpose of programme interim reports. We can have them come back to the issue of the Senate that was rightly raised by the Majority Leader, the issue of the Supreme Court and other sectors of operation that may not have received sufficient attention by the Auditor-General. As a society, we can then begin to engage the report. The Committee, on behalf of this House, will ask that we get a final report within a reasonable period of time.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Members, let us not get into some debate. I see hon. Chris Wamalwa has an intervention.

Hon. Wakhungu: Thank you, hon. Speaker. I need your clarification because the issue at hand is critical. This is the same House that voted the money that was availed for the socio-economic audit. My worry is whether it is in order for the report to be released in public. The rule of thumb is that you can only release a report to the public in its final format. Interim report means work in progress. I agree with the Leader of the Majority

Party; we need to have known the key stakeholders that we could not afford to leave behind in this matter. My suggestion was that it would have been better to present the interim report to Parliament, so that we can give our input, and identify the key stakeholders who have not been involved. After we look at the final product, we can allow the report to be availed to the public. Work in progress can be amended. Releasing an interim report publicly might be misleading to the public. It can be very costly to correct such a situation.

Hon. Speaker: Hon. Members, unfortunately, there is no debate. Therefore, there is nothing for me to rule on. So, it will remain as it had been planned by the Committee. I do not want to get involved. Let the Committee get as much information as possible. After all, this same House voted the resources for the socio-economic audit exercise.

Finally, hon. Wambugu, are you on intervention?

Hon. Wambugu: Yes, hon. Speaker. It is about the same issue, and especially relating to the contribution by---

Hon. Speaker: We cannot hear you.

Hon. Wambugu: Hon. Speaker, the problem is my microphone. Even yesterday, it had a problem but it is all right now. I want to react to the comments that were made by the Member for Kisumu on the information that the whole process of the socio-economic audit---

Hon. Speaker: Hon. Wambugu, there is no Member from Kisumu who has made any comment.

Hon. Members, I encourage you to know one another. I am sure that you are not injurious to one another. Get to know one another. How is it that I know most of you by your three names and the constituencies that you represent? There is no Member for Kisumu. The only Member for Kisumu is called "Ken Obura Mirenga". He is the Member for Kisumu Town. The others are Hon. Olago Oluoch and Hon. Shakeel Shabbir. The Member for Ugenya, Hon. David Ochieng, is the one who commented. You cannot mistake him for the Member for Kisumu. It may well be that you get to Kisumu before you get to Siaya, depending on the route you follow.

(Laughter)

Again, you must know the geography of this country. You can get to Ugenya before getting to Kisumu, if you follow some other routes, but I believe that the easier route is through Kisumu.

So, hon. Wambugu, what would you want to comment on about what the Member for Ugenya said?

Hon. Wambugu: Hon. Speaker, it was actually a slip of the tongue. I know that he is Hon. David Ochieng, Member for Ugenya Constituency. I have actually been to Ugenya. It is a very good constituency.

I just wanted to inform the Member that this process started through the Budget and Appropriations Committee. As our Chairman said, after we went through the Budget process last year, we found that there were lots of funds which were not going to the right places. As we looked into the issue of the wage bill, we felt that it was proper that we looked at all the services and processes that were ongoing in the country, especially those

which came into being after the promulgation of the new Constitution. That is why we came to this House and asked for funds to have the socio-economic audit done.

For the interest of everybody, the report will give us direction. Even in terms of planning, we will be able to put our funds where they are supposed to be.

Hon. Speaker, that is all I wanted to inform you.

Hon. Speaker: Very well. I hope that was not to inform me because the information was well relayed by your Committee Chairman.

Next Order.

BILLS

First Readings

THE BUSINESS REGISTRATION SERVICE BILL

THE HEALTH BILL

THE CONSTITUTION OF KENYA (AMENDMENT) (NO.3) BILL

THE VETTING OF JUDGES (AMENDMENT) BILL

THE TWO-THIRD GENDER RULE LAWS (AMENDMENT) BILL

(Orders for the First Readings read-Read the First Time and ordered to be referred to the relevant Departmental Committees)

Second Reading

THE KENYA NATIONAL EXAMINATION
COUNCIL (AMENDMENT) BILL

Hon. Speaker: Hon. Members, what remains of this Bill is for the question to be put. You had already debated it.

(Question put and agreed to)

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

Third reading

THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL

Hon. Speaker: Hon. Kemei, if you are standing, you just remain standing. I will pardon you because of the time that you stood there. Hon. Members, again this Bill was

discussed. It went through the Committee of the whole House this morning. What remains is for the Question to be put.

(Question put and agreed to)

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

MOTION

ADOPTION OF SPECIAL PIC REPORT ON PROCUREMENT PROCESS BY KPC

THAT, this House adopts a special Report of the Public Investments Committee on the Procurement Process of the Kenya Pipeline Company Limited, Line one Capacity enhancement projects (Mombasa - Nairobi Pipeline), laid on the Table of the House on Tuesday, February 10th 2015.

Hon. Speaker: Hon. Kemei, just look at the Order Paper so that you are not moving all the time. If you read this, you will not be caught on the wrong side.

(Question put and agreed to)

Hon. Members, take your seats. Those of you who are making your way in, can you take your seats? Hon. Z.K Cheruiyot, you should take your seat so that we can--- If the Chairperson cannot be heard well at the tail end, kindly raise the issue.

COMMUNICATION FROM THE CHAIR

CONSIDERATION OF AMENDMENTS TO THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) BILL

Hon. Members, you will recall that yesterday I issued guidance on the manner of considering amendments to the Retirement Benefits (Deputy President and Designated State Officers) Bill, 2013 in terms of Article 114 of the Constitution. My attention has been drawn to the further amendments proposed by the Chairperson of the Finance, Planning and Trade Committee, which are listed on today's Order Paper.

A scrutiny of the amendments reveals that the Finance, Planning and Trade Committee is proposing to include a retired Chief Justice as one of the beneficiaries to the proposed entitlements. Following the recommendations of the Budget and Appropriations Committee, any inclusion of an office other than one recommended by the Budget Committee would offend the provisions of Article 114 of the Constitution as it would entail an additional charge on the Exchequer. That amendment to Clause 2, therefore, will not be considered in the Committee of the whole House.

The Finance, Planning and Trade Committee is also proposing amendments relating to the use of the words "a retired designated State officer". The recommendation

of the Budget and Appropriations Committee as contained in its proposed amendment seeks to specify the beneficiaries of this Bill by offices instead of using the generic term “retired designated State officers”. It, therefore, follows that the amendments by the Budget and Appropriations Committee ought to be given preference in Committee of the whole House.

Finally, the Finance, Planning and Trade Committee also proposes, in part of its amendments to Clauses 5, 6, and 7 to reduce the proposed benefits. Since these amendments are not proposing any additional charge on the Exchequer, they are admissible and can be considered in Committee of the whole House.

The House stands accordingly guided.

Hon. Musyimi: Hon. Speaker as you are fully aware, we have amendments, as you have stated, from the Finance, Planning and Trade Committee. We also have amendments from the Budget and Appropriations Committee. Thirdly, there is also an amendment from the Leader of the Majority Party at Page 440 of the Order Paper. I assume that, that matter is of no materiality.

Hon. Speaker: Hon. Mutava Musyimi, I can clarify that the net effect of that guidance is that the proposed amendments with regard to addition of other offices both by the Leader of the Majority Party and the Mover of the Bill, hon. Mbadi, will not be considered. However, there is a further amendment proposed by the Leader of the Majority Party, which the Committee is at liberty to consider alongside your own amendments, which are not the same as those affecting Article 114 of the Constitution.

Hon. John Mbadi, what is your---

Hon. Ng’ongo: Hon. Speaker, I agree with you but I do not know whether--- Because the amendment I see here proposed by the Leader of the Majority Party, especially to Clause 2---

Hon. Speaker: Hon. Mbadi, are you looking at the Supplementary Order Paper?

Hon. Ng’ongo: Yes.

Hon. Speaker: Hon. Members, you should be looking at the Supplementary Order Paper.

Hon. Ng’ongo: Hon. Speaker, I am a bit surprised because this amendment was brought to the Budget and Appropriations Committee and they rejected it. The Chair of the Committee is here. I remember the Committee discussed the issue of holding of an office in a political party for almost one hour and the Budget and Appropriations Committee unanimously rejected this amendment. I do not know why it is brought here.

Hon. Speaker: Hon. Mbadi, as the Mover of the Bill, I appreciate your concerns, but remember we referred the matter to the Budget and Appropriations Committee because of issues that were touching on Article 114 of the Constitution. I appreciate your concerns, especially if they hinged on Article 38 of the Constitution in terms of political rights and the rights of every Kenyan to belong to political parties, and even participate in politics.

Remember under our own rules, if you serve for two terms and people give you some sabbatical leave for a term or two, you continue earning pension. If the people think that you need to go back for whatever reason, you are never affected. What you are raising, hon. John Mbadi, is a very pertinent issue; on one hand we recognise the right for Members to continue earning pension if they do two terms. If they are given some break,

they earn the pension if they come back, and they can come back without any hindrance. That is the point you are raising.

It is a legitimate matter but, again, in keeping with the provisions of Article 122 of the Constitution, the Speaker has no vote. You were very active in the enactment of the new Constitution, and you said that the Speaker shall never have a vote other than expressing general opinions as I am doing. My views are of no consequence because they do not translate into a vote. You raise a very serious constitutional issue that if this were to be carried, it would mean that the Act, on the face of it, would have a non-constitutional clause which can be struck out by the courts. It is for the House to either take the information or not. Even if we debate it now and it is not Committee Stage yet, it has no effect. That matter should be debated when you go into Committee.

As it is at this point your Committee has not given a report on anything. It will be unfair for me, at least from the Chair, to say “Do not move it”. I believe this House comprises of Members who have read the Constitution and understood the various provisions to avoid enacting laws that fly in the face of the Constitution.

I would be content with proceeding to the next Order, so that the House then can consider it. We do not need to discuss the issue, hon. Mutava Musyimi, because we are not yet in Committee. So, hon. Members, let us not discuss it. If you debate it now, the rules do not allow me to even preside over that kind of debate, because it is not yet there. There is no issue right now before me. Let us move to the next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) BILL

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, we will move quickly. I am sure you have heard the substantive Speaker in terms of the procedure we are going to use and what we are going to discuss.

Clause 3

Hon. Musyimi: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

“Subject to sections 5(3) and 15, the persons entitled to the benefits conferred by this Act shall be persons who at any time after the 15th of

January, 2008 retire as Deputy President, Prime Minister, Vice President or Speaker and do not engage in elective politics”.

This amendment has been discussed at great length over a very long period. The bottom line of what we are recommending is that there will be a cutoff date with respect to those who will enjoy these benefits, which is 15th January, 2008. The offices that will be *ipso facto* affected will be the offices of the former Prime Minister, the former Vice-President and the former Speaker of this House. The idea being that these three persons played a very key role in helping transition in the country together with other leaders from the old constitutional dispensation to the new constitutional dispensation.

That is the burden of this amendment. It is an amendment that has been discussed at great length. We have even taken the matter to the Treasury seeking advice and we have received the same and tabled it on the Floor of this House. I do not have much more to say.

I beg to move.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I can see there is quite some interest in this. I will give a chance to a few Members to contribute to it before we take a decision. I will start with the Member for Emurua Dikirr. He is absent. We will go to hon. Nyamweya.

Hon. Nyamweya: Thank you, hon. Temporary Deputy Chairman. I support this amendment. As the Departmental Committee Chair has already stated, it goes back to how the new Constitution was made. It also reduces bill. If we go back endlessly, the bill might be very huge for the country.

With those remarks, I support the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, so that nobody accuses the Chair of looking at one direction, let me point out the fact that most of the requests that I see here are from the left of the Chair. I will give the next chance to hon. Kiptui.

Hon. (Ms.) Kiptui: Thank you, hon. Temporary Deputy Chairman. I do not support the amendment because we are aspiring for positions all the time. We should not attempt to block opportunities for ourselves, either now or in the future.

With those remarks, I beg to oppose.

The Temporary Deputy Chairman (Hon. Cheboi): I will give the Floor to hon. Opiyo Wandayi.

Hon. Wandayi: Hon. Temporary Deputy Chairman, it goes without say that this is an amendment I support because of the obvious fact that the holders of the three key offices, as hon. Mutava has pointed out, played a very key role. Again, the fact that we have included the Speaker is equally important. This is because the Speaker of the National Assembly, or the Speaker of the Senate for that matter, is really the head of the third arm of the Government. Therefore, to have his retirement taken care of in the manner that the House has proposed is appropriate.

With those remarks, I beg to support.

The Temporary Deputy Chairman (Hon. Cheboi): Let us hear hon. Seneta.

Hon. (Ms.) Seneta: Hon. Temporary Deputy Chairman, I support the amendment, though I wanted to contribute to the whole Motion.

I support the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Let us hear hon. Jessica Mbalu.

Hon. (Ms.) Mbalu: Hon. Temporary Deputy Chairman, I support the amendment to Clause 3 as it seeks to widen the definition of ‘retired state officer’ to include those who were in office before 15th January, 2008. I support the proposed amendment on the definition of “state officer” to include “Deputy Prime Minister”. Of course, the former Vice-President, Hon. Kalonzo Musyoka, will benefit from this Bill.

The Temporary Deputy Chairman (Hon. Cheboi): Let us hear hon. Tong’i. Probably, he will be the last one on this amendment. I can see that the direction is leading the same way.

Hon. Tong’i: Thank you, hon. Temporary Deputy Chairman. I stand to support the amendment. It is only fair and natural that the people who have served this country, such as the former Prime Minister, the former Vice-President, Hon. Kalonzo Musyoka and the Speaker, be fairly rewarded for a job well done.

I support.

The Temporary Deputy Chairman (Hon. Cheboi): As we take a decision, it good for Members to recall that Hon. Benjamin Langat had earlier on indicated that he had amendments to this particular clause. However, it falls now that hon. Mutava Musyimi has proposed a deletion and an insertion. Therefore, as you take the vote, kindly, take note of that fact.

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

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

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

Clause 5

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Departmental Committee Vice-Chair, hon. Langat to move the amendment on behalf of the Committee. Let us be clear, as you even proceed. What you are proposing to amend in terms of (a) falls because of Article 114 and therefore you will be proceeding on parts (b), (c) and (d).

Proceed, hon. Gaichuhie.

(Proposed amendment to part (a) dropped)

Hon. Gaichuhie: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 5 be amended in sub-clause (1) by-

(b) deleting the word “eighty” in paragraph (a) and substituting therefor the expression “sixty-five”;

(c) deleting the phrase “one and half years” in paragraph (b) and substituting therefor “one year’s”;

(d) deleting paragraph (e) and substituting therefor the following new paragraph-

“(e) a fuel allowance equal to ten per cent of the monthly pension payable under paragraph (a)”;

(e) deleting the words “First Schedule” in paragraph (g) and substituting therefor the word “Schedule.”

(Question of the amendment proposed)

Hon. Ng’ongo: Hon. Temporary Deputy Chairman, I request my friend to withdraw this amendment. I oppose it because this Bill did not just originate from nowhere. Actually, in the last Parliament, this Bill had been passed. It was taken to the Cabinet, where it was discussed. The bottom line is that it was in line with the other benefits provided for offices like the Office of the President, which already is enjoying this benefit. Even the Budget and Appropriations Committee considered all these details at length. What needed to have been removed was removed. The Budget and Appropriations Committee, in consultation with the National Treasury, generally agreed with what has been left in the Bill. We have a letter from the National Treasury, indicating their agreement with the Bill generally, in terms of these percentages. Therefore, I do not see why the Departmental Committee on Finance, Planning and Trade is now working at cross purposes with the Budget and Appropriations Committee, and even with the National Treasury, and bringing these figures.

Therefore, I urge that this amendment should be rejected, so that we can leave the Bill to stand agreed with the Budget and Appropriations Committee. Otherwise, we will open other fronts.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): What is your point of order, Hon. Mulu?

Hon. Mulu: Hon. Temporary Deputy Chairman, I am looking at Clause 5 of the Bill, but I do not see what they are talking about. I do not know where Clause 5 is. I am looking at the Bill. I do not see anywhere written “eighty”, which needs to be replaced with “sixty-five”. The Departmental Committee Chair needs to tell us which Bill he is referring to.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Mulu, what did you say is your problem with Clause 5? I can see it.

Hon. Mulu: Hon. Temporary Deputy Chairman, unless I have the wrong copy of the Bill, Clause 5 is not there. The copy of the Bill that I have does not have that clause.

The Temporary Deputy Chairman (Hon. Cheboi): Do you have the Supplementary Order Paper?

Hon. Mulu: Yes, hon. Temporary Deputy Chairman, but I am looking at the original Bill, which is being amended. Part (b) of the amendment seeks to delete the word “eighty” in paragraph (a) and substitute therefor the expression “sixty-five”.

The Temporary Deputy Chairman (Hon. Cheboi): I can actually understand your position, hon. Mulu. This is because when the Vice-Chair of the Departmental Committee moved his amendment, he did not clarify it. I can understand your position. Let me give an opportunity to the Committee, again.

Hon. Mulu: He has to explain to us or withdraw the amendment, because it does not make sense.

The Temporary Deputy Chairman (Hon. Cheboi): Let us hear the Member for Mavoko, who is a Member of the Committee.

Hon. King’ola: Hon. Temporary Deputy Chairman, I am equally surprised. I sit in the Committee. As you saw---

The Temporary Deputy Chairman (Hon. Cheboi): Hon. King’ola, that does not help. I am interested in the Committee clarifying what they intend to achieve, so that other Members can speak to it. However if you are speaking---

Hon. King’ola: Hon. Temporary Deputy Chairman, I outrightly oppose this amendment.

The Temporary Deputy Chairman (Hon. Cheboi): That does not matter. You will have your opportunity to oppose. For now, we want to get clarification so that Members can discuss the issue from a point of knowledge.

Let us hear the Vice-Chair of the Departmental Committee.

Hon. Gaichuhie: The intention of this amendment was to reduce the percentage from 80 to 65.

The Temporary Deputy Chairman (Hon. Cheboi): The percentage of what?

Hon. Gaichuhie: The percentage used when calculating pension. Instead of using 80 per cent, you use 65 per cent of the salary. The other one was, instead of calculating pension basing it on one and a half years, you base it on one year.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): I think that clarifies the position of the Departmental Committee on Finance, Planning and Trade Committee. Hon. Members can now discuss from the point of knowledge. I will give a chance to---

Hon. Members: Put the Question.

The Temporary Deputy Chairman (Hon. Cheboi): No. I am not going to put the Question. You are asking me to put the Question and I want to give an opportunity to Members to ventilate on this? I can see we have 12 requests and seven interventions. I do not understand whether they mean one and the same thing. So, I am going to give chance to a few Members to discuss and then we will make a decision. We will start with---

Hon. Mulu: Temporary Deputy Chairman---

The Temporary Deputy Chairman (Hon. Cheboi): Well, Hon. Mulu you have contributed on that one. I am going to give chance to Hon. Rachel Amolo, Member of Parliament of Kakamega County.

Hon. Mulu: I wanted to give a clarification, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): No. Proceed, Hon. Rachel Amolo.

Hon. (Ms.) Amolo: Thank you, hon. Temporary Deputy Chairman. I stand to support *Mheshimiwa* Mbadi's position.

The Temporary Deputy Chairman (Hon. Cheboi): Now, this is what I want you to do. You are perfectly in order. If you are supporting Hon. Mbadi's position, you say you are opposing and you proceed with it.

Hon. Member: Yes.

The Temporary Deputy Chairman (Hon. Cheboi): So, the amendment is the one proposed by the Departmental Committee on Finance, Planning and Trade Committee. So, you are actually opposing.

Hon. (Ms.) Amolo: Yes, I am supporting Hon. Mbadi. I was still going on and opposing what is on the Order Paper.

The Temporary Deputy Chairman (Hon. Cheboi): Okay.

Hon. (Ms.) Amolo: Yes. Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Okay.

I am trying to look out for Members who have not spoken before I come to others. Let us have Hon. ole Ntutu.

Hon. ole Ntutu: Thank you, Hon. Temporary Deputy Chairman. I also want to oppose these amendments. This is because we have worked very hard on this document, particularly the Budget and Appropriations Committee and we do not see any reason for amendment. We have listened to experts on this issue. So, for them to bring this amendment, it is going to confuse the whole thing.

I oppose.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Jakoyo Midiwo.

Hon. Midiwo: Thank you, Hon. Temporary Deputy Chairman. I rise to oppose this amendment. I do not think this Departmental Committee on Finance, Planning and Trade Committee is being fair to this country. When you talk about replacing the Speaker with a designated State officer---

The Temporary Deputy Chairman (Hon. Cheboi): Is it on this particular one? I do not think so.

Hon. Midiwo: But this particular one is in itself---

The Temporary Deputy Chairman (Hon. Cheboi): No. Let us talk about this particular one. You will have a say on the other one.

Hon. Midiwo: This particular one has issues. These are a few Kenyans. You must remember that Hon. Kaparo was looking for a job simply because nobody gave him retirement. Baba Moody Awori is out there. You want to allow them draw retirement from nothing? This is very unfair. We can afford to take care of people who have served this country the same way we take care of President Kibaki and President Moi. It is only fair we do the same to the others.

I oppose and I urge everybody to be reasonable so that we know that all of us will be judged by the same fate.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. Hon. Member for Balambala.

Hon. Aden: Thank you, hon. Temporary Deputy Chairman. I also oppose this proposed amendment. I want to say that, indeed, as *Mheshimiwa* Midiwo has mentioned

right now, we need to give a decent life to these prominent Kenyans who have served us diligently for very many years. The other thing is, how many Speakers do we have in retirement now? I do not know why anybody will reduce this. They are very few. For that reason, it is not going to be a burden at all.

I strongly oppose this amendment. Eighty per cent of the current salary is good enough if not better than this.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. I will put the Question.

Hon. Musyimi: On a point of order.

The Temporary Deputy Chairman (Hon. Cheboi): What is your point of order Hon. Musyimi? We are having a problem with your microphone.

Hon. Musyimi: It is audible now.

The Temporary Deputy Chairman (Hon. Cheboi): There you are.

Hon. Musyimi: Thank you very much, hon. Temporary Deputy Chairman. I just wanted you, for avoidance of doubt, to clarify. I thought Hon. Speaker ruled on Clause 5(a).

The Temporary Deputy Chairman (Hon. Cheboi): Correct.

Hon. Musyimi: So, we are dealing with Clause 5(b)?

The Temporary Deputy Chairman (Hon. Cheboi): We are not dealing with Clause 5(a), we are dealing with Clauses 5(b) to 5(d). In fact, we will be dealing with Clause 5(e) shortly hereafter.

Hon. Musyimi: Much obliged, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Yes. Let us have the Member of Parliament for Voi Constituency then we take the vote. Hon. Jones Mlolwa.

Hon. Mlolwa: Hon. Temporary Deputy Chairman, I am saying that this amendment is not necessary. I am a member of the Departmental Committee on Finance, Planning and Trade and nothing like that came up for discussion.

The Temporary Deputy Chairman (Hon. Cheboi): The senior Member here, Hon. Dalmas Otieno, I think it is only fair I give you an opportunity and then I put the Question. Hon. Members, let us listen to him.

Hon. Anyango: Hon. Temporary Deputy Chairman, you are aware that I was a Minister for Public Service. These issues of pension are areas of my specialty. When we did the Presidential pension, I pegged it at 80 per cent of the remuneration of the sitting President so that inflation is taken care of. When they brought these proposals, the first thing they changed was to say: "A per cent of the final salary when you retired." That means it is static. If you live 20 years from retirement, you will be earning peanuts. Geoffrey Karithi is earning Kshs6000 because of these kinds of provisions in pension law. It is a pity that we are making provision for pension after somebody has retired and there are some people who attach it to the faces of the supposed recipients. This is because it is just the two persons for now. If you do not like their noses, you would rather the figure was 40 per cent of their last salaries. It is really nonsense, hon. Temporary Deputy Chairman. This should be totally rejected.

First, it is per cent of past final salary some two years ago. Second, you want to reduce it further yet inflation is at seven per cent under the present statistics of the *Economic Review*. How do you compensate a pension which is for past service already

delivered without complaints at that time? Now you look at it retroactively and you try to victimise the holders of the offices whom you know. It is very unfair and it should be rejected in totality.

The Temporary Deputy Chairman (Hon. Cheboi): Now, I will put the Question which is that Clause 5--- No, let us have---

Well, you can see the difficulties. It is because there are quite a number of Members at the request slot and a few more others at the intervention slot. So, we cannot get through very easily.

Hon. Sakaja: Thank you, hon. Temporary Deputy Chairman. I rise on a point of order. It is really disheartening because this is a House of procedures and rules. We must transact business in an honest way. I have consulted all the Members who are present here, of the Departmental Committee on Finance, Planning and Trade. We do not recall discussing any of these amendments in the Committee.

(Applause)

We want to ask if these amendments were discussed, we would like to see the reports of that discussion. If not, may be all of us did not attend, then they can show us the HANSARD of this discussion. Otherwise, these amendments should come in the name of an individual and not a Committee. We cannot misuse our committees.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. I hear you. I will give a chance to another Member. You have taken too much time. You have been heard. Let us have Hon. Bunyasi. I know you are also a Member of the Departmental Committee on Finance, Planning and Trade.

Hon. Bunyasi: Thank you. First of all let us start with facts. We had a lengthy discussion not once but in two sittings on this 80 and 65. I agree with the fact that it should be dropped but we discussed it for sure.

The Temporary Deputy Chairman (Hon. Cheboi): Yes. That is a good bit. You see Members, you have the right to vote one way or the other. If one Member of the Committee is saying that they never discussed, that is actually misleading the House. I would not want you to proceed in that direction, so you will go to the vote and make your decision. Let us have Hon. Midiwo. He wants to clarify something, not to contribute. I wanted clarification on whether the Committee did that and I am getting---

Hon. Midiwo: Hon. Temporary Deputy Chairman, I know your background as a lawyer. We must follow the rules of this House. It is always before we even vote on this particular amendment. It should have been in the beginning. It used to be in this 11th Parliament, under the new Constitution that any such amendment should have gone to the Budget and Appropriations Committee. What we are doing here is an illegality as per our own rules. We cannot have another raft of amendments which are of financial nature and have not gone to the Budget and Appropriations Committee. This is the ruling of your Chair. It is what is in our Constitution. So, you need to rule this waste of time out of order.

The Temporary Deputy Chairman (Hon. Cheboi): I will not rule it at this point in time because we are already half way through. The best thing is for me to put the Question and you make your decision. That is the easier way out.

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

(Clause 5 agreed to)

Clause 6

The Temporary Deputy Chairman (Hon. Cheboi): We have an amendment from Hon. Gaichuhie

Hon. Gaichuhie: Thank you, hon. Temporary Deputy Chairman. Since Clause 5 has been defeated, I wish to drop this amendment.

(Proposed amendment by Hon. Gaichuhie dropped)

(Clause 6 agreed to)

Clause 7

The Temporary Deputy Chairman (Hon. Cheboi): We have an amendment from Hon. Gaichuhie

Hon. Gaichuhie: Thank you. Most of the sub clauses of Clause 7 are similar to Clauses 5 and 6. So, I do not wish to proceed.

(Proposed amendment by Hon. Gaichuhie dropped)

(Clause 7 agreed to)

(Clauses 8, 9, 10, 11, 12, 13, 14, 15 and 16 agreed to)

New Clause 17

The Temporary Deputy Chairman (Hon. Cheboi): The Mover, Hon. Duale.

Hon. Member: He is not there.

The Temporary Deputy Chairman (Hon. Cheboi): He is not there and therefore, that one falls.

(Proposed amendment by Hon. A.B. Duale dropped)

(Clause 17 agreed to)

First Schedule

Hon. Gaichuhie: Thank you, hon. Temporary Deputy Chairman. Looking at the First Schedule, the amendments we wanted to include were going to touch on Clauses 5, 6 and 7, so, I want to drop this amendment.

(Applause)

(Proposed amendment by Hon. Gaichuhie dropped)

(First Schedule agreed to)

Second Schedule

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Gaichuhie.

Hon. Gaichuhie: Thank you, hon. Temporary Deputy Chairman. Since the other clauses have been dropped, I think we still need to have the Second Schedule and the Third Schedule dropped.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. We will go step by step Hon. Gaichuhie.

(Proposed amendment by hon. Gaichuhie dropped)

(Second Schedule agreed to)

Third Schedule

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Gaichuhie.

Hon. Gaichuhie: Thank you, hon. Temporary Deputy Chairman. I wish to drop the amendment on the Third Schedule.

(Proposed amendment by hon. Gaichuhie dropped)

(Third Schedule agreed to)

Clause 2

Hon. Musyimi: Thank you, hon. Temporary Deputy Chairman. Is that the clause that came from my Committee? I think mine was Clause 3. I have spoken to this matter and I do not have more to add.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Musyimi, it is good if Members are on board. We are dealing with your specific amendment. Give us a few minutes to consult.

Hon. Mutava, you realise that the one for Hon.A.B.Duale falls but yours stands. So, I expected you to clarify a little so that the Members can---I do not know if we are clear on that one, Hon. Musyimi. Look at it. I will give you some little time Hon. Musyimi because you are proposing a deletion---

Hon. Musyimi: I am happy to get assistance from the Mover of the Bill, Hon. Mbadi.

I beg to move:-

THAT, clause 2 of the Bill be amended-

(a) by deleting the definition of “Designated State Officer”

(b) by deleting the definition of “retired Designated State Officer”

(c) by deleting the definition of “retired Speaker” and substituting therefore the following definition—

“retired Speaker” means a person who, having held the office of the Speaker of

the National Assembly or Speaker of the Senate any time after the 15th of January ,2008 has ceased to hold office as such in the manner specified in the Constitution.

(d) by deleting the definition of “Speaker”

The Temporary Deputy Chairman (Hon. Cheboi): I will first propose the Question and then we come back to Hon. Mbadi to get clarity from him.

(Question of the amendment proposed)

Hon. Ng’ongo: Hon. Temporary Deputy Chairman, the proposed amendment is to delete the word, “Designated State Officer”, the definition of “retired Designated State Officer” and the words “retired Speaker” because we agreed to first define the officers by name. We have defined the office of the Speaker, former Prime Minister and Vice President. Therefore, the word, “designated” is irrelevant. That is what this amendment seeks to achieve. The amendment is also proposing to delete the definition of “Speaker” because now you have already put the Speaker who is defined in the Constitution. So, you do not need to again define it. That is what our Committee agreed on.

The Temporary Deputy Chairman (Hon. Cheboi): I realise that it is a fairly straightforward one but I will decide to give a few more Members because I have realised that there are not too many more issues to be discussed here. So, I will start with Hon. Onyura.

Hon. Onyura: Hon. Temporary Deputy Chairman, I would support the amendment because it clarifies. It makes the title clearer and also avoids general lumping of “State Officers” so that it is referring to very specific officers. So, I support.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Chairman, I want to support the amendment because once we delete it, it removes ambiguity in terms of using any State officer. So, we have to be specific by use of their generic names so that we are very clear on that.

Hon. Ochieng: Hon. Temporary Deputy Chairman, I support the proposal though I wanted to intervene on part (iii), not this one.

Hon. (Ms.) Otucho: Hon. Temporary Deputy Chairman, by defining, this specifies exactly who are the beneficiaries of the Act so that we do not have any “Designated State Officer” claiming to benefit from this Act. So, it gives us the clarity that we need in the Act.

The Temporary Deputy Chairman (Hon. Cheboi): Okay, let us have Hon. Angwenyi.

Hon. Angwenyi: Hon. Temporary Deputy Chairman, you must be specific. We stated “Retired Vice President”, “Retired Deputy President,” “Retired Prime Minister” and “Retired Speaker” especially people of the calibre of Hon. Kaparo. We state clearly the people that we want to give these benefits.

Hon. (Ms.) Nyasuna: Hon. Temporary Deputy Chairman, I support and particularly when the definition of “Retired Speaker” is given. It also designates the time within which you must have been Speaker for you to benefit from this particular Bill. Hon. Angwenyi is mentioning far and wide but it is important to know that it also designates the period from which you should have been Speaker for you to benefit.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Kaluma, do you want to speak to this one?

Hon. Kaluma: Hon. Temporary Deputy Chairman, I wanted to speak to the others because the matters that I wanted to speak to have been spoken to. However, the important thing in terms of law is that where we have the beneficiary already specified, there is no longer need to define the term “Designated State Officers” because you have mentioned them by name.

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

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

The Temporary Deputy Chairman (Hon. Cheboi): What is it Hon. Angwenyi? You have just had your take.

Hon. Angwenyi: Two, we must remove the limitation of 2008. These people have served this country even before.

The Temporary Deputy Chairman (Hon. Cheboi): Let me just put the Question.

(Clause 2 as amended agreed to)

Long Title

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Mutava Musyimi, do you have an amendment to that one?

Hon. Musyimi: Hon. Temporary Deputy Chairman, I am half-awake today. I am not quite sure that I know what you are asking of me.

The Temporary Deputy Chairman (Hon. Cheboi): It is the long title. It is fairly straightforward Hon. Musyimi and you are doing very well. You are aligning it. So, you just move it and then I propose the Question and we finalise that one.

Hon. Musyimi: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting the Long Title and substituting therefore the following-

“AN ACT of Parliament to provide for the granting of pension and other retirement benefits to persons who hold the office of the Deputy President and persons, who have served as Prime Minister, Vice President or Speaker after the 15th of January, 2008 and for connected purposes.”

(Question of the amendment proposed)

Hon. Mulu: Hon. Temporary Deputy Chairman, I support the amendment to the title bearing in mind the number of changes the Budget and Appropriations Committee has made. So, this is the most appropriate title for this Bill based on the changes that we have made.

Hon.(Ms.) Mbalu: Hon. Temporary Deputy Chairman, I want to support the long title as proposed by the Chairman. I want to read the title just for avoidance of doubt and for adoption of the same: “AN ACT of Parliament to provide for the granting of pension and other retirement benefits to persons who hold the office of the Deputy President and persons, who have served as Prime Minister, Vice President or Speaker after the 15th of January, 2008 and for connected purposes.”

The Temporary Deputy Chairman (Hon. Cheboi): Let us hear from Member for Mukurweini. Do you want to speak to this one, Hon. Kabando wa Kabando? You have made a request; that is why I have picked you.

Hon. Kabando wa Kabando: Hon. Temporary Deputy Chairman, Hon. Kajuju has said exactly what I wanted to say. Therefore, there is no need to repeat. It is Hon. Gladys Wanga.

(Laughter)

The Temporary Deputy Chairman (Hon. Cheboi): That is a very dangerous ground to trend on Hon. Kabando. Hon. Kajuju was my classmate in college and you know that. I would know very well when she is here. However, you have corrected it anyway.

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

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

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Mover move the report. Hon. Mbadi, you must concentrate. There is no need to report progress elsewhere other than this House.

Hon. Ng'ongo: Hon. Temporary Deputy Chairman, I am unlikely to get what you said, but I suspect---

The Temporary Deputy Chairman (Hon. Cheboi): Let me tell you this, Hon. Mbadi it is only that I was very kind not to take any serious punitive measures against what I saw you doing, but I think you are doing very well.

Proceed, Hon. Mbadi.

Hon. Ng'ongo: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Retirement Benefits (Deputy President and Designated State Officers) Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Deputy Speaker (Hon. Kajwang') in the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) BILL

The Temporary Deputy Speaker (Hon. Kajwang'): Why are there so many Members on their feet? Is there something going on?

Hon. Cheboi: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Retirement Benefits (Deputy President and Designated State Officers) Bill and approved the same with amendments.

Hon. Ng'ongo: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Makali Mulu to second.

Hon. Mulu: I second.

(Question proposed)

(Question put and agreed to)

Hon. Ng'ongo: Hon. Temporary Deputy Speaker, I beg to move that the Retirement Benefits (Deputy President and Designated State Officers) Bill be now read the Third Time.

Two things, first---

The Temporary Deputy Speaker (Hon. Kajwang'): Order! I have to propose the Question. Resume your seat.

Hon. Ng'ongo: I am moving. You cannot propose before I finish moving. I am moving the Third Reading.

The Temporary Deputy Speaker (Hon. Kajwang’): Sorry, where are you?

Hon. Ng’ongo: I am moving. You cannot propose before I move and it is seconded. I wanted to say two things. First, I would like to thank this House and especially the Budget and Appropriations Committee, which considered this Bill extensively. Actually, there was a time, and I want to say this off-record, that I went to the Budget and Appropriations Committee to defend this Bill and its amendments. I went thinking that it is going to be combative and I was so disarmed by the Committee. The amendments in this Bill received unanimous consensus that I did not even expect. I thank the Members for showing patriotism when it comes to such matters without political consideration. What transpired in the Committee that day was really encouraging.

I want to ask Hon. Pukose to second. For this one, I want to go across in that spirit for him to second the Motion.

Hon. (Dr.) Pukose: Thank you, hon. Temporary Deputy Speaker. I want to thank Hon. Mbadi for giving me this opportunity. First and foremost, I second this Motion. This is a very important Motion that we need to approach with sober minds and also look at the services the individuals in those positions have given to this nation.

I happen to have been fortunate to travel with the former Prime Minister to Morocco to attend a conference. He is a leader of great opportunity to this country. He represented our country very well in the conference that we attended. I felt ashamed that the former Prime Minister did not even have a secretariat to walk with him. Other former Prime Ministers were being treated with dignity. They were having VIP treatment while ours was just sitting with us ordinary Members of Parliament. It is high time we regarded fellow leaders who have served this country with dignity and make sure that they are given proper accommodation, service and equipment, so that they can continue serving this nation in the various capacities.

This is a very important Motion and to the whole Committee I say that you have done well. Unfortunately, it delayed so much because this is a 2013 Bill but we are debating it in 2015. It should have come as early as yesterday so that we can pass it and make sure that these individuals, who have served in various capacities such as former prime minister, vice-presidents and speakers, are accorded the necessary support to continue discharging their duties outside there and represent this country in a better way. With those few remarks, I support this Report.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang’): Members, I know that my request list is full. I hear a voice saying that I put the Question.

(Loud consultations)

Order! From where I sit, I see more than you, who are sitting on the other side.

(Question put and agreed to)

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

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you.
Next Order.

MOTION

REPORT ON UNPAID PENSION DUES TO RETIRED TEACHERS

(Hon. Melly on 30.4.2015)

(Resumption of Debate interrupted on 30.4.2015)

The Temporary Deputy (Hon. Kajwang'): Is that the Member for Kipkelion?

Hon. Member: Tinderet.

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, that is the Member for Tinderet. Yes, please.

Hon. Melly: Thank you, hon. Temporary Deputy Speaker. I want to proceed with moving this Motion. The retired teachers deserve a payment. I gave a narration as to why the Government should pay these teachers. I went to an extent of showing how they have put across their case. The 10th Parliament approved Kshs3.3 billion out of the Kshs16 billion that was required to pay the retired teachers. However, the teachers were not paid since Treasury was waiting for a legal opinion from the Attorney-General. I want to repeat that on 6th December 2012 the Attorney-General wrote to the Chairperson of the Departmental Committee on Education, Research and Technology, Hon. David Koech, informing him that he had resolved, as the custodian of the rule of law, to ensure that the teachers' pension issue is cleared.

However, our Committee has realised that the Office of the Attorney-General, the Office of the Controller of Budget and the Treasury are not working harmoniously to ensure that these teachers are paid. They have different data on how many teachers are involved and how much these teachers are supposed to be paid. The teachers who retired between 1998 and 2003 are the ones who are claiming this unpaid pension. The amount each teacher is supposed to get during retirement can easily be computed by the Teachers Service Commission (TSC).

We are also informed that on 11th February 2014, the retired teachers petitioned Parliament. They cited the Nakuru High Court ruling and the Court of Appeal Case No. 300 of 2009 which the retired teachers won against the Government. In fact, the High Court in Nakuru indicated that the Government should pay the teachers. The Court even committed the Chief Executive Officer (CEO) of the TSC for a civil jail term for not following the court ruling.

I would also want to indicate that the retired teachers have gone through a lot of challenges. These are old men and women. They cannot pay school fees for their children. They cannot even afford medical fees, yet these are heroes who taught many Members of Parliament here today and senior civil servants in this country. It is a pity to find that these teachers are wallowing in poverty. They cannot afford the basic needs like clothing, food and shelter.

The Committee found out that these retired teachers have exhausted all the avenues. They are making a plea to this House. They have gone to court and won the case. In fact, during a sitting of the Committee with the Attorney-General, the Cabinet Secretary (CS) for the National Treasury and the Director of Pensions, we agreed that the retired teachers be paid. However, one of the issues that came up, and I want the House to note this, is that the Office of the Attorney-General was not able to determine the legality of this payment. They brought up the issue of the last payslip, which is not right. This is because the teachers worked, they were given salary increments in 1997, their contracts exist and are valid. The Office of the Attorney-General should clearly advise Treasury and the Controller of Budget and this money should be paid.

In our submission, the Committee recommends the following: We recommended that the rulings of the High Court of 23rd October 2008 and of the Court of Appeal of 2nd November 2010 be upheld, respected and the orders be obeyed accordingly. This House and our Government are respecters of law. We respect the rule of law. Once the High Court ruled, the Government moved to the Court of Appeal. They were also ordered to pay. I am appealing to this House to resolve that the Government should set aside funds to pay these retired teachers.

We also recommend that the figure of Kshs151 billion that was brought by the Controller of Budget and the Attorney-General dated 8th August 2012 be discarded forthwith because it is grossly incorrect. Instead, the figure of Kshs42 billion provided by the retired teachers' lawyer and TSC be taken as the right figure. We are disputing the Kshs151 billion because that figure was brought up by the office of the Controller of Budget and the Attorney-General so as to give an impression that the figure is unmanageable. In real sense the figure that the retired teachers require is Kshs42 billion. This can be computed to the exact details.

We also recommend that the pension figure be paid immediately from the Pensions Department, starting with Kshs16 billion which the Controller of Budget and the Cabinet Secretary of the National Treasury had indicated was readily available, then enter into an agreement on how to pay the balance. In our deliberations, the Controller of Budget and the National Treasury Cabinet Secretary indicated that the Government had Kshs16.7 billion ready to pay the retired teachers. If that is the case, the Committee recommends that these teachers be paid that amount and they negotiate with the Government on how the balance can be paid so that this issue is settled once and for all.

Another recommendation is that the Ministry should consider adjusting the monthly pensions accordingly and immediately. The pensions earned by these retired teachers are peanuts. I want to concur with the Member for Rongo who was here a few minutes ago. He said that if pensions are not adjusted--- He gave a case of a former senior Government official who is earning a paltry Kshs6,000. These figures should immediately be adjusted accordingly to enable the teachers to get their dues, so that they can support their grandchildren, pay their medical bills and access their basic needs. If you looked at the retired teachers who appeared before the Committee, you would see that they were really a desperate lot. In fact, they indicated that they were senior citizens in their late 70s and 80s. They told us that a number of their colleagues have died because of desperation. A number of them cannot get a decent meal. These are the same gallant

officers who served this country with a lot of dedication. I urge the hon. Members of this House to ensure that those teachers are given what is due to them.

With those remarks, I beg to move and ask hon. Kigo Njenga to second.

Hon. Njenga: Hon. Temporary Deputy Speaker, I rise to second the Motion.

I come from a constituency that is near Kilimambogo, next to hon. Nyenze's constituency. After Independence, most of the young people who were there went to Kilimambogo and became teachers. They taught my father and I. Now time for retirement has come, and those people are suffering. I have watched several of them die. Others continue languishing in poverty yet they taught me and my senior brothers. In this House, we represent those who are working, those who have retired, those who are healthy and those who are not healthy. The previous Parliament discussed the issue of these retired teachers. At one point, they even made a resolution on the matter. Even the then Deputy Prime Minister had undertaken to ensure that those teachers were paid their dues in instalment. The then Deputy Prime Minister and Minister for Finance is the current President of the Republic of Kenya. He is aware of this issue.

(Applause)

At one point in time, the Government set aside Ksh3.5 billion; they were ready to pay. I am the one who raised this matter during the Committee's proceedings because I felt that we had failed in representing those people. At one point, former President Moi made a public declaration to the effect that those teachers should be paid over a period of time. During the reign of retired President Mwai Kibaki, it was agreed that they would be paid over a period of five years once the economy improved. As the House that represents Kenyans, we oversee the Budget process, project implementation and other public processes. I would like us to resolve that the retired teachers be paid their dues without any further delay. The Government should start by releasing their pensions right away.

(Applause)

That is not something that requires any budgeting processes at all; it is their money. During a sitting of the Committee with the Controller of Budget and Cabinet Secretary for the National Treasury it was said clearly that they had the money and that they were willing to pay. However, the Attorney-General, who rarely attends the meetings and instead sends his juniors, made sure that the retired teachers were not paid. We are one of the arms of the Government. Since the courts have ruled that the retired teachers should be paid, Parliament should say the same. Since the previous regime had agreed to pay them, the current Government should honour the promise of their predecessors. They should respect the court order and the resolution of this House. It has come to my notice that this matter went up to the Supreme Court.

The Temporary Deputy Speaker (Hon. Kajwang'): Just hold on, hon. Kigo. Member for Migori, what are you uncomfortable about?

Hon. (Ms.) Ghati: Hon. Temporary Deputy Speaker, I want to contribute but I have pressed the wrong button.

The Temporary Deputy Speaker (Hon. Kajwang'): Proceed, Hon. Kigo.

Hon. Njenga: Hon. Temporary Deputy Speaker, the current Executive obeyed the Supreme Court when the Opposition contested the validity of the current president's election at the Supreme Court, where election results were upheld. Regarding this matter, the Supreme Court had ruled that the retired teachers should be paid. Just like they obeyed the Supreme Court on the presidential election results contest case that was filed at the Supreme Court by the CORD, the Executive should obey the same Supreme Court and pay the retired teachers without further delay. We are a House of respect. We respect all the other arms of the Government. With that respect, we are seeking the implementation of the orders of the Supreme Court.

The Constitution says that nobody should be marginalised, or denied his rights, for whatever reason – be it because of retirement or age. As Members of this House, we have sworn to uphold the Constitution and make sure that it is obeyed. Therefore, it is high time the Executive also obeyed the Constitution and paid the retired teachers as per this House's resolution.

At one time, I asked the old men how they thought the Government would raise the money that was required for their payment. To my surprise, it was the same old retired teachers who said that their money was not Ksh150 billion but was only Ksh42 billion, which included their pension of about Ksh16 billion and their unpaid allowances and compensation. The same people came and said that we were ready to negotiate so that the Government could pay them. If those people are so flexible that they do not even want to go to court, why can we not appreciate the respect that they have shown to the Government?

At one time, I looked at the legal costs that the Government has incurred because of people not being proactive, or not telling the truth to the retired teachers. The sum is over Kshs700 million. Why should we lose Kshs700 million, which we could have saved? A sum of Kshs700 million is enough to help us improve our education standards as well as our cash transfers. Why should we continue incurring costs? I know very well that the Teachers Service Commission (TSC) boss is supposed to be jailed, or put into police custody. Why we are subjecting the TSC boss, who does not budget or appropriate any monies, to similar problems? It is high time we became a House that can save money for the Government; a House that creates value.

Hon. Temporary Deputy Speaker, if the teachers were paid their money 10 years ago, they would have gotten full value because the value of the shilling then was probably ten times. These are people who have been denied their rights. At one time, an Assistant Minister for Education, Prof. Olweny, was asked by one Maina Kamau about paying them interest. The retired teachers are not interested in the interest. They are interested in their dues at their eroded value. The previous Parliament had said that it would factor in part of the retired teachers' dues in the Supplementary Budget, and the rest of their dues in subsequent Supplementary Budgets. That was in 2010. As we pass this Motion, the Executive should pass the Motion like tomorrow. The rest of their dues should be put in the forthcoming Budget. The teachers should be paid before we embark on the budgetary process in November.

Therefore, I urge this House that we should be the representatives of all categories of Kenyans, including the weak, the working class, the retired people, the women and

youth, and everybody else. All of us, including the Executive, should be our brothers' keeper. I know that one day I will be out of this House. I hope it will not be in 2017; I want it to be beyond 2017. The moment I retire, I would not want the Parliamentary Service Commission (PSC) or anybody else to hold my pension. If such a thing were to happen, I would feel the same pain as the retired teachers.

Therefore, I second the Motion and urge this House to unanimously support it and ensure that the Executive implements it.

Thank you, hon. Speaker.

(Applause)

The Temporary Deputy Chairman (Hon. Kajwang'): You could tell from the applause that you were being felt by Members. Let us follow the Constitution. Members, you know the proceedings.

(Question proposed)

Hon. Nyenze: Thank you, hon. Temporary Deputy Speaker for giving me the chance to contribute to this very important Motion. I want to support the Committee's recommendation.

Today is one of the happiest days I have had in the National Assembly. This House has shown a bipartisan stand by approving the retirement benefits for the former Prime Minister and the former Vice President of this country. They have spoken so well from across the political divide. I must thank both sides of the House for showing solidarity and standing by the truth. God will reward you.

With regard to teachers' pension, this country is governed by laws. We have the Constitution of Kenya 2010 and we are all equal before our laws. Retired teachers have suffered for a long time for something they have worked for but have been denied. We should never discriminate retirees, the old or discriminate on the basis of sex, age, race and tribe. The teachers are asking for only Kshs42 billion. Yesterday, we approved Kshs57 billion for things that are neither here nor there yet now we cannot raise Kshs42 billion to pay teachers; it is their right. Teachers have suffered. In my constituency, there are two teachers who have spoken to me. Every time I go home, I meet them. One is called Mr. Nzambu from Matinyani. He is retired and sick. Every week he requires Kshs7,000 for treatment. He is old and does not have dependants. He has served this country very well. He has taught students and they have performed well. Now that he needs money most, he is denied.

The National Assembly is the one that makes laws. As hon. Kigo Njenga has said, if we respect the Executive and Judiciary, they should also respect the decisions of the House because the Committee is part of the House. That Committee has the powers of the High Court. I have never seen any Government that does not obey court orders. The court ordered TSC to pay these teachers, but they were never paid because the Treasury never allocated money to pay them. We will not stand and wait. Today we are in this House because of teachers. Everybody passed through school. One of the requirements before we were elected as legislators was that you have to show your education background,

performance and certificates. Whether you are qualified or not, everybody passed through the hands of a teacher at some point in life. We have to respect teachers. If there are people who work very hard in this country, even more than us, they are the teachers and doctors. They work 24/7 and are paid very little. However, to add insult to injury, you deny them their rightful share of the benefits. These people should be paid immediately. In fact, we should not even wait. I understand Kshs 16.5 billion in the Pensions Department can be disbursed first and then the rest will follow. We should not wait any longer because when people retire, they are old and fall sick very easily. Life is very difficult. Most of them have no people to depend on. They depend on their pension. When you deny them their money, you are sending them to an early grave. I want Members of the National Assembly to support the Committee's recommendation by ordering TSC to pay these teachers as soon as possible. In fact before Parliament resumes, we want to ensure that teachers' benefits have been paid. The name "teacher" is very valued in other countries. In China, they say a teacher is next to God. In the times of Jesus, apart from being referred to as savour, I have been told this by *Wakili* Kaluma that he was referred to as "Rabbi" meaning, "teacher". Teaching is a very noble profession. In this country, we have to see it that way. I am happy that the Chairman of the Departmental Committee on Education, Research and Technology, hon. Sabina Chege is here. Most of her colleagues, the legislators seated opposite me, apart from hon. Sakuda, all of them have been teachers. They know what we are talking about.

Being a teacher is very difficult. You mould a child from a very early age until they know how to read. They become important people in the society like hon. Kaluma here. You have to pass through the hands of a teacher because without them you cannot be what you are today. For all the people who are opposed to teachers being paid their pension, did they not pass through the hands of teachers? Nobody should stand between the teachers and their rightful entitlement or the dues that they require.

I want to support the Committee very much. This pension should not take time because so many teachers have died waiting for the pension which never came. Those who are surviving are suffering and it is like they have been living a mirage; so near yet they cannot get it. I can see the mood in the House is for teachers to be paid their dues.

I support.

The Temporary Deputy Chairman (Hon. Kajwang'): That is from the son of a preacher. Member for Kuria, can you put your intervention button on.

Hon. (Ms.) Ghati: Thank you, hon. Temporary Deputy Speaker. I come from Kuria East Constituency. I am a Member for Migori County. Kuria is in Migori County.

Thank you, hon. Temporary Deputy Speaker for the opportunity to also commend the Departmental Committee on Education, Research and Technology on this very important Report. We are speaking on the topic of teachers that is very dear to me. Teachers are the most overworked and underpaid workers in this country. They are not even respected. I spoke with some teachers from my constituency and many of them told me that teaching is not a lucrative job any more. Teaching should be a profession that everybody should yearn for. The current generation of students in colleges and in universities is not keen to be teachers. That is why even teachers are leaving the profession for other professions. If you look at the police and the nurses, the situation is the same when it comes to getting their pensions and salaries.

Teachers are also the most frustrated workers in this country. They work so hard yet they are paid very little. I urge the Government to pay the retired teachers their dues. It is a shame that from 1997, 18 years ago, they have not been paid their pension dues. Most teachers have waited for so long that some have died before getting their pensions. We need to make it very easy for retiring teachers and other workers to get their pensions.

The Kshs16 billion is not a lot of money for this country. This country has enough money for everybody, but corruption is eating into our economy. We need to address the issue of corruption to ensure that the Kshs16 billion is paid as soon as possible and as early as yesterday. The teachers that we are talking about have produced bankers, presidents and politicians of this country. Most of us here went through their hands. When I look at the teacher who taught me from Class One to Class Eight, he is still the same teacher wearing the boots he used to wear then. So, we need to address the issue of the teachers.

I am very happy that this issue cuts across the political divide. Members from the other side have seen the importance of investing in teachers. I am also happy that the 11th Parliament has today looked into the issue of the retirement benefits for the former Prime Minister and the former Vice-President. I am very happy for the former Prime Minister because he will now get two aides and all the benefits that he is entitled to. We are making laws for posterity and not laws that will limit anybody in this country. So, we need to look at issues that affect this country from a non-partisan angle.

As I conclude, this is a very important Motion. With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Kajwang'): That is appreciated. Member for Westlands.

Hon. Wetangula: Thank you, hon. Temporary Deputy Speaker. I also wish to contribute to this Motion in support of the Report of the Departmental Committee on Education, Research and Technology. From the outset, I would like to say that I am a son of a retired teacher. I have an elder brother who is also a retired teacher and falls into the bracket of the teachers whose pensions have not been paid.

Teachers earn very little yet they labour so much. They sacrifice a lot to make contributions to the development of our children and many of us in this country. However, when it comes to the payment of their dues, the Government starts to dilly-dally. This is something that we must take very seriously.

The Government is fond of celebrating victories, but this time round, it has been defeated by teachers. It must accept defeat honourably and pay the teachers their dues. Eighteen years is a long time. Many of these teachers have passed on. What is the point of holding somebody's dues when he has labored and made his contribution to this country until he is dead? We must support this and urge the Government to honour this plea and pay the teachers their dues as soon as possible. In fact, the Government should not say that it does not have money.

As a House, we must make sure that if teachers are not paid, we deny the Government money to use in the Budget. We must ensure that the teachers' dues are honoured. This is a noble profession and teachers have made their contribution. Most of us, as one speaker said, have been teachers and have passed through the teachers' hands. We know what it takes to make and transform somebody to what we are today.

I support the Report that teachers must be paid forthwith.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Murang'a, the Chair of the Departmental Committee on Education, Research and Technology. Let us hear you.

Hon. (Ms.) S. W. Chege: Thank you, hon. Temporary Deputy Speaker. First and foremost, I want to congratulate my team for compiling this Report. Before I became the Member for Murang'a County, I met several retired teachers whose sole prayer was that when we get to Parliament, we should look into this issue. It is very sad when we have a Government that does not obey a court order.

We have lost a lot of money. When the first ruling was made, the Government, through the Attorney-General's Office, appealed against the ruling in the High Court. The legal fee was Kshs382 million for the first time and Kshs382 million for the second time. That is over Kshs700 million. The Government has gone back to court.

When the Committee engaged the offices of the Attorney-General and the Solicitor-General, we got some unwillingness from these Government officials to pay the teachers. They brought a figure of Kshs152 billion, which the teachers and their lawyers clearly told the Committee was not correct. Somehow, they were trying to tell the Committee that they do not have an idea of the number of teachers who have retired yet the documents are with the Teachers Service Commission. It was very sad for us to interact with those old men and women, some of whom are our parents. My father-in-law is in that lot too. Some of them taught us. That is why we are here in Parliament today.

My prayer today is that we support this Committee Report. These retired teachers should be paid immediately. They also said that they are willing to negotiate with the Government to be paid in installments. This money was budgeted for in the 2012/2013 Budget even before we joined Parliament, but immediately after that, it disappeared from the Budget. There is also some unwillingness from the Ministry of Education, Science and Technology because they have not budgeted for this money.

Hon. Temporary Deputy Speaker, the Ministry of Education, Science and Technology is not willing to pay that money because it has not put it in its budget. So, since the money had already been budgeted for, where did it go to? The person who is holding it should release it immediately for payment to the retired teachers. The retired teachers are willing to receive in instalments whatever sums are needed to be topped up. It is a shame that the governments that were there previously assumed the retired teachers. I am in the Jubilee Government. I will urge my Government to do something if it hears the cry of the retired teachers and pay them their dues. It is sad that over 500 of them are dead. My challenge to my Government is: How many more of the retired teachers are going to die when we owe them money? We have had supplementary budgets coming here for purposes of street lighting and other things, which are not very important to this country. As a House, we pass such supplementary budgets. How on earth would we not support the payment of those retired teachers? As a House, we have a role to play. The Attorney-General has gone back to court. The courts have already issued a warrant of arrest for the Chief Executive Officer (CEO) of TSC. I wish that immediately this House passes those resolutions, the retired teachers should be paid. I do not know why the CEO, who is almost retiring, should suffer on behalf of the Government.

On the same breath, I urge the Attorney-General to advise the Government accordingly because that is his main role. I am very sure that he will do justice to those retired teachers. I will be happy when I hear that the Government has started settling down those payments. Going by the budgets that have been passed here, Kshs42 billion is not money that the Government cannot afford to pay, especially bearing in mind the fact that the retired teachers are willing to receive the payment in instalments.

In the appeal that the Government filed against the decision of the High Court, they argued that the legal interpretation approach adopted by the High Court amounted to the exercise of legislative power by the court. Now, the House will have spoken. That is our power.

(Applause)

I hope that the Government will listen and pay the dues to the retired teachers. With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang'): Let us have the Member for Vihiga.

Hon. (Ms.) Kedogo: Thank you, hon. Temporary Deputy Speaker. I want to congratulate the retired teachers' lawyer, Mr. Kimata, for standing firm. He stood with the retired teachers in the fight for their dues, just as the Departmental Committee on Education, Research and Technology has done. It is high time the retired teachers got their dues. They have waited for 18 years. Many of them have already passed on. Most of those who are still alive cannot even educate their children or take care of their homes. They have been looking forward to getting the money but they have not gotten it up to date. Knowing that teachers are paid peanuts, the money that they were claiming was very special to them.

During our Committee sittings, we would call the Attorney-General but he would not attend. He used to play a hide-and-seek game with the Committee. He was trying to block the payment of the dues – which was very bad. Given that he was standing in for the Government, if he was told not to do the right thing, then the Government was not interested in looking into the issues affecting the retired teachers. Therefore, we are telling the Attorney-General to make sure that the retired teachers get their dues. He is the one who is supposed to give an okay to the National Treasury to pay.

In addition to that, the performance of the Pensions Department within the National Treasury itself is wanting. Some teachers who retired in 2009, 2010 and 2012 have not got their pension; leave alone those who retired in 1997. We are wondering whether there are no officers at Bima House. The Government should look into this issue. Why do they take so long to give teachers their pension? Even those who are on pension get their monthly payments even two weeks after the end of the month. Therefore, the Attorney-General should not play a hide-and-seek game. Promotions at the TSC should be done on merit. The High Court has approved the payment of the teachers' dues. Who is the Attorney-General to block them from getting paid? It is high time the retired teachers were paid their money. They have suffered. Some of them have died, while some are not able to pay school fees for their children. Their children are at home just because a few people have blocked their payments.

I urge the Government to take over the matter since the Attorney-General cannot advise them accordingly. If the Jubilee Government really loves its people, it should make sure that the retired teachers get their dues, having waited for so long.

With those remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, my request list is full. I know that this is a very popular discussion. I plead with those of you who are in the Departmental Committee on Education, Research and Technology to allow other Members who are not in that Committee to be heard. The reason is that we have your Report, in which you have expressed yourselves. This will enable as many of you as possible to have the opportunity to discuss this issue. Even though I will try as much as possible to follow the request list, I will try as much as possible to give chances to those of you who are not in the Committee.

Can we start with hon. Sakuda, who is looking at me with eyes which suggest that if he is not recognised, he will not go home this evening? Another thing you can do on this subject, although you have 10 minutes each, you can easily speak for five minutes, like the Member for Vihiga, who has spoken for less than five minutes

Hon. ole Sakuda: Thank you very much, hon. Temporary Deputy Speaker. I actually intend to use less minutes.

As I support this Report, let me say, at the outset, that this matter is long overdue. Like the Chair of the Departmental Committee on Education, Research and Technology, has mentioned, the money being claimed by the retired teachers was actually voted for by this House in the 2013/2014 Budget but, to date the teachers have not been paid.

Just like the Leader of the Minority Party mentioned, many of us are teachers. I happen to be one. I got an opportunity to be trained at Kilimambogo Teachers Training College where I graduated as a P1 teacher. Before then, I had an opportunity to teach as an untrained teacher.

Therefore, I have lived the life of being a teacher. It is very unfortunate that at this point and level, we have complaints from teachers in this wonderful profession. In fact, they call it the noblest profession that all of us pass through. It is very unfortunate that those teachers who are currently at service are also crying and asking the Government to look at ways of uplifting their standards. We have teachers who retired, did their work, raised up kids, taught most of us and they are at home waiting for a Government to take care of them and, as we have heard, many of them have died. I was not a very good school-going student but I remember my headmaster, Mr. Simon ole Timoi from Olosho-Ibor Primary School. He is now retired. He tried as much as possible to get me back to school. It is very unfortunate that the other day, I met him and his cry was: "Why is the Government not fulfilling its mandate?" He asked me a number of questions that I could not answer. It is, therefore, logical for us as a House to put pressure on this Government and ask it to pay teachers. In fact, we have our very good friend who is the Chief Executive Officer (CEO) of Teachers Service Commission (TSC) with a warrant of arrest on his head. The poor ole Lengoiboni should not be worried about warrants of arrests right now but, instead look for ways of retiring peacefully.

It is about time that we put our feet down, supported this Motion and have our retired teachers paid. Even if there are Government projects that will be affected, let them be affected and let us prioritize the paying of teachers.

With those few remarks, I support this Motion. Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Okay. Member for Butula, are you a member of this Committee? You are not! All right! Please make it short so that you are mindful of your colleagues.

Hon. Onyura: Thank you, hon. Temporary Deputy Speaker. I also rise to support this Report and the recommendations by the Departmental Committee on Education, Research and Technology. I have gone through the Report. I do not understand where the problem or complication is coming from. To me, it looks fairly straightforward. Those teachers have worked and had negotiations between their representatives and the employer. From the Report, I am seeing that those discussions, negotiations and agreements were voluntary. I cannot understand why they are not paid. I have noticed that the Government at one time, through the Minister, I think, while using the big-stick-approach, was trying to wriggle out of the agreement. But the courts ruled that, that agreement was valid. We should resolve and state very strongly that those teachers deserve the pension which was discussed and agreed voluntarily and the courts have upheld the agreement. Whoever is supposed to pay the pension should be compelled to do so. Waiting for all those years - which are soon going to be 20 - is a big shame! What is the purpose of pension? The purpose of pension is to enable the people who have been working and have contributed to this society and country have a reasonable and good standard of living when they retire. We are treating those teachers very unfairly. To me, this is a human rights issue. Since we have exhausted the courts in Kenya, including the Supreme Court, I do not know where we should go. Perhaps, those people, or whoever is refusing to pay the teachers, should now be referred to the Human Rights Court at The Hague. This is a serious matter; it is a matter of human rights. We should avoid those technicalities that are being used for dilly-dallying so that the teachers can be paid because they deserve it. To give other people a chance to contribute, I support this Report and I hope that it is going to be implemented.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Hon. Members, even as you contribute, let us contribute from a point of knowledge. I trust that we have looked at the Report because we can have so many things to say about teachers. We need to be specific to what we have here. Those guys are making only four recommendations: That a ruling of the High Court is upheld. Then there is Kshs151 billion brought by the Controller of Budget (CoB). There is the figure of pension which they are suggesting that it should be the rate of payment. Lastly, there is the adjustment on the monthly pensions. So, you need to familiarize yourself with that ruling. Let us avoid rhetoric and the kind of things we would want the teachers out there to hear. Let us speak from a point of knowledge, from the facts that we have from this Report.

Hon. Member for Homa Bay County, try to have the other Members at heart by speaking for a very short time.

Hon. (Ms.) Nyasuna: I am so guided, hon. Temporary Deputy Speaker. You have said that we avoid speaking generally. However, to build your case, I think it is important to just point out how important teachers are in this society.

The Temporary Deputy Speaker (Hon. Kajwang’): While making it very relevant to the subject.

Hon. (Ms.) Nyasuna: Yes. How important teachers are in this society and that we all pass through the hands of teachers who make a lot of sacrifice to make us the people that we are. In fact, teachers are always looking up to their products. My own class teacher who is a headmaster at Ambassador Pamela Mboya Girls’ High School is proud to see me as a Member of Parliament. She was my class teacher the other day. She continues to teach and produce other students who can become even greater people than her. But the way they look at you is with pride. Not with envy to say that: “Those have passed through my hands and are now better than me.”

This has been a pension’s afternoon. If we had just passed the retirement benefits for the retired Vice Presidents, Speakers and Prime Minister without considering this of teachers, we probably will have been accused of taking care of ourselves. But now we speak on a very important matter which cuts across the divide. It cuts across every constituency. It speaks to the poor of the poor.

I can only imagine the situations of the retired teachers. You are old, you have spent all your investments educating all your children and now you have retired and you expect to be comfortable. But your children are also still jobless because this country does not have jobs. You have no pension for which you have worked. Pension is not gratuity, pension is contributory. So, you have made your own payments into it and it is becoming a problem when you want to receive it back. I have noted in the Report that the Attorney General (AG) and his Office have consistently absented themselves from meetings, hence making it more difficult for us to reach where we want. The Attorney-General must know that he is at the service of all Kenyans; poor, rich, healthy and sick. He is at their service. His office cannot afford to be seen as an impediment for the good of the Kenyan people.

I want to completely agree with the Departmental Committee on Education, Research and Technology for bringing this Report forward. I know we are concluding the budget period. That is why I will be speaking very shortly so that we can conclude this Report today and ensure that the Kshs16 billion is, first of all paid, and the deficit, the in-between Kshs16 billion and Kshs42 billion or some of it that is required is also availed in the 2015/2016 Budget.

We have seen that the resolution of the Tenth Parliament to pay Kshs3.3 billion has been ignored. Are we going to be a talk shop? This House is a representation of all the people of Kenya and we speak on their behalf. The power of the people, the sovereignty of the people is vested on us as a House. When we pronounce ourselves and when we make a resolution like we will make at the end of this Session, it must be respected. I want to urge the Departmental Committee on Education, Research and Technology, if anybody does not respect this resolution that we will make, action must be taken. The Cabinet Secretary (CS) must then take the responsibility for not implementing a resolution of this House. We cannot be talking on behalf of the people; on behalf of the downtrodden and somebody sitting in some office affords to ignore a resolution of this House. On the matter of legal fees, the Government cannot be exposing itself in that manner. It cannot expose itself by paying almost a billion shillings. I have spoken before in this House about legal fees and how we get ourselves, as a Government, paying

lawyers who are rich and the teachers who are poor continue to languish just because we cannot sit round a table, look at each other in the face, discuss, negotiate and stick to the agreements that we make.

With those many remarks and considering that many Members want to speak, I support the Motion.

The Temporary Deputy Speaker (Hon. Kajwang’): Okay. Member for Nambale, are you a Member of the Committee.

Hon. Bunyasi: Yes, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, we have now understood ourselves to be speaking for five minutes. It is an unwritten code now.

Hon. Bunyasi: Thank you, hon. Temporary Deputy Speaker. I will be very brief. I support the Motion but I find that the most devastating part of this is the big thing that keeps us together as a society; that makes our country and our households run, and that is respect for contracts written or unwritten so long as it is understood that, at a point in time, that is what you intend to do. It comes across as if the Executive wants to abrogate contracts that they have changed their mind about, unilaterally. As everybody here would know, if that principle for contracts did not work, we would not be sitting where we are. Everybody would do what they want. So, I take that it is a matter of strong principle. As a nation and as a House that makes and sometimes tightens those laws, we have to take this with great exception that a Government can refuse to pay simply on account of lack of budget resources 20 or 30 years later. That is not acceptable! There are many ways in which governments across the world have raised the money that they did not have at hand. You can issue bonds essentially that are payable in 10 years and you should get enough money to pay now. It is the tax on the rest of us but it is the State taking its own obligations in fulfillment of our own wishes as it were.

Hon. Temporary Deputy Speaker, for teachers or for anybody else for that matter, who has toiled to their retirement age, maybe, 55 or 60 years, it is completely unfair to deny them that huge chunk of the State planning, some of which constitutes the amount they had put aside during their working years. They denied themselves with expectation that it would help them in their old age. I suggest that this amount should not be paid simply as base amounts agreed upon 10 years ago but rather, attract appropriate interest. They should be fully compensated based on the value of what was agreed back in 1997 and other agreements held later.

Governments cannot pass the buck by postponing the payment of this money. They cannot postpone it to 2017 or 2022. I would urge strongly that the matter as raised by the Office of the Controller of Budget be handled expeditiously. I hope the Committee has looked at it and told the Controller of Budget to avoid using delaying tactics. This Government is losing a lot of money through low quality litigation or litigating things they should not be litigating. We are using billions of shillings to refuse to pay teachers who probably retired earning less than Kshs10,000 and whose pensions are going to be a couple of hundred of shillings - not even thousands. I think it is completely unfair. The Government ought to get the message that the obligation they signed will be obeyed and that is the only way we can hold the State together. We need to respect contracts and our obligations. It looks like the big brother - the Government itself - is not doing that.

Hon. Temporary Deputy Speaker, I do not think I can say more on this, but I hope we can come up with a way in which we can compel the Government, rather than “urging” it. We should compel the Government to meet those kinds of obligations and it is critical. Even the infusion of the resources into the economy is huge and will have a major impact. They should not only look at the fiscal side. They will charge taxes on it and it will spur economic activity.

With those many remarks, I strongly support the Motion.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Member for Bondo.

Hon. Ogolla: Thank you, hon. Temporary Deputy Speaker. I really support this Motion. But, at the outset, what we have here is not a matter of dispute. It is a general agreement that money is to be paid. Pensions are to be paid. The main thing is that the Government has simply refused to pay and so, it is the refusal to pay that we are talking about. It needs to be taken to that direction such that it is very clear that there are consequences and some of those consequences cannot be what has been in court and the back and forth issues. But some of those retired teachers can take additional or further action by taking the Government in a different direction for discrimination and treating them with indignity. There are all manner of rights issues that are closer to those that the teachers can pick up. The Government is more likely to lose more if it is not advised at this time that it goes ahead and pays. The issue of pension is not a privilege but a right. It is the money that those teachers have contributed. Half of it has been contributed by them and we do not understand why they cannot be given back their money. It is a big issue that if the Government is not listening, this is not right. Looking through the Report and the recommendations, the matter has gone back and forth. It has been here in Parliament five different times and it is here today for the fifth time, if you look at the Report very well. The matter has gone to National Treasury. It is with the Attorney-General (AG). The matter has been discussed at length and it has been agreed that payment needs to be made. Now, what I think the Petitioners want is either, for us as Parliament to tell them we are unable or we can and that is what is in front of us at the moment. Either Parliament is able to do certain things or it can no longer help because this is like a final stage.

In my view, the recommendations brought by the Committee needed to be stronger than what we have. One, the whole issue of the Committee would have recommended that they go ahead to include some of those monies we are talking about and discuss this with our own Budget and Appropriations Committee. The matter needs to be discussed between the Committees and we place figures and we make it mandatory that payments must be done. Two, it would bring in more sanctions against the departments and the officers that are supposed to be doing this. If it is the Attorney-General, we needed to have proposed sanctions against him. If it is the Teachers Service Commission (TSC) and the Ministry of Education, Science and Technology, we needed to have proposed serious sanctions against it because as it is, we are still saying we need to uphold the decision of the High Court and yet, the whole issue that is in front of us is enforcement. Not more pleadings and not saying who should do what. Nothing has been enforced and we know that those teachers need to be paid. In my view, in as much the Committee has brought those recommendations, I want to believe that it is really late that

we cannot amend the recommendations. But the Committee needs to informally pick a direction where serious recommendations are put in place and some of those need to include sanctions against the departments and officers. There is need to go ahead and include the figures in our estimates in the Budget.

If you were keen yesterday, we were discussing this in the Supplementary Appropriations. We are giving money to pay Value Added Tax (VAT) and some railway workers. Why do we not do that for teachers? Why does something like that not happen? So, I support this Report but I want to believe that the Committee needs to do much more than what they have recommended.

The Temporary Deputy Speaker (Hon. Kajwang'): You know that there is the Committee on Implementation after the House has expressed itself. That is, therefore, the work of the Committee on Implementation to ensure that those things are implemented, including coming back to the House either to include those things in the Budget Estimates or take some other actions that are available.

Member for Bureti, are you a Member of this Committee?

Hon. Sang: I am not a Member of this Committee, hon. Temporary Deputy Speaker. Thank you for giving me this opportunity to contribute on this very important matter. I support the Committee. At the outset, I want to say that I am also the happiest man when it comes to this particular matter because my father is a retired teacher. He is the leader in our place, elected to---

The Temporary Deputy Speaker (Hon. Kajwang'): Is that your way of declaring interest in this matter?

Hon. Sang: No, hon. Temporary Deputy Speaker. I just wanted to say that I am happy that the Committee did a very wonderful thing. I want to thank the courts because the teachers had been trampled for long. The teachers were awarded a good amount of money. That money will go a long way to help them. It is unfortunate that we have lost quite a good number of those teachers. They have been coming to my place for long. I have lost around three of them, which is very unfortunate. When you look at how they are living, it is very unfortunate. It is also very unfortunate for officers in Government and, in particular, the Attorney-General--- If I was not in Parliament, I could have used what the Leader of the Majority Party used in Narok the other day, when he confronted the Governor for Bomet and said: "*Hii pesa siyo ya mama ya mtu.*"

Our parents have suffered for long. It is unfortunate that as we ventilate on this, I know that my friend from Bondo had it right that this thing should be implemented. There are issues of school fees, sickness and several projects that are stalled because of a delay like this. With time, the Government will work on it. Those guys who said that teachers hold around Kshs153 billion, they are being told that they are actually wrong. The figure is Kshs42 billion and the Government, as we are speaking, had appropriated about Kshs16.7 billion. What is remaining is not much. It is my special plea that we take this matter very seriously. Let us be courageous.

Hon. ole Kenta: Hon. Temporary Deputy Speaker, I would also like to join my colleagues in supporting the Motion because I believe that everybody knows that teachers are the most important people in our lives, after our parents. The worst part about this country is that we do not appreciate the people who really matter. It is time the National

Assembly changes that. As the representatives of the people, we must do all that which is within our power to ensure that those teachers are paid.

What is worrying more than anything else is the fact that whereas the court has started and passed rulings and judgements that those people should be paid, somebody decides to appeal and frustrate it and even makes the court issue a warrant of arrest to an innocent person. I believe ole Lengoiboni cannot and does not have the power to pay them. So, we are made to chase the red herring for nothing while in essence, somebody should know that those rights are ingrained in the Constitution. It is not what you will say. It is a gift and the worst part is that you expect those people, at the end of the day, to be voting machines during elections. Teachers must look at all those things because, if you do not take care of --- Their money is so little. It is only Kshs42billion. How much is being used to gauge corruption? How much is used to give people contracts that they do not deserve? How much is this country bleeding and yet the teachers, who are so useful to us, are left in penury and they die as paupers? Are they meant to suffer the indignity of surrendering themselves to the bottle and to ruin? This is something that we should change.

What is worrying is the insincerity of our Government because when somebody comes and says that the amount owing is Kshs151 billion while in essence it is only Kshs42 billion, I believe that, that person should not hold a public office because of misleading the country. That person is not truthful and reliable. He or she does not deserve the office that they occupy. As you have just advised, we should move with speed and ensure that this money is paid. If we the National Assembly cannot enforce such a small issue, then I believe that we are also in the same league or oppressive system as the Government. So, we are with the teachers and we shall stand with them. We shall ensure that in whatever way possible, even if it means sanctions, that we cannot pass the budget for the Ministry, we shall help them.

I thank you, hon. Temporary Deputy Speaker. I believe that this is a Report that should be supported by everybody. We must move and do something for those teachers. They are our parents and they are the ones who made us what we are.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kasipul, I will give you four minutes.

Hon. Magwanga: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute. I am supporting the Report. It is timely. I recall that we had discussed and debated this issue in the last Parliament. It was approved and we were expecting the teachers to be paid. You will agree with me that it is only the teaching fraternity that does not have loose ends where they can steal. They do a donkey job and then after doing all that work for all those several years, the Government fails to pay them. It is very sad. Those payments are neither a privilege nor a favour to the teachers. It is their right and the Government should pay those teachers as soon as possible so that the teachers who had waited for those monies for those years can get their payment. A number of teachers who started waiting for this money from 1997 have died without benefitting from it. The purchasing power of that money which was---

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kasipul, let me hear what Members are saying here. Member for Nyaribari Chache.

Hon. Tong'i: Hon. Temporary Deputy Speaker, is it in order for the Member to imply that teachers deserve to be paid money because they have not stolen?

The Temporary Deputy Speaker (Hon. Kajwang'): Say that again.

Hon. Tong'i: The hon. Member said that teachers have no loose ends to steal like other Kenyans. Are we then saying that those who steal should not be paid and how do you measure that? You do not want to associate teachers---

The Temporary Deputy Speaker (Hon. Kajwang'): I hear you. Member for Shinyalu, is it on the same thing.

Hon. Anami: No, hon. Temporary Deputy Speaker. I am just wondering why things are switching off and we cannot understand. We have not been notified especially after some arrests around. When we see things being switched off like this, we get worried. Should we continue like this? Can you kindly make a ruling on this? Do we continue when things are switching off?

The Temporary Deputy Speaker (Hon. Kajwang'): I think you deserve that light moment but when you see that your Speaker is composed and comfortable, do not have anything to fear. It is also a signal that you should change gears and now discuss the last business on the Order Paper. Members, you must never forget that you have a Motion which is dear to your heart to control your calendar. That could be a symptom that you have over-flogged this horse and we should now step onto something.

Let the Member for Kasipul just finish the point he was canvassing within two minutes. Perhaps, one minute.

Hon. Magwanga: Hon. Temporary Deputy Speaker, I hope you will adjust my time because of the unnecessary points of order.

The Temporary Deputy Speaker (Hon. Kajwang'): No! No! Those are not unnecessary points of order. They are well taken, but just proceed.

Hon. Magwanga: Thank you, hon. Temporary Deputy Speaker, for your guidance. If it is the Attorney-General who keeps on taking the retirees back and out of court and appealing against them, I would urge this House to act against him.

The Temporary Deputy Speaker (Hon. Kajwang'): All right. Member for Kasipul, is that the correct place you want to rest your case now? I am suggesting to you that you should be thinking of winding up.

Hon. Magwanga: Hon. Temporary Deputy Speaker, I urge the Ministry of Education, Science and Technology and the Government to act immediately and pay those teachers.

I support.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Muhoroni, what is out of order?

Hon. Oyoo: Hon. Temporary Deputy Speaker, the point or order that I wanted to raise has already been addressed by the Member for Nyaribari Chache. I just wanted to contribute to this very well put Report. Now that you have given me the Floor, if you could be generous enough, I could proceed.

The Temporary Deputy Speaker (Hon. Kajwang'): Okay. Now that you are on your feet, I will give you exactly two minutes to say what you want to say.

Hon. Oyoo: Hon. Temporary Deputy Speaker, the Report is very explicit. I will be very brief. It addresses most of the challenges. We have three arms of the

Government, namely the Legislature, Executive and the Judiciary. This matter has been delved into by the Legislature and the Judiciary very well. It is the Executive that is lagging behind in executing the orders. I do not know whether Kenya is fast deviating from being a country that is ruled by the law and people are now taking the Legislature and the Judiciary for granted or whether there is a lapse somewhere. The Bible says that leaders are not elected but chosen by God. Now that the Government is represented in this House, I want to remind my good friend, Hon. Duale, that if the Jubilee Government was at all chosen, it was chosen by God. If it cannot give the teachers what they are asking today, the same God is going to un-choose them.

The Temporary Deputy Speaker (Hon. Kajwang’): How does poor Duale come into this, Member for Muhoroni?

Hon. Oyoo: Hon. Temporary Deputy Speaker, Parliament and the Judiciary have delved into this matter. What remains is the implementation by the Executive. Since the Executive is ably represented here by the Leader of the Majority Party, I am sounding this warning to him that God is talking somewhere. If they do not respect the ruling of the court and the plea of the Legislature, then God who chose them can do otherwise.

The Temporary Deputy Speaker (Hon. Kajwang’): I can see you really should step to the Order appearing in the Order Paper where everybody looks forward to take some rest. You need to take some rest and go and do constituency work. Looking at the composition of the House, I order that debate on the Motion appearing as Order No.18 be deferred to the next sitting of the House, so that on that date, we will have a resumption of the debate for the balance of the hours that have been allocated to it. That is so ordered.

(Motion deferred)

Next Order.

BILL

Second Reading

THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL

(Hon. (Dr.) Shaban on 23.4.2015)

(Resumption of Debate interrupted on 23.4.2015)

The Temporary Deputy Speaker (Hon. Kajwang’): Leader of the Majority Party, this is a Bill which was under discussion. I think it had been moved and seconded. It was for active debate, but considering the Motion that we are going to entertain which is constitutional, well to the extent that this House has already made a resolution on its calendar, it will take precedence over this debate. Therefore, I defer the Bill for debate in the next resumption of the House. It is so ordered.

(Bill deferred)

MOTION FOR ADJOURNMENT

ADJOURNMENT TO A DAY OTHER THAN
THE NEXT NORMAL SITTING DAY

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

THAT, pursuant to the provisions of Standing Order No.28, this House adjourns until Tuesday, 9th June, 2015 in accordance with the Calendar of the Assembly (Regular Sessions).

From the outset, I am delighted to move this Motion for Adjournment of the House, particularly to allow Members to take a break after the remarkable business that we have transacted during the First Session. I wish to commend all the Members for their good work especially for concluding the Year Four constitutional Bills within the timelines of 27th May, 2015.

During this period, we have passed ten Bills. This includes the Alcoholic Drinks Control Bill, 2014, which we passed this morning; The Protection Against Domestic Violence Bill, 2013; The Central Bank (Amendment) Bill, 2014; The Public Service (Values and Principles) Bill, 2014; and The Fair Administrative Action Bill, 2015. Six Bills have been passed and forwarded to the Senate, namely: The Order of Precedence, 2014; The Public Audit Bill, 2014; The Public Procurement and Asset Disposal Bill, 2014 and more importantly this afternoon, we have granted our retired citizens benefits by passing the Retirement Benefits (Deputy President and Designated State Officers) Bill. I am sure if hon. Kalonzo Musyoka is watching me, and I will speak to him this evening, and hon. Raila Odinga, they are happy. This Bill has stayed for too long, but in the wisdom of the House, we have decided to conclude it. Now we ask the President to assent to it, so that our senior citizens will enjoy the benefits of the offices that they held in the last Government.

The House approved the Report of the Budget and Appropriations Committee on the Supplementary Budget setting way for the Supplementary Appropriations Bill, 2015, that will come to the House once we come back.

As we proceed for recess, it is important for Members to know that the House may be recalled for one or more Special Sittings in accordance with the provisions of Standing Order No.29 to consider the following:-

(i) The mediated version of the Division of Revenue Bill, 2015, so as to facilitate the finalization and approval of Estimates of Revenue and Expenditure of the national Government and the county governments.

(ii) The mediated version of the Environmental Management (Amendment) Bill, 2014, which is a constitutional Bill that ought to be passed by 27th May.

(iii) The Senate Amendments Bill to the Public Audit Bill, 2014 and the Public Procurement and Asset Disposal Bill, 2014, which we passed yesterday, if the Senate will have fundamental amendments to the ones we have passed.

Hon. Speaker, according to Standing Order No 20, the House might be recalled for a special session to approve the Reports of the Budget and Appropriations Committee of the 2015-2016 Financial Year Budget Estimates that were tabled this afternoon.

When we resume from the recess, the House Business Committee (HBC) will give priority to the Truth, Justice and Reconciliation Commission (TJRC) Report. Also to be considered are all Bills related to the budget cycle programme, including the Appropriations Bill and the Finance Bill.

We will also focus on five Bills which have a timeline of August 2015. I hope the Constitutional Implementation Oversight Committee (CIOC) of this House, in consultation with the Commission for the Implementation of the Constitution (CIC), and the Office of the Attorney-General (AG) will take advantage of the recess to engage the Attorney-General's Office and other stakeholders to ensure that the five Bills that have constitutional deadlines are published before we resume in June.

The House Business Committee has also taken a conscious decision to ensure that all the pending committee reports are given priority for debate as soon as we are back from recess. Those include four Reports of the Departmental Committee on Lands, particularly the Report on land issues in Taita Taveta County, which has been long overdue.

I hope that this break will give the committees ample time to conduct their work and also give Members time to mingle with their constituents and families and deal, more so, with the Budget Estimates presented.

In conclusion, our country is facing a serious challenge of insecurity. I want to ask everybody that a time will come when, as a leader, as Martin Luther King said, you will take a decision that might not be political or safe with you or with the people you lead, but might be with your conscience and in the interest of the nation. I urge all my colleagues that we form a united front in the war against terror. As it happened yesterday in the Senate, it is very sad when Senators want to profile communities and people of certain religions. Terror has no religion or community. Terrorism is a global phenomenon. I want to ask all leaders in this country from all political shades plus our women leaders, youth leaders and religious leaders that we come together and defend our country. The security of our country is important than any one of us and any of our positions. So, we need to stand together with the President, the Government, our coalition leaders and each and every leader so that we can say that Kenya is safe and secure.

I beg to move the Adjournment Motion. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): All right. Well said. Member for South Mugirango, as a ranking Member, you know that on a Motion such as this, it is five minutes for every Member speaking.

Hon. Nyamweya: Thank you, hon. Temporary Deputy Speaker, for giving me a chance to contribute to this Motion for Adjournment. I am very excited today. We had a very peaceful afternoon because the Leader of the Majority Party was not in the National Assembly. There was unity when we were debating the Retirement Benefits (Deputy President and Designated State Officers) Bill. I wish he could miss more frequently. We would be able to have non-partisan discussions in the National Assembly. Anyway, that is on a light touch, Leader of the Majority Party. We had a very fruitful discussion today and we passed this Bill which has been pending in the National Assembly for a very long

time. There is this Bill on teachers which we were talking about, but it will come next time.

As we break for the holidays, it is very important for all leaders to take the interest of this country first, especially on the issue of security, which has been stated. However, this cannot happen when some leaders say in public that they are serious, but when you check the actions and activities taking place, they clearly show that the country is not safe. Today, you are safer travelling to Uganda or Tanzania without a passport. But you are not safe going to Wajir or Mandera. One cannot say that somebody is profiling some people when clearly--- I come from Kisii County where so many students were killed. When you check the list of the students who were killed, there was no Muslim. The question one would ask is: If there was no Muslim who was killed, did they know about this? It is really a big issue. If they knew then, the country is divided along religious lines, whether we like it or not.

Let the Head of State be serious. It is embarrassing for us to read in the newspapers that the President could come back midway in the air because there was insecurity. This is embarrassing and yet nothing has happened so far. No action has been taken against any officer among those who were in charge. The officers are in office even after the Head of State has come back. If we are not serious on those things and no action is taken when such a serious breach of security happens, how can we move together as a country?

However, I am happy that the Constituencies Development Fund (CDF) Board has released money. I am going to spend my time in my constituency, issue cheques for development and for secondary schools and inspect road projects. We are doing that so that when we come back here, we will start with the other Bills which we have not passed.

Today was a big day. We finally agreed to pass a pension for the former Prime Minister, the Deputy President who is in office and former Speaker. For the first time, I saw unity in this National Assembly where we are now working as one. With those few remarks, I support the Adjournment Motion. Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): All right. Member for Mukurweini, I know you are ranking but the Member for Samburu West, though a first-timer, has been on the queue for a very long time.

Hon. Lati: Thank you. I am glad you saw that. I have been sitting here all afternoon. I respect the Member for Mukurweini very much. He is good and senior man in this House. Thank you very much, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): You know when that arises, members out there think that we should not be 349. We should really be 290. Anyway, proceed.

Hon. Lati: Thank you, hon. Temporary Deputy Speaker. I understand the challenges of this House and its size. I support this Motion for Adjournment. We have done very good work for the last few months. We need to take a rest and go back to our constituencies and do more work at the grassroots.

I want to commend the House today because I am very impressed with what we did today as a House. We recognized people who have done great job, who have been

patriots in this country for so many years, who are now not retired, but are not actively working in either politics or in Parliament. We need to give them something because they have done great work for this country. The likes of Raila Odinga and the rest are people that we truly treasure in our country. I also want to commend the bipartisan spirit of this House today. I was worried about an amendment that was proposed by a Member of this House that you should be retired from politics before you get recognized and get something from our country. It was in bad spirit. I want to commend the Members of this House because I saw the mood of the House.

As we go on recess, we have to keep in mind that our country is at war with the most evil people you can have on this earth – the terrorists.

We must be mindful of the fact that our country needs us even as we go on recess. We must talk to our citizenry to be watchful. We must also talk to our people to disown *Al Shabaab* and its activities and make sure that none of our young men join this evil group. Should our country require us to come back, we must cut short our recess and come back to play our role. I hope, like any other Kenyans, that those guys do nothing harmful to our country for the period we will be on recess. I want to ask hon. Members to be watchful and talk to our youths across the country so that we can isolate evil people and try to make this country safe for everybody.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Proceed, Member for Mukurweini.

Hon. Kabando wa Kabando: Thank you, hon. Temporary Deputy Speaker. First, I would like to laud and thank the Speakers panel. By and large, all of you, sitting in the Chair, have moderated this Session very well. It is important that we acknowledge and recognise that contribution.

Secondly, going by the mood of the House in the past few weeks and today, it is clear that all of us in this House should shed off the grandstanding attitude that has characterised the Eleventh Parliament. Whether one is in Jubilee or in CORD, it is important that we consult. It is also important to consult when a country is at war, like we are now under serious external threat. The top leadership of CORD and Jubilee should be consulting. On 7th August 1997, Daniel arap Moi, Michael Kijana Wamalwa, Charity Kaluki Ngilu, Mwai Kibaki and Raila Odinga rode in the same van from State House to the scene of the bomb blast, and that gave the country an indication of solidarity. When the Westgate Shopping Mall was attacked, Raila Odinga and Musalia Mudavadi accompanied President Uhuru Kenyatta and visited all the victims in all the hospitals. I was lucky to be in two of those hospitals at that time. We gave this country a sense of solidarity. It is important, as we see, for Uhuru to reach out to the Odinga family, for Musalia Mudavadi to talk good of Jubilee, for Moses Wetangula to say how we can work well with people on the other side of the political divide, and for hon. Kalonzo Musyoka to be praised by hon. Members in this House.

We understand that those senior citizens consult at family level and that, politically, they are connected. You just need to look at what is happening and you will see. You need to listen and you will hear. Let the leadership of CORD and Jubilee speak to each other and consult. Whether you call it dialogue, debate, plotting or conspiracy, let us be witnessing solidarity at the national level. Terrorism knows no boundaries.

Thirdly, we do not want melodrama, acrobatics and *sarakasis* on issues to do with terrorism on social media; mainly on Twitter and on Facebook. The fact is that the *Al Shabaab* terror group are evil and murderous. Let the entire leadership of this country take responsibility. People should stop shifting blame. Terrorist attacks are happening and we are burying people. As an hon. Member said, the fact is that terrorists have a target, and that target is known. Members of the Christian faith are very concerned, and we know that we are on the edge.

Finally, we must respect the Constitution. When the three of us on the Jubilee side of this House decided to abstain from voting on what was moved, we abstained on the basis of same simple constitutionalism principle that we have been talking about. The fact is that the Ethics and Anti-Corruption Commission (EACC) does not exist in this country today. There can never be a Cabinet without Cabinet Secretaries being appointed. There can never be a Teachers Service Commission (TSC) without Commissioners appointed to transact the business of the Commission. There can never be a National Police Service without service members appointed to serve. There can never be a Public Service Commission (PSC) without Commissioners appointed to serve in that Commission. There can never be Presidency without the President and the Deputy President being elected to occupy those offices. There can never be a National Assembly without the Speaker sitting in the Chair to preside over the business of the House, the Clerks-at-the-Table manning the Table of the House and advising the Speaker, and the constituting Members coming to the House to transact business. So, let us accept that, as we speak today, there is an agenda to emasculate, stigmatise and, as I said earlier on, to despise the authority of our constitutional institutions, including the increasingly condescending and contemptuous caricaturing and cartooning of the President of this country by certain media houses on a daily basis. We are under siege and, therefore, we need to focus on where we want to go with a solid Presidency, Legislature, Judiciary and constitutional Commissions. There is no Ethics and Anti-Corruption Commission because of what this House did last week. A tribunal sits quickly before you complete your work. The secretariat sitting there cannot process anything that will be acceptable to the citizens of this country. Otherwise we will be telling the country that the new---

The Temporary Deputy Speaker (Hon. Kajwang’): You have exhausted your energy. Go and have a rest and do your constituency assignments.

Member for Taveta, you have the Floor.

Hon. (Dr.) Shaban: Thank you, hon. Temporary Deputy Speaker. I also stand to support the Adjournment Motion. The last time we had a very short recess---

(Hon. Opiyo consulted loudly)

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Awendo, you should know that there are ranking Members who are recognised by the Constitution. Some of you are recognised by the Constitution for having been elected to office, but there are others who, other than being elected, have been recognised by the Constitution in some other respects. Therefore, allow them to exhaust their opportunity.

Hon. (Dr.) Shaban: Thank you, hon. Temporary Deputy Speaker. I support the Adjournment Motion.

Last time we went on recess for only 10 days, including the holiday. Therefore, it was actually a seven-day recess. We need this time to go and talk to our constituents. Insecurity is a major problem we are facing in this country and we need to go out there, as the leadership of this country and opinion leaders, and sit down with our constituents and discuss this issue. We should ensure that we consult and discuss issues with the security committees at the constituency level.

I have been concerned about certain things that have happened. All my colleagues have been doing a lot of work since the beginning of the year but there is something that is still bothering me; the issue of sitting Members of Parliament demonising former Members of Parliament. We cannot be our own poison. We cannot stand out there and say that former Members of Parliament do not have a right to get states jobs. Tomorrow, it will be you or me. The Eleventh Parliament has so many young Members of Parliament. If we continue to demonise ourselves, the rest of Kenyans will not have faith in us. The President was trying to tap the experience of some very good people who served in government and performed very well previously. Some of them are former Members of Parliament. Even if the President had tapped and got people who were related to Members of Parliament, certainly, those are Kenyans with constitutional rights. Most of them are well schooled, people who deserved the appointments.

I want to ask all my colleagues to speak in one voice. Let us not oppose for the sake of opposing just because we think that by doing so, we accumulate *bonga* points. The people who give us the *bonga* points are the same ones who turn against us. Before you realise what is happening, at the end of your five-year term, you become a former Member of Parliament.

The Temporary Deputy Speaker (Hon. Kajwang’): What did you say? What are “*bonga* points”?

(Laughter)

Hon. (Dr.) Shaban: Hon. Temporary Deputy Speaker, I was referring to “*bonga* points” that one tries to accumulate by opposing anything that the President has done. We have to be very careful because the same voters will turn against us and say that we have had our one term and, therefore, we should go home and leave the parliamentary seats for other people. I noticed you talked about ranking Members of Parliament. Ranked Members are the ones serving a second term and more. They are the ones we had to look for and---

The Temporary Deputy Chairman (Hon. Kajwang’): They will still serve another third and fourth term. Is that not so?

Hon. (Dr.) Shaban: Our own Speaker was out there and he is a former Member of Parliament. We need to work together and give the team of the Speakers Panel; the Speaker, the Deputy Speaker and the Chairman an opportunity to work together. I wish you all the best as we go home. Let us talk to our people. Let us share what President Uhuru Kenyatta is doing for this country.

I beg to support.

The Temporary Deputy Chairman (Hon. Kajwang’): We have exhausted the hour, but we are going home. I am saying so because I am able to feel the mood of the

House because you are legislators. In exercise of powers conferred to me by Standing Order No. 1, of the National Assembly of Kenya, I extend the sitting of this House. Pursuant to Standing Order No. 30, I extend this House for another 30 minutes up to 7.00 O'clock and allow Members to ventilate. I will give three minutes each to Members who want to speak, except for the Deputy Speaker who can speak for as long she has to say. Member for Ugenya! I see those are Members who have already gone for constituency work because he is nowhere to be seen. Member for Rarieda, the Floor is yours.

Hon. (Eng.) Gumbo: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity.

I support the Motion for Adjournment. I once again want to take this opportunity to thank the Almighty God and my fellow Committee Members for electing me as the Chairperson of Public Accounts Committee (PAC). I give my pledge to try and work with the team so that we can achieve the expectations of the people of Kenya.

This Session of Parliament has been quite eventful for this country. As we go to our various constituencies for one month, let us take upon ourselves to be ambassadors of peace. The question of security now is a major concern to almost every part of the country. On 15th of this month, I attended the burial of one of the victims of the Garissa attack. I could not find it in my mind and heart to understand what could drive a fellow human being to do what I saw. What was done to that girl from my constituency was terrible! Her hands and legs had been chopped off. The eyes had also been gouged out. It was truly a sight that no one can really say such an action can be perpetrated by a fellow human being who has a human heart. Let us find it in our hearts as we go home to--- This country needs all of us.

We are the leaders of tomorrow. As leaders, I believe that we can take it upon ourselves to preach peace wherever we go. We should preach tolerance and understanding. What makes humanity interesting is our own diversity, the fact that we have diverse religions, faith, beliefs and cultures. If we can be tolerant, we would move this country forward. We have just discussed a Motion on the dues for teachers which have been pending for over 20 years and it really breaks my heart. One of the saddest moments that I encountered was about a teacher who retired in 1997. He cried literally and wondered why the Government would treat their former servants this way. With the passage of this Motion, we have reached a point where we can finally reward those teachers who are alive. Even as we reward them, let us think about those who have passed on.

I support and wish each and every Member a very fruitful break.

Hon. Nakara: Thank you, hon. Temporary Deputy Chairman. I would like to support this Motion. This nation can judge us fairly because of the Bills that this House has passed since we resumed back in Session.

As we go out, let us encourage each other and involve the public on the issue of Budget so that they can know what we have already passed and what they expect from the Government. That is one way of making sure that the public know the money that you have budgeted for this year. It is our obligation as leaders of this august House to educate our people on their rights concerning public participation, especially on the finances that we are already giving out. We also need to enlighten the public on the CDF issue which is still in court. This is one of the Funds that have done a lot in terms of

development, institution building, distribution and development in arid areas. I encourage the Members and the rest of us to make sure that we educate the public on the importance of that Fund. We also need to preach peace. I am so happy that we have ended today's Session in a very good mood. If we meet in burials, be it in Lodwar or Kisumu, we should engage each other in a peaceful manner without attacking the rather peaceful environment.

I wish all the Members a very good recess period.

Hon. Anami: Thank you, hon. Temporary Deputy Chairman. I would like to support this Adjournment Motion. It gives us an opportunity to reflect on the objectives that we have already set, the achievements we have attained and any downfalls that we may have experienced. It is important for us to interact with members of the public, our constituents and the Kenyan society in general so that we can come back refreshed and properly focused to address the issues concerning Kenyans.

Yesterday, I had an opportunity to participate in a discussion in a programme called: "*Good morning Kenya.*" The issue that kept on coming up as leaders of this country was: "Whom are we listening to? Are we listening to ourselves and Kenyans?" Many times we represent ourselves as if we are the beginning and the end. As leaders, we should take this opportunity to listen to our people and see what they need, outline their needs and represent them. Lately, we have experienced instances where Government's decisions are back and forth. My constituents and I are disheartened to see that the decisions that are made by the leadership of this country are not consistent. Having worked in the public service, I can say for certain that the Government is hosting many un-vetted officers. It is high time we asked the National Intelligence Service to be steadfast and make sure that we have vetted officers. We do not want issues from Government to be pushed back and forth. It was not interesting to see the President go for a trip half way and return because he was not properly guided. It was not nice to see the situation in Garissa where we have our priorities upside down. We are in a state of a blame game. Leaders should desist from blame games.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Emurua Dikirr.

Hon. Kipyegon: Hon. Temporary Deputy Speaker, "Emurua Dikirr" is one of the hardest names in this House and we need to pay serious attention on how to pronounce it.

Thank you for the opportunity. I also wish to support the Motion for Adjournment. For the last few months that we have been sitting in this House, we have had important occasions where we have dealt with matters of national importance. This opportunity to go for a short recess will give us an opportunity to look into matters affecting our constituencies and this country. When we come back, the most important Bills and Motions that are before this House must be dealt with, with the fastest speed possible. This is especially on the Report of the Truth, Justice and Reconciliation Commission, which has been on the shelves for a long time. We need to dispose of that Report. Another report which I was requesting for this morning is the Mau Land Report. That Report has been lying in this House for some time. The Committee has cleared it and we wanted to deal with this matter, so that as we go forward in this country, we will solve the problems of squatters.

As we proceed for recess, there are several issues which the President needs to address. I would have wished that the Leader of the Majority was here as part of the people who advise the President. We have had several occasions where the President of this country has been embarrassed, especially on the Garissa terror attack. The reaction to the attack was delayed. The President or his advisors could have been responsible.

Another issue that messed up this country was the police recruitment where he wanted to break the law and allow the recruits whose recruitment had been questioned to report for training. There is also the question of the Ethics and Ant-Corruption Commission. As I speak, a committee has been formed to look into the matter. At the moment, some members have already resigned. I hope the other issues will be sorted, so that EACC can start working.

There is also the President's trip to the United States of America, where we have been told that the President was turned back. We are not sure what happened. The other issue is the question of the recent appointments, which I will call reckless. The President could have appointed bright young people who can take this country forward.

As we head to the recess, as Members of Narok, we are going to look into the question of the Mau evictions. The Government will explain to us why it is burning houses and trying to make some of us look like convicts.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kiambu.

Hon. Njomo: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. They say that rest rejuvenates the body. We have been working here for some time and have passed many Bills. This is a deserved rest. After we rest, we will come back refreshed. Kenyans are looking for leadership in this House. We are the ones who will show our people the direction that we want to move to.

There have been very many confrontations. During this Session, there was commotion in this House and this should never be repeated. This did not send the right message to the people. This is a House of order and we should do everything here in an orderly manner. We should be disciplined as a House.

Our country is going through a very serious security situation that needs undivided attention. This is the kind of attention that cannot be provided when we put ourselves in partisan groups and think in partisan ways. We need to think as a nation. We need to put our heads together, make decisions that will bring security to our country and make our enemies fear even to think of attacking our country. It is very shameful to hear that people who are working within the precincts of this House are suspects or are involved in activities of the *Al Shabaab*. It is very sad that, that can happen within the boundaries of this august House.

The President made his Annual Speech in this House. I would like to congratulate him for the firm stand that he took to eradicate corruption. We will support him in whatever we do to eradicate corruption from this House. Members have been talking about the President turning back on his journey. When I was a child, I heard that his father would turn back on a journey, if a squirrel crossed the road ahead. Maybe, even this time round, a squirrel crossed the road and the President had to turn back. It is not a big issue. The President has the prerogative to decide whether he wants to go on with a journey or to turn back.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kiambu, are you saying that a squirrel crossed the road in the skies?

Hon. Njomo: Hon. Temporary Deputy Speaker, when I was a child, word was going round that if the former President Mzee Jomo Kenyatta was going on a journey and a squirrel crossed the road, he turned back. That is what we were told. When I was a child, Mzee Jomo Kenyatta used to move from Gatundu, Nakuru and other places and we used to cheer him as he was moving around. The story that went round then is that if a squirrel ever crossed his path on his journey, he would turn back. Nobody explained to us why he would do that, but we all knew that. Maybe this time round, a squirrel crossed on the President's path or a bird flew on the path of the plane and the President decided to turn back.

The Temporary Deputy Speaker (Hon. Kajwang'): The theory of the squirrel has been explained. Let us move on. The Member for Awendo.

Hon. Opiyo: Thank you, hon. Temporary Deputy Speaker. I rise to support the Motion for Adjournment. I want to recognize that this Session has been eventful and long. Parliament has been in its element and we have debated many Bills and Motions. I appreciate the way Members have made their contributions.

Today has been a great day for this nation. We have passed the Report on unpaid pension dues to retired teachers. As Members of that Committee, we have been on that matter for a long time. We have been exposed to a ping-pong game of back and forth for almost two years. It is good that the National Assembly has in totality pronounced itself on the matter. The Executive has no other business, but to execute the report and make sure that the retirees are paid. They have served Kenyans in their lives as dedicated servants of this Republic.

During this recess, Members will have a good opportunity to meet their electorate and dialogue with them and explain to them the issues that we have at hand. Insecurity in this country has reached threatening levels. The Government of Kenya has goofed on so many occasions and that has worsened the security situation.

On the day the Garissa incident occurred, we were treated to drama as the Cabinet Secretary for Interior and Coordination of National Government, as well as other unarmed government officials went to the scene; leaving the elite Recce Squad walking on foot in Nairobi under the explanation that they were going to get a chopper. I believe that all the property that is in this country, by extension, belongs to this country. It is inexplicable to imagine that we would not have a chopper at all when on weekends we have Members of Parliament and other leaders flying all over the country in choppers. It was a shame to this country. The Government must do a self-assessment on that matter and make sure those Kenyans---

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, we have expressed ourselves enough on this matter. I want to recognise the Deputy Speaker, who is among us. She will use the remaining minutes to address us.

Hon. (Dr.) Laboso: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity.

I thank hon. Members for a very good session. I ask everybody to make sure that they have a good mid-life crisis. This is the middle of your term and you are going to the constituents. There is a lot of time to reflect and do soul-searching on what has happened

in the last two years as you move on to the last stretch. I ask Members to go out there and remember that this country needs all of us. This country is bleeding. It belongs to all of us and each of us can play our little role in making sure that we stay united, as one country.

I keep saying that this Government is doing a lot of very good things. However, nobody sees any of those anymore. Everybody only sees insecurity, terrorism, corruption and all the other negative things. However, when we take a minute and look at the strides that have been made, we will see that each of us needs to play a role on the issue of insecurity because security begins with you.

So, let us go out there and preach peace and unity. From where I sit, as the Deputy Speaker, I also want to wish everybody all the best. We will endeavour to give you a hearing, to be as impartial as we can; to listen and, as much as possible, to accord all of you speaking time equally and fairly. Otherwise, I wish you all the best. Thank you, hon. Temporary Deputy Speaker.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, we have come to the end of our business this evening. Therefore, the House stands adjourned until Tuesday, 9th June, 2015, at 2.30 p.m.

The House rose at 7.00 p.m.