

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 13th February 2018

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members making your way, please do so quickly. Kindly take your seats. Those who are making their way in still have enough time to do the ritual of shaking hands later.

(Several Members entered the Chamber)

Hon. Members, kindly take your seats. I have two Messages.

MESSAGES

NOMINATION OF PRINCIPAL SECRETARIES AND AMBASSADORS/HIGH COMMISSIONERS

Hon. Members, it is my pleasure to welcome you back from a long recess hoping that you are rejuvenated sufficiently and ready for a busy Second Session. As you may be aware, pursuant to Standing Order 42(2), I conveyed to you a Message from His Excellency the President on 30th January 2018, regarding his nominations for appointment to the offices of Cabinet Secretaries, Principal Secretaries and Ambassadors/High Commissioners. The Message was submitted by way of separate letters received in my office during the long recess. You will also recall that on 14th December 2017, the House passed a resolution authorizing the Speaker to directly refer the names of proposed appointees to the Office of Cabinet Secretary to the Committee on Appointments without having to recall the House for that purpose. Indeed, I am certain that the Leader of the Majority Party will be tabling the Report of that Committee in the course of today's sitting.

Hon. Members, in addition and pursuant to provisions of Article 152(2) and 153(3) of the Constitution, His Excellency the President also submitted three further Messages nominating the

following persons to the Offices of Principal Secretary and Ambassadors/High Commissioners:

(a) **Principal Secretaries**

Name	State Department
Ms. Safina Kwekwe	Gender
Mr. Nelson Marwa	Devolution
Amb. Macharia Kamau	Foreign Affairs
Dr. Julius Muia	Planning
Maj-Gen.(Rtd.)Gordon Kihalangwa	Immigration, Border Control, and Registration of Persons
Mr. Hamadi Boga	Agricultural Research
Mr. Peter Tum	Health
Mr. Joseph Wairagu Irungu	Water and Sanitation
Mr. Charles Hinga Mwaura	Housing and Urban Development
Kevit Desai	Vocational and Technical Training (TVET)

(b) **Ambassadors/High Commissioners**

Name of Nominee	Country
Prof. Judy Wakhungu	France
Dr. Cleopa Mailu	Permanent Mission, UN Geneva
Hon. Dan Kazungu	United Republic of Tanzania
Mrs. Phyllis Kandie	Kingdom of Belgium, the Grand Duchy of Luxemburg; and the European Union

Mr. Willy Bett	India
Prof. Jacob Kaimenyi	Permanent Mission, UNESCO Paris
Dr. Hassan Wario Arero	Austria
Mr. Lawrence Ntoye Lenayapa	Kingdom of Netherlands

Hon. Members, in accordance with the provisions of Standing Order 45(1), which requires that upon receipt of a notification of nomination for appointment to a State Office or such other office as is under the Constitution or under any other legislation required to be approved by the House, the nomination shall stand committed to the relevant Departmental Committee of the House for consideration.

Accordingly, the nominations for appointment to the positions of Principal Secretaries and Ambassadors/High Commissioners are hereby referred to the respective Departmental Committees as follows:

S/No.	Departmental Committee	Nominee
1.	Finance, Planning & Trade	Mr. Nelson Marwa
		Dr. Julius Muia
2.	Administration & National Security	Maj-Gen. (Rtd.) Gordon Kihalangwa
3.	Defence & Foreign Relations	Amb. Macharia Kamau
		Prof. Judy Wakhungu
		Dr. Cleopa Mailu
		Hon. Dan Kazungu
		Mrs. Phyllis Kandie
		Mr. Willy Bett
		Prof. Jacob Kaimenyi
		Dr. Hassan Wario Arero
	Mr. Lawrence Ntoye Lenayapa, CBS	
4.	Labour and Social Welfare	Ms. Safina Kwekwe

5.	Agriculture and Livestock	Mr. Hamadi Boga
6.	Health	Mr. Peter Tum
7.	Environment and Natural Resources	Mr. Joseph Wairagu Irungu
8.	Transport, Public Works and Housing	Mr. Charles Hinga Mwaura
9.	Education, Research and Technology	Mr. Kevit Desai

I have also directed the Office of the Clerk to publish and circulate the list of the nominees, showing clearly the respective Committees in which they will be vetted.

Hon. Members, Section 8 of the Public Appointments (Parliamentary Approval) Act No. 33/2011 requires that a Committee shall consider a nomination and table a report for debate and decision in the House within 14 days from the date of notification.

It is therefore imperative that each of the aforementioned Committee immediately seizes itself of the matter to enable speedy conclusion within the set timelines. The Committees are expected to have concluded their reports and submitted them to the House on or before 27th February 2018 to enable the House to consider and finalise on the nominees within the stipulated timelines.

Thank you.

NOMINEES FOR APPOINTMENT AS MEMBERS OF JUDICIAL SERVICE COMMISSION

Hon. Members, pursuant to the provisions of Standing Order No. 42(1) of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from His Excellency the President seeking the National Assembly's approval of three (3) nominees for appointment as Members of the Judicial Service Commission (JSC). In the Message, His Excellency the President conveys that in exercise of powers vested in him under Article 171(2) of the Constitution as read together with Article 250(2)(b) of the Constitution, and pursuant to the provisions of sections (3) and (5) of the Public Appointments (Parliamentary Approval) Act, he has nominated the following to the Judicial Service Commission:

(i) Under Article 171(2)(g) of the Constitution—

Mr. Patrick Gichohi, who has been nominated by the Public Service Commission to the JSC; and,

(ii) Under Article 171(2) (h) of the Constitution—

Prof. Olive Mugenda (female nominee), and
Felix Koskei (male nominee).

Hon. Members, Section 8 of the aforementioned Act provides that the relevant Committee of the House will consider the suitability or otherwise of the nominees and table its report for consideration by the House within 14 days from the date of the notification of nomination that is conveyed by the House. Further, the Act requires that the public be given a seven-day notification to submit their views regarding the suitability or otherwise of nominees proposed for appointment to an office requiring Parliamentary approval.

In this regard, and in accordance with the provisions of Article 259(5)(a) of the Constitution as read together with section 5 of the said Act, the seven-day notification to the public shall start running on the day following the day when the notice is published in the dailies.

Hon. Members, given the critical role played by the JSC, it is advisable that the relevant Committee expeditiously proceeds to notify the nominees and the public, commences the approval hearings after the seven-day notification period, and tables a Report on or before Tuesday 27th February 2018 to enable the House to consider the matter within the statutory timelines provided. This Message, together with the Curriculum Vitae of the nominees therefore, stands committed to the Departmental Committee on Justice and Legal Affairs for consideration.

I thank you, Hon. Members.

Next Order. Members, take your seats. The Members at the entrance should make their way in quickly. Hon. Lessonet, you will greet your colleagues later. Please, Hon. Members, take your seats so that I convey this Petition. Take the seats closest to you!

PETITION

THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 34 OF 2017)

Hon. Speaker: Hon. Members, this is Petition No.1 of 2018. Standing Order 225(2)(b) of the National Assembly Standing Orders 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 has received a petition regarding the Physical Planning Bill (National Assembly Bill No. 34 of 2017).

The Petition is signed by one Wanjiru Gikonyo on behalf of 10 citizens. Among the prayers, the petitioners are praying that Parliament refrains from passing into law, the Physical Planning Bill, 2017 until adequate consultations are made with key stakeholders.

Hon. Members, as you are aware, public participation in the legislative process is a requirement of our Constitution under Article 118 (1)(b). Indeed, the said Bill was read the First Time on 11th October 2017 and referred to the Departmental Committee on Lands. Further that, on 5th January 2018, the Office of the Clerk published an advertisement in the local dailies calling for submission of memorandum on the said Bill. Among other requirements, the

Committee is expected to facilitate public participation, including involving all relevant stakeholders before the Bill is committed for Second Reading.

Hon. Members, this Petition shall therefore stand committed to the Departmental Committee on Lands for consideration. The Committee is requested to consider the Petition alongside the Bill and report its findings to the House in accordance with Standing Order 127(3). I, therefore, direct that the Committee must undertake to hear the petitioners with a view to taking into account their views on the said Bill and any other relevant stakeholders. It cannot be, and must never be, the case that Parliament can be stopped through petitions from performing its legislative functions.

I thank you.

PAPERS LAID

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

Commission on Revenue Allocation Recommendations for the Basis of Equitable Sharing of Revenue between the National and County Governments for the Financial year 2018/2019.

The Capital Markets (Securities Lending, Borrowing and Short-Term Selling) Regulations, 2017 and the Explanatory Memorandum (Pursuant to Section 12 of the Capital Markets Authority Act).

The National Construction Authority (Amendment) Regulations, 2017 and the Explanatory Memorandum (Pursuant to Section 42 of the National Construction Authority Act, 2011).

Report of the Board of the National Government Constituencies Development Fund on Project Proposals Approvals, Disbursement Status and Restrictions imposed on Constituency Account for the Second Quarter of 2017/18 Financial Year for the period 1st October to 31st December 2017.

Annual Report and Financial Statements in respect of the following institutions for the Financial Year 2016/17:

- (a) Laikipia University.
- (b) South Eastern Kenya University
- (c) Privatization Commission.
- (d) National Communications Secretariat.
- (e) Ethics and Anti-Corruption Commission.
- (f) Kenya Civil Aviation Authority.
- (g) East African Portland Cement Company Limited.

The Reports of the Auditor-General on the Financial Statements in respect of the following Constituencies for the year ended 30th June 2016 and the certificates therein:

- (a) Kipkelion Constituency.

- (b) Emurua Dikirr Constituency.
- (c) Lagdera Constituency.
- (d) Dadaab Constituency.
- (e) Balambala Constituency.
- (f) Gilgil Constituency.
- (g) Tiaty Constituency.
- (h) Embakasi West Constituency.
- (i) Nakuru Town West Constituency.
- (j) Garissa Township Constituency.

Hon. Speaker: At this point, Leader of the Majority Party, I know for a fact that there is mistake in (a). There are two constituencies, that is, Kipkelion East and Kipkelion West. This refers only to Kipkelion Constituency. I think there must be a correction on whether it is East or West.

Hon. A.B. Duale: Thank you, Hon. Speaker. I will check and revert to you. I am sure the Table Office has taken note of that.

Hon. Speaker, I beg to lay the following Paper on the Table of the House:
First Report of the Committee on Appointments on the Vetting of Persons for Appointment as Cabinet Secretaries.

Hon. Speaker: Very well. Hon. Mutinda Mule, Member for Matungulu.

Hon. Mule: Hon. Speaker, I beg to lay the following Paper on the Table of the House:
Delegation Report of the First World Health Organisation (WHO) Assembly Global Ministerial Conference on Ending Tuberculosis in the Sustainable Development Era: A Multi-Sectoral Response, held in Moscow, Russia Federation from 16th – 17th November 2017.

Thank you, Hon. Speaker.

Hon. Speaker: Leader of the Majority Party, a correction has been made: it is Kipkelion East. So, it is the Report of the Auditor-General on the Financial Statements in respect of Kipkelion East Constituency for the year ended 30th June 2016.

The Report of the Commission on Revenue Allocation Recommendations for the Basis of Equitable Sharing of Revenue between the National and County Governments for the Financial year 2018/19 is referred to the Budget and Appropriations Committee and I have seen the Chairperson here. It is important that this Committee gets seized of it.

The Capital Markets (Securities Lending, Borrowing and Short-Term Selling) Regulations, 2017 as well as the National Construction Authority (Amendment) Regulations of 2017 and the Explanatory Memorandum to both Regulations are referred to the Committee on Delegated Legislation.

The Report of the Board of the National Government Constituencies Development Fund on Project Proposals Approvals, Disbursement Status and Restrictions imposed on Constituency Account for the Second Quarter of 2017/18 Financial Year for the period 1st October to 31st December 2017, is referred to the National Government Constituencies Development Fund (NG-CDF) Committee of this House. It is so ordered.

Next Order!

NOTICE OF MOTION

APPROVAL OF NOMINEES FOR APPOINTMENT AS CABINET SECRETARIES

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

THAT, this House adopts the First Report of the Committee on Appointments on the Vetting of Nine Cabinet Secretary nominees (Volumes I and II) for appointment to the position

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| i. | Prof. Margaret Kobia | Public Service, Youth and Gender Affairs |
| ii. | Hon. John Munyes | Petroleum and Mining |
| iii. | Amb. (Dr.) Monica Juma | Foreign Affairs and International Trade |
| iv. | Ms. Farida Karoney | Lands, Housing and Urban Development |
| v. | Hon. Peter Munya | East African Community and Northern Corridor Development |
| vi. | Mr. Keriako Tobiko | Environment and Forestry |
| vii. | Mr. Simon Chelugui | Water and Sanitation |
| viii. | Hon. Ukur Yatani | Labour and Social Protection |
| ix. | Mr. Rashid Achesa Muhamed | Sports and Heritage |

of Cabinet Secretary, laid on the Table of the House today, Tuesday 13th February, 2018, and pursuant to Article 152 (2) of the Constitution and the provisions of Standing Order No.204 (4), approves the appointment of the following persons as Cabinet Secretaries in the respective Ministries:

Thank you, Hon. Speaker.

Hon. Speaker: Next Order!

POINT OF ORDER

MATTER ON PRIVILEGE OF MEMBERS OF PARLIAMENT

Hon. Nuh: On a point of order, Hon. Speaker.

Hon. Speaker: Just before you start, there is an intervention from the Member for Suna East, who is the Minority Whip.

Hon. Nuh: Thank you, Hon. Speaker. I stand under Standing Order No. 52 to raise the issue of privilege. I am told in the tradition of the House the issue of privilege takes precedence. I wanted to bring it to your attention.

When Parliament was on recess, there was a serious crackdown that happened in this country on both Members of Parliament and non-members of Parliament; that is, ordinary Kenyans. However, the one I wanted to bring to your attention is the issue of the Members of the House, especially members of the National Super Alliance (NASA) Coalition, on which I seek your indulgence and ruling. They have lost their security, who have been withdrawn by the Inspector General of Police.

Hon. Speaker...

(Loud consultations)

Hon. Speaker: Order, Hon. Members! The Member for Suna East, who is the Minority Whip, shall be heard.

Hon. Nuh: Hon. Speaker, thank you so much for your protection.

Hon. Speaker: He must be heard and those who have contrary views will also be heard. So, the best thing on the first day is to remember that.

Hon. Nuh: Hon. Speaker, since I joined Parliament in the 11th Parliament, I have been enjoying the privilege of having security provided by the National Police Service, which is an independent constitutional office, and facilitated by the Parliamentary Service Commission in terms of remuneration. This issue has history in Parliament as the reason and the wisdom why Parliament decided to provide security for Members of Parliament. The manner in which the security officers have been withdrawn is shocking. This is because once you come to this House you become the property of the PSC. Hon. Speaker, our employer is the PSC that you chair. It is very bad when a section of Members of Parliament has their security and another section does not have any security yet they all represent constituencies, and they were all elected on the same terms and conditions by the Kenyan people to represent them here and oversee the Government as required under Article 95 of the Constitution.

The way the police is behaving is like instead of being *utumishi kwa wote*, they are becoming *utumishi kwa Jubilee*. They only want to protect the Jubilee Members of Parliament. To add insult to injury, despite the fact that the leadership of the NASA Coalition is recognised in the House under the Constitution and the Standing Orders, and is facilitated with parliamentary vehicles, all their vehicles were withdrawn by the police outside the gate of Parliament Buildings in the crudest and most immoral manner you can think of. The Minority Leader's car was withdrawn, and the driver was told to collect his items and get out of the car when the vehicle belonged to the PSC and not the Executive arm of this country. This is an upfront on the independence of Parliament. There is a deliberate attempt to return Parliament to where it was during the Kenya African National Union (KANU) days – as a department within the Office of the President. Members of the Jubilee Party may think, now that they are enjoying

some perks because they are in a sort of government that is not yet even known, the same might not happen to them tomorrow.

(Loud consultations)

Hon. Speaker, I seek your indulgence, guidance and ruling to affirm the independence of the third arm of Government called “Legislature”, which you head. This is a matter of national importance.

Hon. (Dr.) Pukose: On a point of order, Hon. Speaker.

Hon. Speaker: What is your point of order, Member for Endebeess?

Hon. (Dr.) Pukose: Thank you, Hon. Speaker. With all due respect to the Minority Whip, he said that the Jubilee side is in some sort of a government. I want him to withdraw that and apologise because that is derogatory and demeaning to the Government that is elected, and which is legitimately in place. That is un-parliamentary. I think he needs to withdraw and apologise.

Hon. Speaker: Did you say the Members of Jubilee are in...

An Hon. Member: In some form of government!

Hon. Nuh: Hon. Speaker, I did not say that.

Hon. Speaker: No! No! No! If that is what you said, you should withdraw it.

Hon. Nuh: Hon. Speaker, I did not say that. You know, when you are bordering Uganda, English can be confusing.

Hon. Speaker: Hon. Junet, you know the words you used. You are now denying that you used those words. If we check the HANSARD and you are refusing to withdraw, you know the consequences.

Hon. Nuh: Hon. Speaker, what I said is this...

Hon. Speaker: No! No! No! You know the consequences of refusing to withdraw.

Hon. Nuh: But I did not say anything wrong. No, do not intimidate me. Hon. Speaker, I said they are in a sort of government, which is true.

Hon. Speaker: Hon. Junet, you know the words you used.

Hon. Nuh: Yes, Hon. Speaker.

Hon. Speaker: You are denying that you used those words.

Hon. Nuh: No, I did not use them.

Hon. Speaker: You did not?

Hon. Nuh: I did not. I did not use the words that the honourable member has uttered. I used other words, “they are in a sort of government.”

Hon. Speaker: Hon. Junet, you know it is not going to be...

(Laughter)

Order, Hon. Members! You can now laugh as much as you wish. I know you have just come from a long recess but here it is serious business. You cannot just say that you did not use some other words. Which ones? Which words did you use? They came from your mouth. Which words do you remember now? You appear to have forgotten so soon. Which words did you use?

Hon. Nuh: Hon. Speaker, I said that Members of Jubilee are in a sort of government, and there is nothing wrong with it. It is a government that they understand in their own ways that we do not understand ourselves. That is what I meant. So, the understanding is different. The way you understand the Jubilee Government is not the same way we understand it. So, you are in a sort of government that only you understand. That is what I mean.

Hon. Speaker: Hon. Junet, this is the first day. I will not allow those kinds of careless words to be bandied around here. You have to withdraw that now. You must withdraw that. We are in the National Assembly Chamber. You must withdraw that.

Hon. Nuh: Hon. Speaker, the HANSARD will bear me witness. Which word do you want me to withdraw?

Hon. Speaker: Hon. Junet, you have now just used the words “some sort of Government”. I order you to withdraw that statement.

Hon. Nuh: Hon. Speaker, I withdraw the word “sort”.

(Laughter)

I withdraw the word “sort” and say that they are in a “form of Government” instead of “sort of Government”.

Hon. Speaker: Hon. Junet, there will be order. This is the first day. I will not allow those jokes that you use out there. You are back into the House. Withdraw both statements and apologise.

Hon. Nuh: For me not to lose the main issue that I wanted to put across, I withdraw.

Hon. Speaker: And apologise.

Hon. Nuh: Apologise to who? To you? No. *Hiyo sasa mimi naenda nyumbani.*

Hon. Speaker: Hon. Junet, you must apologise to the House. It is not to a particular Member. Withdraw and apologise to the House. Hon. Junet.

Hon. Nuh: *Wacha tu niende.*

Hon. Speaker: Hon. Junet, in case you have forgotten the Standing Orders, which you participated in making in June 2017, I will refresh your memory about what is disorderly conduct.

(Hon. Abdi walked in the gangways)

And for avoidance of doubt, Member for Kamukunji you must not be so nomadic.

(Laughter)

Hon. Junet, if a Member fails to withdraw...Are you asking for the particular Standing Order? If you want to know the whole gamut of this area of disorder, just read from Standing Order Nos.107 to 113. You will then be properly educated.

Hon. Junet, I have called upon you to withdraw your remarks. Are you saying you have done it?

(Loud consultations)

Hon. Junet, I have a lot of sympathy for you because you are making a very serious point. But now who will listen to what you are saying? Hon. Junet, just withdraw and apologise to the House. Do not listen to this one who does not even understand what he is telling you, Hon. Junet.

Hon. Nuh: I will apologise. Hon. Speaker, I am raising very important matters so I withdraw and apologise. Can I continue with my submission, Hon. Speaker?

Hon. Speaker: Proceed.

Hon. Nuh: Hon. Speaker, the kind of treatment that Members of Parliament from the National Super Alliance (NASA) Coalition are facing is different from what the Members of the Jubilee Party (JP) are facing. We believe that we are in one House and we all came to represent this country.

Someone is telling me that we have our own "President". If I am allowed to get bodyguards for my "President", I know I will. If that is the way people want us to go - the way that the Leader of the Majority is suggesting - then I will get very serious bodyguards who will protect me day and night. But I thought that I belonged to a House which is governed by the Constitution and the Standing Orders.

This Parliament has come from far. Hon. Speaker, you served as a Whip of this Parliament during the KANU era when Parliament was micromanaged by the Executive. Are we going back to that era where we have to report and line up at the Office of the President to earn allowances and remunerations? This is an independent arm of Government and it was in the wisdom of the constitutional framers that they provided a service commission for this Parliament, which you chair. We have the duty to uphold and protect the Constitution that we swore to protect. That protection comes by respecting the provisions of the same Constitution which has created minority and majority parties. Hon. Duale, as the Leader of the Majority Party, roams around in town with four cars which belong to this Parliament and the Leader of the Minority Party of this Parliament is on foot. The sirens which make a lot of noise near Parliament belong to Hon. Duale.

Hon. Speaker: What is your point of order, Leader of the Majority Party? Hon. Junet you have mentioned him specifically. You say that he is roaming about?

(Laughter)

What is the problem with your choice of words today, Hon. Junet?

Hon. A.B. Duale: Hon. Speaker, I will not challenge my colleague on the roaming. The matter that you are being told to address yourself to, parliamentary precedent has that you must quote the relevant laws, Standing Orders and regulations that give a Member of Parliament the right to get security.

If you allow me, in the 10th Parliament which I served in with great minds such as Hon. Olago Aluoch, the then Member of Parliament for Embakasi, Hon. David Were - may his soul rest in peace - was killed. One week later, the Member of Parliament for Ainamoi in Kericho was killed by a police officer in Eldoret over a family issue. The then Speaker, Hon. Kenneth Marende, wrote to the then Commissioner of Police and asked in his wisdom that because of the circumstances, Members of Parliament should be given security. That is the only thing I can find. There is no provision in the Constitution, any relevant law, the Standing Orders and in the regulations that govern the National Police Service Commission.

You are being asked to rule or give direction on a matter that has no basis in law. Because today is our first day, Hon. Junet is used to the fake swearing-in and the statements they make at funerals and he has now forgotten that this afternoon he has entered the august House. The House must be run according to the Standing Orders, the Constitution or precedents, practices and communications given by former Speakers or practices in other jurisdictions similar to ours. Before he moves to ask you to rule on something, I challenge him as the Leader of the Majority Party not to take the House in circles. Tell us which law, Standing Orders and regulations stipulate the same. If you do not have any, we have important business to deal with. He should shut up and sit down.

Hon. Speaker: I can see the Leader of the Minority Party is agitated. Let us hear him.

Hon. Ng'ongo: Thank you, Hon. Speaker. I know the House has been entertained fairly well by my Whip and counterpart on the other side who is the Leader of the Majority Party.

The matter which has been raised on the security of Members of this Parliament is very serious. As a matter of fact, I am not looking at it at my individual capacity as Member for Suba South or as the Leader of the Minority Party, but I am looking at the institution of Parliament, its independence and the privileges that are accorded to Members of Parliament regardless of political party affiliations, power or friendship with other organs outside Parliament. The question one needs to address is whether Members of Parliament are extended the privilege of security or not. If that privilege is extended to Members of Parliament, it must cut across. It must be from both sides of the House.

This Constitution did not make a mistake of creating the Majority and Minority parties or coalition of parties. We are here by rights and Constitution. We are here by the virtue of being voted for by the people of Kenya. Hon. Duale said that this is a privilege that we got because the Speaker of the National Assembly then, Hon. Marende, wrote a letter. I also sat with him in that

10th Parliament and it is true that it is a privilege that we started enjoying. Even the court of law in this country has re-affirmed the same. I remember in the last Parliament, the National Police Service decided, without any justification, to withdraw Hon. Timothy Bosire's security. The courts re-affirmed that you cannot discriminate against any Member or a group of Members of Parliament. Therefore, I am not really scared about my security. In fact, I have even realised that being without security is really refreshing because it is a life that I have not enjoyed for quite some time. I was reading somewhere that someone was trying to purport that I tried to ask Hon. Duale to intervene. I have never spoken with Hon. Duale since I lost my security and the car. I cannot plead with Hon. Duale. He is just a Leader of the Majority Party, and I am the Leader of the Minority Party. We are supposed to be equal in terms of power. We are equal.

(Loud consultations)

I do not have time to ask Hon. Duale for any favour because he does not have that power. We want to address this matter to the right authority. We are addressing you not only as the Speaker of the National Assembly but also as the Chairman of the Parliamentary Service Commission (PSC). My security was withdrawn and one of my vehicles was taken away. I am even wondering why they have not taken another one because I have my vehicles. If anything, the people of Kenya are very generous because they have given me a car grant to buy another vehicle. So, I can use my personal vehicle. However, the fundamental question is: "Am I not holding a constitutional office as the Leader of the Minority Party?" In fact, that is where I am more concerned. You may not like Hon. Mbadi as a person. I am not referring to the Speaker. I am saying someone somewhere may not like Hon. Mbadi but there is the Office of the Leader of the Minority Party. As we speak, I occupy that Office. It was such a shame that the secretary to the PSC who is the Clerk of the Senate was not even aware that someone had taken property that belongs to Parliament to Vigilance House. That is the vehicle which was assigned to me by Parliament. The Clerk has been following to have the vehicle brought back to Parliament. Even if they were to take it, they should have the courtesy to tow and keep it in Parliament.

The independence of Parliament is under attack. Are you telling me that someone can wake up one day and decide to pay or not pay my salary because he perceives me as his enemy? By the way, the leadership of the Minority Party is not expected to praise the leadership of Jubilee. We cannot and we will not. We will continue to attack the leadership of Jubilee. It is not our business to praise President Uhuru Muigai Kenyatta. We are not here to do that. Whether someone likes it or not, you can withdraw the security, take the vehicles but we will still tell you what we believe in and that will not change. If someone is trying to intimidate us on that, I think that person is dialling and touching a live wire.

(Loud consultations)

I am addressing you, Hon. Speaker. I do not know why our colleagues are agitated. It is not your security that is withdrawn but ours. We are addressing the leadership of Parliament but not yours. This is our Speaker now. He does not belong to Jubilee Party but to the National Assembly of Kenya. He is the Chairman of PSC. We created his position in the Constitution as the Chairman of the PSC. This Constitution was not voted for by supporters of the Jubilee Party alone. It was voted for by the supporters of both Jubilee Party and the National Super Alliance (NASA). You must remember that NASA supporters also pay taxes which fuel these vehicles,

including the four that Hon. Duale is using. Those vehicles are fuelled and maintained by the people who pay tax. The supporters of NASA do not pay lesser tax. We also pay taxes. This is something that must be addressed. It is not a matter that someone can just shout us down.

Thank you, Hon. Speaker.

(Loud consultations)

Hon. Speaker: Hon. Members, if we engage in the kind of debate that I can see you want to engage in, that debate will even help because these are matters that...

Hon. Member: I need a clarification.

Hon. Speaker: Whom do you need a clarification from?

Hon. Member: From the Chair.

Hon. Speaker: How? The Chair has not raised any issue. So, I cannot clarify anything. The issues that have been raised by Hon. Duale, Hon. Junet and Mbadi speak for themselves. I do not think that I need to clarify anything unless somebody has something he wants to add. Please do not engage me in politics. Confine yourselves to these issues.

Member for Kikuyu

Hon. Ichung'wah: Thank you, Hon. Speaker, for your indulgence. Indeed, I want to agree with the Leader of the Majority Party and the Leader of the Minority Party that one, there may be no constitutional obligation or any statute that guides the provision of security to Members of Parliament. It is very important that PSC accords Members of Parliament security. I was asking myself a question as I listened to the two leaders. Is it the PSC or the National Police Service that is obligated to provide Members of Parliament with security? The Leader of the Majority Party has said that it is a privilege that was extended by the National Police Service. The question that is being put to you by Hon. Junet should go to the Inspector-General of the National Police Service but not to you as the Chair of PSC. If it is a privilege to be extended to Members of PSC, then you are obligated to provide all Members of Parliament with security, be it from KK Security, Lavington Guards or any other guards. I believe there are very many reputable security companies in this country, including men in black whom you can second to some of these Members.

I have also heard the Leader of the Minority Party say that they are not in the business of praising President Uhuru Kenyatta. I agree with him. Indeed, you should not praise President Uhuru Kenyatta for whatever sake. You should praise the Almighty God only or the other gods you worship. You should praise the work that President Uhuru Kenyatta may do. Away from that, the question of security of Members of Parliament is imperative. I am seated here and I am asking myself, considering what has been going on in this country and the desperation you see in the leadership outside this House from the Minority Party, if these Members are not provided with security, I am not sure whether they will not start eliminating each other and blame it on the Government. Therefore, I ask you as Chairman...

Hon. Speaker: Finish your point. I know the person who is going to give some sober address to this issue.

Hon. ole Sankok: My microphone is blinking. Can I go ahead and speak? Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Sankok, not you!

Hon. Ichung'wah: Thank you, Hon. Speaker. I was saying that it is imperative for you as the Chairman of the Parliamentary Service Commission to clarify to Members whether or not

it is the Parliamentary Service Commission that is bestowed with the responsibility of ensuring that Members are secure. Is their security guaranteed only within the precincts of Parliament? If that is the case, then every Member of this House is secure. With regard to what Members of Parliament do outside the precincts of the House, we cannot take up the responsibility of ensuring their security, say, in their houses and other funny places that they may visit after official working hours.

Lastly, is the question of vehicles. We must appreciate that those in leadership of the House enjoy the privilege of having cars provided by the Parliamentary Service Commission. It would be okay for Hon. Junet to raise the question of vehicles being withdrawn if it is the Parliamentary Service Commission that has withdrawn those vehicles. As he has clearly said, those vehicles are parked at the police headquarters, Vigilance House. We do not know why the Inspector-General of Police took those vehicles. He could be investigating particular Members for crimes against humanity, crimes of subversion and other crimes that we do not know. He is obligated to take any vehicle or anything else for him to carry on his work as an investigator. Therefore, we cannot ask you, Hon. Speaker, to tell us why vehicles have been taken away by another institution and not the PSC that you chair.

Thank you.

Hon. Speaker: Member for Kisumu Town West, Hon. Olago Aluoch.

Hon. Aluoch: Hon. Speaker, it pains me that this serious issue is now being trivialised as a NASA and Jubilee issue yet it touches on the security and privileges of all Members. Today, it is this side complaining; tomorrow it could be that side. I pray that we approach it as Members of this House who have a common destiny.

Leaving that aside, the House needs to know that my friend, Hon. Githu Muigai has just resigned and His Excellency the President has accepted his resignation. The president of the Court of Appeal, Justice Kihara, has been appointed as the new Attorney-General of the Republic.

(Loud consultations)

Let me now get to the point.

Hon. Speaker: Hon. Members, let us hear the Member for Kisumu Town West.

Hon. Aluoch: I mentioned that because both gentlemen are my friends. Getting back to the point, the Leader of the Majority Party said the truth when he said that this is a House of rules and precedents. What he did not say is that this is also a House of customs. The custom from the 10th Parliament is that Members of Parliament enjoy transport and security. From my background matters that touch on security as these ones are better discussed behind closed doors. It is only if that fails that they should be brought to plenary. I have been a commissioner of the PSC and I know what I am talking about. This is a matter I urge you to deal with and your commissioners as PSC away from Members' debate. When we debate the matter here, we turn to inner NASA and inner Jubilee. That does not help us.

I urge you to stop this debate and put it before the PSC and address it in the best interest of Members. That is what I pray for. Thank you.

(Applause)

Hon. Speaker: Hon. Members, as I said, I knew the person who would place this matter where it belongs and that is Hon. John Olago Aluoch.

I mentioned that the matter was reported by Hon. Junet through... What do you call that medium? Is it *WhatsApp*?

(Laughter)

You used that medium and some senior members of your coalition have already drawn my attention to it and it is being addressed. I know a solution is being found. If we make it a matter for debate, we are unlikely to make progress.

(An Hon. Member spoke off record)

No! You are speaking for Kenyans under Article 95(1) of the Constitution. That is one of the things you were elected to do among other things. In respect to this particular issue, let us not speak for Kenyans. We know it is the responsibility of the Government of the day to provide security to every Kenyan and Members of Parliament, certainly those who are here, are Kenyans, except that they may be Kenyans of...

(Hon. Kajwang' spoke off record)

Those are your words. Hon. Junet and Hon. John Mbadi, the matter is being addressed. My attention has been drawn to that since yesterday. There is an appropriate communication being made in that regard.

Let us move to the business in the Order Paper. Leader of the Majority Party, the Clerk had read our Order No.8.

MOTIONS

EXTENSION OF THE PERIOD FOR CONSIDERATION OF NOMINEES TO VARIOUS STATE AND PUBLIC OFFICES

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

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act relating to extension of period for consideration of nominees for appointment to State and Public Offices, this House resolves to extend the period for consideration of the nominees submitted by the President for appointment to the office of Cabinet Secretaries by a further period of two (2) days from 13th February 2018.

This is majorly because the timeline for this Report, which I have tabled today, expires at midnight tonight. This Motion only seeks to extend the period of consideration of the nominees by only two days in order to give Members time to read the Report, debate and approve so that we can conclude this matter by Thursday. This extension of two days allows the House more time to consider the Committee Report for the approval of the Cabinet Secretaries in as far as the Report I tabled is concerned.

I beg to move and ask the Whip of the Majority Party to second.

Hon. Speaker: Hon. Washiali.

Hon. Washiali: Thank you, Hon. Speaker. I beg to second.

(Question proposed)

Hon. Members: Put the Question!

(Question put and agreed to)

APPOINTMENT OF MEMBERS TO HOUSE BUSINESS COMMITTEE

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

THAT, pursuant to the provisions of Standing Order 171(1), this House approves the appointment of the following Members to the House Business Committee (HBC) in addition to those specified under paragraphs (a), (b), (c), (d) and (e) –

- (i) The Hon. Amos Kimunya, EGH, M.P;
- (ii) The Hon. Joyce Akai Emanikor, M.P;
- (iii) The Hon. Shadrack John Mose, M.P;
- (iv) The Hon. Kawira Mwangaza, M.P;
- (v) The Hon. Omboko Milemba, M.P;
- (vi) The Hon. Mishi Khamis Mboko, M.P; and,
- (vii) The Hon. (Dr.) Makali Mulu, M.P.

Standing Order 171(1) specifies the Speaker, the Leader of the Majority Party, the Majority Whip and the Minority Whip. For record purpose, in the Constitution, I come ahead of the Leader of the Minority Party. He is junior to me. Article 108 of the Constitution puts it very clearly. Hon. Mbadi, you must prepare yourself psychologically. You are below the Leader of the Majority. The order is the Speaker, the Leader of the Majority Party and then the Leader of the Minority. Hon. Nyenze and Hon. Jakoyo knew this but because there are too many things happening – the withdrawal of your security detail and the car – you are a bit confused. Even for Hon. Junet, Hon. Washiali is ahead of him in the Standing Orders. Those are the Members contemplated in the Standing Orders.

Members are aware that the HBC is a sessional committee pursuant to Standing Order 171 (1) and each parliamentary party is required to nominate members for the approval of the House at the commencement of every session. We are now beginning a new session. It is in this regard that I move this Motion. Tomorrow, we will bring the rest of the sessional Committee Members which we have constituted.

The HBC being a very crucial committee that is mandated to set the business agenda of the House, I urge Members to approve. In fact, that is the only substantive business we have this afternoon. Once we conclude this business, the House will adjourn so that the HBC, chaired by the Speaker, can go to Room 9 and set the business of the week and the future. It will be very good that the House approves these Members so that in the next one hour or so we can discuss the next agenda.

Hon. Mbadi is my neighbour, and I really felt for him. He was very emotional. In fact, I realised that to lose a car and security is a serious matter. Hon. Junet is a pastoralist; security is not a problem for him, but Hon. Mbadi was very emotional about the withdrawal of his security detail and car. If he behaves well between now and the next few weeks, I will consider...

I beg to move and ask my very good friend, my neighbour and the second leader of Minority under the Constitution – an accomplished accountant – Hon. John Mbadi, to second. Please, after this, we can talk as leaders. If you behave, we can revisit.

(Laughter)

Hon. Ng'ongo: Thank you, Hon. Speaker. With Hon. Duale, even if you wanted to be annoyed, he becomes so hilarious that you just laugh it off. I am very sure he did not mean all that he said.

I want to second this Motion. The names that we have presented regarding the membership of the HBC are exactly the same names that we proposed or this House passed just before we went on recess. Because the law requires that for every session we need to constitute the HBC afresh, then it became necessary. What we have also quietly agreed on as leaders is that in the absence of the Leader of the Majority Party, his deputy will be sitting in the HBC. The same also applies for my side. In the absence of the Leader of the Minority Party, the deputy will take that slot. In the absence of the whips, their deputies will sit in the HBC. Therefore, we have added other Members. We have got gender balance. Therefore, we are good to go.

I am just urging this House to approve these names. As to other matters that Hon. Duale has raised, we will talk but not in terms of behaving in the sense he wants. If it is in the sense of the way he is taking us, that is definitely a no-go zone. I know Hon. Duale knows me very well. Once I believe in something, I totally believe it, and no amount of discomfort will make me change my mind. Therefore, I am not about to change my mind on that aspect. I just wanted to give feedback to my good friend, Hon. Duale; that he is not likely to succeed in that line.

Thank you.

Hon. Speaker: Of course, what you have said, Hon. John Mbadi, makes a lot of sense in that even in my absence, the Deputy Speaker chairs the HBC. It should therefore follow that in your absence, your deputy should sit in the HBC. In the absence of the whip, the deputy sits and the same should apply on the other side.

(Question proposed)

Hon. Members: Put the Question! Put the Question!

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: That concludes the business of the House for today. Since the House has to adjourn, if Members agree, I request members of the HBC that we meet in the next 15 minutes. Can we say 4.15 p.m.?

Hon. Members Yes.

Hon. Speaker: The HBC will meet in Committee Room 9.

The House now stands adjourned until tomorrow Wednesday, 14th February 2018 at 9.30 a.m.

The House rose at 3.55 p.m.