

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 13th March 2018

The House met at 2.30 p.m.

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

PRAYERS

MESSAGES

APPROVAL OF NOMINEE FOR APPOINTMENT AS ATTORNEY-GENERAL

Hon. Speaker: Hon. Members, pursuant to the provisions of Standing Order 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 Justice (Rtd.) Paul Kihara Kariuki for appointment as the Attorney-General (AG), in exercise of powers vested in him under Article 156(2) of the Constitution.

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

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

Hon. Members, it is advisable that the relevant Committee expeditiously proceeds to notify the nominee and the public, commences the approval hearing after the seven-day notification period and tables their report on or before Tuesday, 27th March, 2018 to enable the House to consider the matter within the statutory timelines.

This Message, together with the Curriculum Vitae of the nominee, therefore, stand committed to the Committee on Appointments for consideration.

I thank you, Hon. Members.

Hon. A.B. Duale: On a point of order, Hon. Speaker.

Hon. Speaker: What is your point of order, Leader of the Majority Party?

Hon. A.B. Duale: Hon. Speaker, I stand on Standing Order 20. It is very explicit when read together with Article 108 of the Constitution in terms of the House leadership. You can confirm to me that the Leader of the Minority Party in the National Assembly is none other than Hon. Mbadi. Even the seats are designated. The seat in front of me belongs to the Leader of the Minority Party. However, the person sitting on it is the Member for Mavoko, who is a "squatter"

as far as that seat is concerned. Within the reading of Standing Order 20 and Article 108 of the Constitution, the Member for Mavoko and Hon. Maanzo are “squatting” on seats that do not belong to them. This House is not privy to what happened out there. What this House is privy to is the fact that there is a leadership that must be recognised and respected.

Hon. Speaker, I want you to invoke Standing Order 20 and Article 108 of the Constitution and order the “squatters” to be evicted from where they are sitting so that Hon. Mbadi can get his place as the respectable Leader of the Minority Party of the largest Coalition on the minority side.

Hon. Speaker: Well, but is it possible to accommodate squatters within the plenary of the Chamber?

(Laughter)

Squatting may be a bit alien to the House. Is Hon. John Mbadi complaining?

Hon. Ng’ongo: *(Off-record)*

Hon. Speaker: Oh, you have no seat? Hon. Member for Mavoko, if the Hon. Leader of the Minority Party wishes to sit at his designated position, you have no authority to impede him. In fact, you are not going to address the House from there. Just move, Hon. Patrick Makau.

Hon. Members, these are the instructions: If the Leader of the Minority Party, Hon. John Mbadi, desires to occupy his official seat, he cannot be impeded. Remember, he also has priority in speaking. So, even if you wanted to address me, certainly not from there. You are in the wrong place. Go back to your place at the back. I know you normally prefer sitting next to the door. Just move.

Hon. Members: Move!

Hon. Speaker: Let us not waste time on this. You are not recognised from there. Hon. Patrick Makau, you cannot quarrel over this matter. I already have the names of persons who hold leadership positions. You do not belong to any of those positions - The ones created in the Standing Orders and those in the Constitution. So, do the honourable thing.

Hon. Patrick Makau, for the second time now! We are not in a public rally here. We must follow the rules. Hon. Makau, vacate the position you are in. Hon. Makau, for the second time, you must leave that seat. Hon. Patrick Makau for the third time, I order that you leave that seat.

Hon. King’ola: Thank you, Hon. Speaker.

Hon. Speaker: Who has given you authority to speak?

(Laughter)

(Hon. King’ola stood up in his place)

Order! Order! Take your seat. Serjeant-at-Arms, I have directed that Hon. Patrick Makau, the Member for Mavoko, leaves the position he is seated. Three times he has disobeyed my order. Hon. Patrick Makau, I order that you now leave the Chamber. If you allow yourself to be touched by the Serjeant-at-Arms, the consequences are very dire.

(The Serjeant-at-Arms escorted Hon. King’ola out of the Chamber)

Hon. Members, let us not bring the jokes we may have picked from the villages, in funerals and other such like gatherings, to the Chamber. The Member for Mavoko will be out of the Chamber for the balance of today.

Let us proceed. Next Order!

PAPERS LAID

Hon. Speaker: The Leader of the Majority Party.

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

The Registration of Persons (Amendment) Rules, Regulations and the Explanatory Memorandum (pursuant to Section 16 of the Registration of Persons Act).

Annual Reports and Financial Statements in respect of the following institutions for the Financial Year 2015/2016:

- (a) Kenya Ports Authority; and
- (b) The Teachers Service Commission (TSC).

The Report of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June, 2017 and the certificates therein:

- (a) Witness Protection Agency;
- (b) Kenya Film Classification Board;
- (c) Political Parties Fund;
- (d) The Office of the Registrar of Political Parties;
- (e) Kenya School of Law;
- (f) Nairobi Centre for International Arbitration;
- (g) Kenya Bureau of Statistics;
- (h) State Department for Broadcasting and Telecommunications; and
- (i) Anti-Doping Agency of Kenya.

Hon. Speaker, again, the Minority Whip, in accordance with Standing Order No.20 and Article 108 of the Constitution, has no place to sit. This is because a Member of the Amani National Congress (ANC), the Vihiga County Women Representative, has decided to occupy a seat which does not belong to her. This is a House of order. So, the Hon. Minority Whip must be given his seat.

Hon. Members: Move!

Hon. Speaker: What is this infant behaviour? Member for Vihiga, the place where you are seated is designated as the seat for the Minority Whip!

Hon. A.B. Duale: The Orange Democratic Movement (ODM) is the Official Opposition. It has the numbers and we will protect it. Some of us are ready to protect the ODM from the small parties.

Hon. Speaker: The Chairperson, Public Accounts Committee (PAC), Hon. Wandayi.

Hon. Wandayi: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Public Accounts Committee on the accounts in respect of the following institutions for the year 2015/2016:

- (a) National Cohesion and Integration Commission (NCIC);
- (b) Commission on Revenue Allocation (CRA);
- (c) Ethics and Anti-Corruption Commission (EACC);
- (d) The National Assembly;
- (e) National Land Commission (NLC); and

(f) Parliamentary Service Commission (PSC).

Thank you, Hon. Speaker.

Hon. Speaker: Very well. The Chairperson, Departmental Committee on Justice and Legal Affairs.

Hon. Cheptumo: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Justice and Legal Affairs on the Vetting of the Nominee for Appointment as the Solicitor-General.

Thank you, Hon. Speaker.

Hon. Speaker: The Vice-Chairperson, Departmental Committee on Delegated Legislation.

Hon. (Ms.) Fatuma Ali: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Committee on Delegated Legislation on the National Construction Authority (Amendment) Regulations, 2017.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, before we proceed, let me take this opportunity to introduce students and pupils from the following institutions: In the Speaker's Gallery, Kikuyu Township Primary School, Kikuyu Constituency, Kiambu County, and Nairobi Muslim Academy, Lang'ata Constituency, Nairobi County. In the Public Gallery, Chief Mbogori Girls High School, Maara Constituency, Tharaka Nithi County, and Nkaimurunya Primary School, Kajiado North Constituency, Kajiado County.

They are all welcome to observe the proceedings in the National Assembly.

Next Order!

NOTICES OF MOTIONS

Hon. Speaker: Let us have the Member for Nyali. You were to give notice today in Kiswahili because you wrote requiring that you be allowed to move your Motion in Kiswahili. Your request has been granted. Therefore, you will have to give notice afresh because if you give notice in one language, the Motion can only proceed in that language. So, you are free now to do as you asked for.

KUANZISHA HOSPITALI YA RUFUA YA KITAIFA KATIKA KAUNTI YA MOMBASA

Hon. Mohamed Ali: Shukrani! Mhe. Spika, naomba kutoa Ilani ya Hoja ifuatayo:

KWAMBA, tukifahamu Kifungu cha 43 cha Katiba ya Kenya kimeweka wazi kwamba kila Mkenya ana haki ya kuwa na kiwango bora cha afya kinachojumuisha afya bora ya uzazi; aidha, katika utaratibu wa ajenda ya maendeleo ya baada ya mwaka wa 2015, dunia imewajibikia afya kwa wote na kutimiza Lengo Endelevu la Maendeleo la Tatu (SDG-3) kuhakikisha na kuendeleza maisha na afya bora kwa wote; tukiafiki, uwekezaji katika sekta bora ya afya ni muhimu kuhakikisha kila mtu anapata huduma za kimsingi za afya bila kuzingatia eneo analotoka au hali yake ya kiuchumi; tukitambua, asilimia 80 hutegemea huduma ya afya ya umma ilhali kuna hospitali mbili pekee za rufaa nchini ambazo ni Hospitali ya Kitaifa ya Kenyatta - Nairobi na Hospitali ya Rufaa na Mafunzo ya Moi- Eldoret; tukizingatia, Kifungu cha ishirini na tano (25) kikiambatanishwa na Mpangilio wa Kwanza wa Sheria ya Afya, 2017

kinasema kutakuwa na hospitali ya kitaifa ya rufaa katika kila gatuji (Level 6); Bunge hili linahimiza Serikali kuharakisha kuwepo Hospitali ya Rufaa ya Kitaifa katika Kaunti ya Mombasa ili kufanikisha huduma zote za afya zinazohitajika eneo hilo zitumiazo teknolojia pevu na wataalamu wa hali ya juu pamoja na kutoa mafunzo kwa wahudumu wa afya kabla na baada ya kuhitimu.

Shukrani, Mhe. Spika.

(Loud consultations)

An Hon. Member: On a point of order, Hon. Speaker.

Hon. Speaker: There is nothing out of order. If you did not follow the Motion, you cannot now start saying that there is something out of order. Remember the language of the House is either English or Swahili. So, Hon. Mohamed Ali is quite within the rules and within his rights. Maybe you should come here tomorrow early in the morning at 9.30 a.m. when he is moving the Motion. Those of you who may wish to also learn a little more Kiswahili can follow from what he will be saying. From time to time, you can get your colleagues who will only contribute in English to tell you what he will be saying.

An Hon. Member: Hoja ya Nidhamu, Mhe. Spika.

Hon. Speaker: *Hoja ya Nidhamu! Hakuna kitu ambacho kina nidhamu yakupotosha.* Honestly, you cannot claim that there is anything out of order. There is nothing. The Motion is not moved. This is Notice of Motion. Now I can see you have not read your Standing Orders. At this point, there is nothing that needs to be contributed to. This chance goes to the Member for Ugunja and the Chair of the Public Accounts Committee (PAC), Hon. Wandayi.

ADOPTION OF PUBLIC ACCOUNTS COMMITTEE REPORT

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

THAT, this House adopts the Report of the Public Accounts Committee on Accounts of the National Cohesion and Integration Commission (NCIC), the Commission on Revenue Allocation (CRA), the Ethics and Anti-Corruption Commission (EACC), the National Lands Commission (NLC), the National Assembly (NA) and the Public Accounts Committee (PSC) for the year 2015/2016.

Thank you.

Hon. Speaker: Next is the Chair of Justice and Legal Affairs Committee, Hon. Cheptumo.

ADOPTION OF REPORT ON VETTING OF NOMINEE FOR APPOINTMENT AS SOLICITOR GENERAL

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

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the Vetting of the Nominee for Appointment as Solicitor General, laid on the Table of the House on Tuesday, 13th March 2018, and pursuant to the provisions of Section 9(1) of the Office of

the Attorney-General Act, 2012, approves the appointment of Mr. Kennedy Nyabuti Ogeto to the Office of the Solicitor General.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Fatuma Gedi, Vice-Chair of the Committee on Delegated Legislation.

ADOPTION OF REPORT ON NATIONAL CONSTRUCTION
AUTHORITY (AMENDMENT) REGULATIONS

Hon. (Ms.) Fatuma Ali: Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on the National Construction Authority (Amendment) Regulations 2017, laid on the Table of the House on Tuesday 13th March 2018 and pursuant to the provisions of Standing Order No.210(4)(b), annuls in entirety these said regulations.

Thank you.

Hon. Speaker: I may wish to draw the attention of the House that some of these reports may get some priority in getting debated and adopted in the course of this week. This is because we also need to give effect to what committees make recommendations about.

Next Order!

STATEMENTS

Hon. Speaker: Hon. Sabina Chege.

QUESTION OF PRIVILEGE RELATING TO
PRIVACY AND SECURITY OF HON. MEMBERS

Hon. (Ms.) Chege: Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order No.52(h) and the Parliamentary Powers and Privileges Act 2017, I rise to raise a matter of privilege relating to privacy and security of Members of this august House.

Hon. Speaker, several colleagues and I, both male and female, have over the past few weeks, fallen victim to a fraud scam through con individuals. The said individuals have been registering mobile phone numbers in our names and thereafter using those numbers to solicit for funds from unsuspecting Members and also to write other suspicious messages. The con individuals have mainly been targeting Members who are either bereaved or those with fundraising projects to solicit funds. The individuals send text messages to Members alleging that they are in urgent need of funds or in a situation that requires funds. The mobile lines used are usually registered under the victims' names. The targeted Members are not able to raise any suspicion and in the spirit of supporting a colleague, they oblige and send the money as requested.

Hon. Speaker, the matter does not just raise the question of privilege in this House. It is fraud and also touches on the privacy and the security of Members. It, therefore, requires urgent attention. On 3rd March 2018, I reported the matter to Parliament Police Station under occurrence Book No.27/05/03/2018 and, regrettably, not much has happened since then in terms of investigation. Although one of the individuals is well known, he is yet to be apprehended.

Hon. Speaker, I, therefore, through you, wish to make the following requests:

1. That the Inspector-General of Police ensures that investigations on this matter are expedited with immediate effect.
2. That the relevant mobile service providers, who I have also reported to, should answer questions regarding registration of cell phone numbers without genuine identification cards and possibility of fraudsters using other people's documentation to register telephone lines.
3. That all other institutions involved in this scam including banks where accounts that have been used to carry out the scam are located should also cooperate to give information.
4. That the civil society organisations that have provided Members' contacts on websites should exercise caution while doing so.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Tongaren.

Hon. (Dr.) Simiyu: Thank you, Hon. Speaker. What the Member for Murang'a has done is a very good thing. Many Members here, including me, have gone through similar incidents. In fact, I also reported to our police station here and to the Directorate of Criminal Investigations (DCI) and I am sad to report that they hardly took any action. If there are parody accounts on *Facebook*, they can always be deleted by our teams, but when it comes to people using fake telephone lines purporting to be us, it is more difficult. Eventually, the people who gave me help were the Safaricom people who managed to clear off some of those accounts.

Now that Hon. Sabina Chege has raised this matter, it appears to be a well-coordinated kind of syndicate or fraud. I am sorry to say that from the action of the DCI after I reported, I got a feeling that they were accomplices in the scam because they did nothing about it. In fact, I reported here and to the one in my constituency. One of them cheekily told me that it seemed to be coming from Kodiaga Prison. If it was coming from Kodiaga Prison, why would they not go there and arrest the people? I got a feeling that this is a very well-coordinated crime syndicate and something needs to be done. So, the matter that Hon. Sabina Chege has raised is so critical. It will be very good and helpful to most of the Members, if the Inspector-General and the head of the DCI got wind of this matter, so that they can take special precautions to get rid of this syndicate. If they can dare do that to Members of Parliament, then what do they do to the ordinary *mwananchi*? She has raised a very important matter.

Thank you, Hon. Speaker.

Hon. Speaker: Leader of the Majority Party

Hon. A.B. Duale: Hon. Speaker, this is a serious matter. For the last two years, I have been a victim of a gentleman called Mr. Nyakundi. I have his telephone number. He keeps on opening proxy accounts on *Facebook* with my photo. He says that I am offering jobs and distributing motorcycles. He tells people to pay a facilitation fee of Kshs2,000 to get the logbooks. That has been going on. I have even formally complained to *Facebook* and *Twitter*. His accounts are brought down every day, but he keeps on opening others. I have reported this matter to the Cybercrime Unit of the DCI. These people are around and are known. They have telephone numbers. One night I called and he picked, and then he told me to send the money through that number. What is happening is real.

Secondly, if you give an opportunity to Hon. Ichung'wah, he will tell you that there is a lady who has the telephone numbers of all the male Members of Parliament in the 11th and 12th Parliament. She posts most obscene photos and sends them to Members of Parliament. The question that I ask is: How did this person manage to get the telephone numbers of all the male

Members of Parliament? I am sure the female Members of Parliament have another victim. I am not sure.

(Laughter)

I am sure our women colleagues will speak for themselves. I am sure my colleagues will agree with me. I was told that she lives somewhere in Dandora. It is very ugly. She sends very obscene photos. If you allow us to give the number and write a statement with the police, we are ready. We are leaders. We are waiting for the Computer and Cybercrimes Bill to deal with these characters. The Bill will solve a lot of problems. People can send you anything. What Hon. Sabina Chege has raised is a matter of great concern. It is about our privilege. The men and women who are posted to Parliament Police Station from the DCI must help us to trace these people, particularly this lady.

Then there is a good gentleman called Mr. Kemboi. I am sure many people know him. He sends very good messages. He has numbers of all the Members of Parliament. Mr. Kemboi sends you good messages and prays for you, but in six months, he asks you to send him something small.

(Laughter)

If he is praying for us, he is a very good gentleman. When he prays for you, you must pay some *sadaka*.

We are victims of a lady. One day, I realised that every male Member is a victim. We were 10 of us. The Member for Kigumo, Hon. Jamleck, asked me whether I receive such things. I told him that I receive them, and then the others said they receive similar messages. Hon. Cheboi told me that he is also a victim. The Bunge Police Station should do something. We do not need to discuss this. It is about our privilege. Colleagues, please, for the sake of our nation, let us spend more time. We will introduce the Computer and Cybercrimes Bill next week for Second Reading. Let us contribute in the Committee of the whole House. Let us make sure that we put the relevant laws in place to protect privacy, national security, and what goes on within the usage of technology, handsets and computers.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Musimba.

Hon. Musimba: Thank you, Hon. Speaker. Indeed, I want to echo that this is a serious and grave issue. It is good it has been alluded to earlier. The Computer and Cybercrimes Bill 2017 in its formation is shallow because the issues of cyber space transcend boundaries. So, it is a possibility that some of these hackings can take place from places like Lithuania, Yugoslavia or Russia. So, what do you do about it? That is why it is important that we are ventilating. It is a very good thing that Hon. Sabina Chege brought up this issue because we need to take time.

This particular Bill cannot be under the Information and Communication Technology (ICT) docket. It has to be firmly under the security apparatus which is something I have ventilated to you, and it was ably guided by the Clerk's Office. We are still in that consultative stage. It is high time we did this because everybody is hit not within here, but without. The day you will wake up and find that your own bank accounts do not belong to you and that you have debts which you cannot explain, you will know the veracity of this. So, once again, with your

wise guidance, this is something we need to tread on carefully and reconsider the placement of the Bill as we move on.

I thank you, Hon. Speaker.

Hon. Speaker: The Bill has been published and it is awaiting Second Reading. I have seen you have read the contents of the Bill. The essence of having the Bill in public participation is to improve or remove any inadequacies that may be in it or atrocious provisions, so that, at least, by the time it becomes law, it contains as much of the issues that you have just raised, Hon. Musimba. We should not pass a law which does not help the country thinking that we did the very best. I request that you provide your knowledge in that area to the Committee. If you have other people who can even enrich it more, please, avail them to the Committee, so that we enrich the Bill.

Hon. Wamalwa.

Hon. Wakhungu: Thank you, Hon. Speaker, for giving me this opportunity to contribute. I thought I am the only one who is suffering in silence.

(Laughter)

This issue has become serious. In fact, it is almost breaking people's families. There is this particular person who has been sending funny pictures on phone. One time, I was seated and I did not know what it was. I switched on my phone. For about two or three days, it was very difficult to have communication in my house. When this incident happened last time, I was with the former Member of Parliament, Hon. Regina Ndambuki. Like the Leader of the Majority Party has said, obscene pictures are sent not only to male Members of Parliament, but also to female Members. When Hon. (Ms.) Regina Ndambuki's switched her phone, I was with her and she almost went under the seat. I do not understand how these people get these numbers. This is something that has been going on for long. Nowadays when I switch on my phone, I have to hide somewhere so that people there do not see. Someone might think that you know the suspicious people who are sending you those photos. Some of us with young families are really suffering. A colleague who is an old friend of mine told me that even if his wife saw that, she would not bring problems for him because she knows he is in retirement and is not active.

(Laughter)

For him, at least, it was okay, but some of us who are still active are really having issues. It is high time we moved with speed.

When I look at today's Order Paper, I see that this Bill is scheduled somewhere. I reported the issue at the DCI Headquarters. They managed to trace the person. The officers told me that there was no evidence. This Bill must be passed because even if the police get the people, there is nothing much they can do. That means we should move with speed. With regard to that friend called 'Kemboi', I wonder whether he is really Kemboi. I have been getting messages of encouragement from him. At times when you are low, Kemboi will pray for you and request for a small *sadaka*. At one time, I was tempted to do so, but I wondered whether he was really Kemboi or an impostor. We have been suffering in silence. I am not sure whether you, Hon. Speaker, have also been receiving similar messages because you are also a Member of Parliament.

They have conned school principals in my constituency. These fraudsters have put my picture on their profile. When I speak in the Chamber, they get my contribution and post it immediately to fool people that I own the account. They have conned school principals with regard to motorbikes project. They have conned my people of Kshs70,000 each. These are poor people who thought that I was distributing motorbikes. The fraudsters tell them to send Kshs70,000 for purposes of clearance from the port. They have also conned school principals by telling them that I am providing iron sheets and that they should send Kshs30,000 for transport. It is something which has been going on.

I am very sorry, Hon. Sabina. I hope your husband did not bring issues if at all he saw the photographs. It is a very big problem. We should even form a committee and move with speed to ensure that these people are apprehended and action is taken against them. There must be someone somewhere who has been giving out our mobile phone numbers. We give our contacts. Those people have our telephone numbers. They send us funny things and we are suffering in silence.

Hon. Speaker: Let us hear the Leader of the Minority Party.

Hon. Ng'ongo: Thank you, Hon. Speaker. A lot has been said. It appears that we are all victims of these fraudsters. I just want to mention two other issues.

First, how is it possible that numbers of almost 400 Members of Parliament - if you include the Senate - are known by one person out there? There was a mistake which occurred somewhere. I want to say this because I can see our Clerk is here. In the 11th Parliament, I gave out my telephone number and my wife's number just in case you do not get me because my wife and I are one and the same thing. I read somewhere in the Bible that what God has put together no man should separate, including mobile phones. My wife has been the biggest victim of photos of that lady. I am very clear in my mind that our numbers were given out when we gave out our contact information. I do not know whether it has happened during the 12th Parliament because during the 11th Parliament, the numbers were put on the internet and everybody could access them. We have been victims because of that arrangement.

There are two other things worrying me. First, how is it that our investigative agency is not able to arrest any of these people? The problem is not even confined to those obscene photos and bad messages. We can live with that. Your wife and your husband should be reasonable enough to appreciate that if those were your true girlfriends or boyfriends, they would not behave that way. More importantly, there are people who are conned across the country using our names. To me, that is where the biggest problem is. It is not just confined to us. It also includes other prominent Kenyans. There is need for the CID to be awake. That scares me because if no one can trace the perpetrators of such a simple crime, then, how sure am I that I am safe from terrorists, who are more advanced in the way they operate? That is one thing that worries me.

The final one is the challenge by us as policy makers. Judging from the way those people operate, it appears that they are very intelligent people. It means that we have educated some people who do not have jobs in this country. They are very innovative and have very sharp minds. When you educate people, they become intelligent and sharp. If you do not give them jobs and they are idle, they will take to this kind of crime. As a policy maker, I support the idea of working around an agenda that would create more job opportunities for our young people, so that they are able to do something useful with their lives.

I also want to indicate that I have been a victim. If you asked if there is anyone who has not been a victim to stand up, probably no one would stand up in this august House. That is how expansive, extensive and serious this issue is.

Lastly, I thank you for allowing us to ventilate on this matter. People should not look at this matter as petty. Sometimes I see the media misanalysing what we discuss. I am sure someone is sitting somewhere thinking that we are discussing petty issues. This is not a petty issue. We are speaking to Kenyan fraudsters who are using Members' and other people's names. Before you are conned, be aware that this is happening. Allowing us to ventilate on this matter should send a message to Kenyans who are watching us on television or listening to us on radio, that those fraudsters are real. So many people have lost money in my constituency. Some fraudsters even call school principals and tell them that cheques for their schools from the National Government Constituencies Development Fund (NG-CDF) are ready, and that they need money for transport to take it to them. Such principals send money. I do not understand how Kenyans are very gullible nowadays. They send money to such fraudsters and later regret it.

Hon. Speaker: Obviously, nobody can trivialise this matter. Anybody attempting to do so would be out of their mind. Of course, it is also fair to appreciate that innovators - some of whom could be very crooked - are always ahead of policy makers and regulators. That is why I agree with Hon. Patrick Musimba that as we discuss the Computer and Cybercrimes Bill, we need to go out of our way to see what is available in the technological world because the matter is serious.

Let us hear the Member for Kikuyu.

Hon. Ichung'wah: Thank you, Hon. Speaker. As the Leader of the Minority Party has mentioned, many of us have been victims of those very bad fraudsters. In my constituency, a number of people have lost a lot of money to fraudsters pretending to be the Governor of Nairobi, Hon. Mike Sonko. The stories are about the same schemes of motorbikes, cars and washing machines being given out.

More to that is the issue a number of Members have spoken about, regarding the ineptness exhibited by the DCI when those issues are reported to the office. It is not just such issues that they consider trivial, but they also trivialise very serious crimes. A week or two weeks ago, a lady from Buruburu reported a case of a car theft in Thika. Inside the car, there was a phone which whoever stole the car continued using for a whole two weeks. The case was reported. The DCI officers had the phone number. They have the ability and the capacity to trace that person, but they were simply inept. It is not enough to just say that this is a matter of privilege and security of Members of Parliament. It is a matter of concern to Kenyans at large. Therefore, it is not just enough to speak about it here.

Hon. Speaker, if in your wisdom you find it fair or just, allow the Departmental Committee on Administration and National Security to summon the Director of the DCI and the Inspector General of the National Police Service to come before it and tell us why particularly the DCI has become so inept in conducting investigations.

When Hon. Sabina Chege went to report the matter at Parliament Police Station, I was seated with a number of lady Members of Parliament at the new "Members lounge" at Java Restaurant across the road and they were complaining about this one young one man who is well known to everyone, including the police. In fact, one of the Members pointed at a gentleman who was seated in the restaurant and said that he looked like the one. When we spoke to Hon. Sabina, she was making a report at the DCI office, but nobody bothered to do anything.

Other cybercrimes are committed on *Twitter* and *Facebook*. I have been a victim to the extent that at one point when Hon. Raphael Wanjala was talking about the number of wives Members should be allowed to cover in our medical cover, he had issues with me over something that had been posted on a *Twitter* account that I did not own. It was a parody account.

I have had an altercation with Hon. Otiende Amolo on national television because of issues posted on a parody *Twitter* account. Last week, I noticed, again, that there was another parody account in my name on *Facebook*. These are matters we will deal with in the Computer and Cybercrimes Bill, 2017, at a policy level. But on matters to do with ineptness within our Police Force, more so the DCI, we should not wait for any policy in order to deal with them. It is an excuse, as Hon. Wamalwa said, for the police to claim that they cannot do anything without the law on cybercrime. Kenyans are being defrauded and yet the police claim they cannot do anything. There are laws in the Penal Code that they can use to charge some of these people. They do not do investigation because, either they are co-conspirators with them or they are collecting these things...

As Hon. Eseli said, when you report such a matter, you will be told that you are being called from Kodiaga Prison. If they know the person is in Kodiaga or Kamiti prisons, why do they not go and arrest them? Kenyans are paying the police to arrest these people whether in prison or out of prison. Otherwise, we have made crime look so ordinary that even the Leader of the Minority Party can tell us that these are young Kenyans who are being ingenious. Young Kenyans who are ingenious should be ingenious in inventing things that will make them earn an income, but not engage in defrauding other Kenyans who are as poor as they are. Therefore, let us not create excuses for crime.

Allow me, in a special way, to welcome pupils from Kikuyu Township Primary School, the school I went to for my primary school studies. They are in the Public Gallery. Thank you.

Hon. Speaker: Hon. Members, this matter was raised under Standing Order No. 52(h) as a matter of privilege. That is why I have allowed comments to be made. At some point, I may have to give some direction as to what should happen. Because the Member never sought the establishment or setting up of a House Committee to deal with the matter, we may not discuss it very much.

The Member for Suna East has indicated desire to speak.

Hon. Nuh: Hon. Speaker, I have been a victim. I have the pictures which Hon. Ichungw'ah talked about in my phone. If I share them with you here openly, you may not like to look at them. Some of them are showing very dangerous parts of the human body.

(Laughter)

You will not look at them with your naked eye. You will need some goggles to look at them. I may table them.

When I saw the anguish on the face of my deputy when he was speaking, I felt sorry for him. Sometimes, you may be under suspicion at home and when such messages are sent to you, they may confirm the suspicion that people have on you. It is a very painful experience to go through. You may give your son your phone to play games and a message pops up showing things which have never been seen openly, but only in darkness. People switch off lights when they want to see them. This is a very dangerous thing. The biggest threat that the world and this country is facing is cybercrime. People have lost money and some have even lost their lives. In this country, everyone is joining *Facebook*, *Twitter* and other social media platforms. I saw the founder of *Facebook* last year eating *ugali* and fish with the Cabinet Secretary in charge of ICT. They have millions of accounts, but out of all of them, five million accounts could be fake. They are open to abuse people. People are intimidated and maligned and even political careers have been destroyed.

It is only ladies who used to complain about cyber bullying, but now it is men. We thought we were strong enough to withstand that bullying. I have come to confirm that if you come under their attack for only a week, you could think of running away from this country. If the keyboard warriors come for you for only one week, you could easily go under water. They can chase you out of town.

So, these characters have taken Members' phone numbers. It is true there is a list that is generated every time we come to a new Parliament. The only mistake the Leader of the Minority Party did was to put down his wife's number instead of his. That was a big mistake. You do not put your wife's number on the list because they can harass her badly. I am very sorry for him. They picked the number from that list. She has now resisted and has changed her number. It is good that there was resistance even though it is now going slow. Some people who cannot handle it want to continue with it. We are the champions of resistance. Once we have cooled it, let them keep quiet and listen to the owners, so that they can be told how to move it tomorrow. Anyway, that is besides the point.

They picked the list from Parliament and used the numbers. The list of Members' names and phone numbers belongs to Parliament and is a confidential document that is supposed to be used by parliamentary staff, especially for purposes of reaching Members to attend committees. It is not for members of the public.

The Computer and Cybercrimes Bill that will be moved soon is going to be of much importance to this country more than any other Bill. It is going to help this country more than any other law that has been passed in this country. Sixty per cent of the National Police Service personnel were employed when mobile phones were not in existence. They were employed in 1960s and 1980s. You all know that in Kenya, when you join the Civil Service, you never retire – you just reduce your years. The years begin when you join Standard One and not when you were born. You will see an old police officer carrying mobile phones which do not have the *Facebook* Application or rather phones which are not smartphones. When you report to him that you have been bullied through a smartphone, he wonders what it is and when you bought it. The first question he will ask you when you report is when smartphones first came to Kenya.

Hon. Speaker: Member for Baringo County. Before you make your remarks, it is fair to state that parliamentary staff are always under instructions never to disclose information of Members that is given. It is only for official purposes. But you may wish to know that there are certain organisations that have written about Members. You may wish to find out how they get some of the information about Members that they use.

Hon. (Ms.) Cheruiyot.

Hon. (Ms.) Cheruiyot: Thank you, Hon. Speaker. It is a very unfortunate situation. As I am seated here, the Member on my left side has received some things on his phone and is hiding his phone from me.

Hon. Sabina, who was the first to speak, spoke among many men. However, I want to speak on behalf of women. I am a victim of cyber bullying. The truth of the matter is that we do not know where these criminals get the immunity. For sure, when you report them, nothing much is done to them. It is either the investigative bodies are conduits or they do not have enough knowledge to investigate these criminals. You realise that some of the criminals in cyber bullying are civil servants. You wonder how a civil servant cannot be found even after knowing where that person works. It is so unfortunate especially for us women. At times, the things which are written on *Facebook* pages and walls, if you have a husband whose shock absorbers are weak, he may divorce you. He may not know the difference between what he is seeing and the

truth about his wife. We do not know how long these shock absorbers of our partners will work. Maybe by the time we are getting out of this Parliament, we will be singles if this thing is not addressed.

For sure, cybercrime is a real distractive issue that is walking around. The Leader of the Minority Party was talking about jobs. Which jobs do they need when they cannot respect anybody including the President? I read a tweet by someone directed to the President and a certain governor. Are you saying people lack jobs and that is why they are writing this? As one Member has said, many of these social media accounts are fake. We want to know, through the Inspector General's office, whether our investigative department specifically the DCI lacks capacity to investigate criminals particularly cybercrime in this country. We cannot continue like this. Some people are losing their jobs especially political careers, as a Member has said.

So, I am talking on behalf of the rest of the Members of this House and a Member of the Committee on Powers and Privileges. If the Members in this House, who are given powers and privileges by the National Assembly (Power and Privileges) Act, 2017 are not immune to such abuses, then, what happens to the members of the public? It is sad and obscene. The person who at one time exposed Hon. (Ms.) Cecilia Ng'etich, the former Woman Representative for Bomet County, is all over seducing all the women in this House. So, the men are saying that they are being seduced and all the women in the House are being seduced. I wonder how some of these character assassination messages go to newspapers like *The Nairobiian*. When you talk of *The Nairobiian*, is it allowed to publish anything about anyone anytime? I was telling a Member this afternoon that she should fear buying...

Hon. Speaker: Hon. Members, honestly, it is not a debate. I had intended to give the Member for Kimilili a chance to speak for two minutes.

Hon. Didmus Mutua: Thank you, Hon. Speaker. I am happy that this matter is being discussed here. I am worried that we are discussing this matter amongst ourselves. You only need to complement this discussion by either ordering that the Inspector General of Police or the Director of the DCI appears before a Parliamentary Committee to tell us what efforts the police have put in place to ensure that all this madness stops. Today, if a poor man steals even a Kshs100 with a functioning mobile phone, I am sure the police will arrest that person within the shortest time possible. So, are these criminals paying insurance premium to the police officers so that the police can protect them?

I am sure if a Member of Parliament reports a matter to the DCI that a particular criminal is swindling people's money while pretending to be a Member of Parliament, and the same person continues to send *WhatsApp* messages, the police cannot take too much time arresting these people if they are serious. As House, we should order that people who are in charge of investigating these matters appear before a committee of Parliament, so that they know that this matter is serious. Otherwise, we will be discussing this matter every day, but these criminal gangs still exist, change tactics and continue to defraud many Kenyans.

Thank you.

Hon. Speaker: Member for Kiambu.

Hon. Njomo: Thank you, Hon. Speaker. I thank the Member for Murang'a for bringing this issue which has bugged so many people. Many of them have not had the courage to bring it out. I know many Members have been affected by this. I do not want to repeat what Members have said and the experiences Members and other Kenyans have gone through. If we were to do that, the Government could consider opening a Ministry of fraudsters because the cases are too many. With regard to Members, there is a website called *Mzalendo.com*, which does a good job. The

owners collect information from Parliament regarding the number of Members who have spoken and what they have contributed about, but they have gone ahead to give private information about Members thus putting the lives of Members in danger. If Mzalendo would know, they would even pinpoint where your House is and this would be very dangerous.

As other Members have said, it is very important that telephone service providers should be called to this House to explain how fraudsters register telephone numbers with Members' names thus causing confusion. The IG and the DCI should be called to this House to explain why steps are not being taken against these fraudsters. As this happens, we should also call *Mzalendo.com*, so that they can come here and explain where they get private information about Members.

To conclude, many cases have been reported not only in this House, but out there where Members of the public have been losing a lot of money and where their lives have been threatened. Many of those incidents have been reported to be coming from Kamiti and Kodiaga prisons, among other places. This is in public domain. Everybody knows this. When they ransack prisons, they get many telephones. My question is: Why is it so difficult for the Prisons Department to block the usage of telephone in prison, such that criminals cannot use telephones within prisons? This can reduce this menace which is affecting many people out there. If we call these people to this House, I am sure we shall have done so much to curb this problem.

Hon. Speaker: Hon. Members, we will end that debate at that point. I will give the following orders: This matter being a matter touching on privilege and a matter that goes to security of Members and, indeed, many Kenyans out there, it cannot be taken lightly. Therefore, I refer it to the Departmental Committee on Administration and National Security which should, within seven days, invite the IG, the Director of Criminal Investigations, the Director-General of the Communications Authority of Kenya and telephone service providers, namely, Safaricom, Airtel, Telkom, whatever their baptismal names may be, to appear before the Departmental Committee on Administration and National Security. It is fair that when the Committee sits... What is Mzalendo? Do we have their addresses?

Hon. Njomo: (*Off-record*)

Hon. Speaker: Hon. Members, Parliament does not operate that way. If you start giving me those funny names and they are nowhere, you better appear before the Committee. When those people come, go and make the allegations against those Mzalendo, Mzawi, Msafiri or whatever name. Go and make the allegations there so that those who are present can undertake to investigate them. Let the House just deal with bodies that are known to work for the Government so that if any matter is found to have originated from some quarter, whether it is called Mzalendo, Msafiri or Mlalasalama, whatever the name; those institutions may be directed by the Committee and by this House to go and investigate them.

I am happy that the Vice Chairman of the Committee, Hon. Waluke is in the House. Please undertake to do that so that, not just Members but also other Kenyans, can actually be safe from this menace. If you heard what the Hon. Chris Wamalwa said, Members are under threat of extinction. Hon. (Ms.) Gladwell Cheruiyot says that she might leave this place single, unless she has somebody who develops a thick skin.

Hon. Waluke.

Hon. Koyi: Thank you, Hon. Speaker for giving me this chance also as the Vice Chairperson of the Departmental Committee on Administration and National Security.

Indeed, it is shameful to our children sometimes when messages like those come. As a Committee, we met and talked about this yesterday. We deliberated fully and decided that certain people should be called although they were not as many as you have given me. We had decided

to call the Inspector General of Police and the Director of Criminal Investigation. We will add the Director of the Communications Authority of Kenya, Safaricom and Telkom. We are taking action. We slated the meeting for Thursday, the day after tomorrow so that we take action as it is supposed to be.

Members should know that this is a very serious Committee and the number one Committee in the country. The leadership of that Committee is very serious, the members are very serious. Because all of us are affected by this, we will take very serious action.

Thank you for that indulgence.

Hon. Speaker: Very well. Then, letters should be issued immediately so that those people we have directed appear before the Committee.

Next Order.

MOTIONS

REPORTS OF MEETINGS OF THE INTER-PARLIAMENTARY UNION

THAT, pursuant to the provisions of Article 7 of the Statutes of the Inter-Parliamentary Union, this House adopts the reports of the 129th, 130th, 131st, 133rd and 134th Assemblies of the Inter-Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland on 7th to 9th October 2013; 16th to 20th March 2014; 12th to 16th October 2014; 15th to 21st October 2015, and in Lusaka, Zambia from 17th to 23rd March 2016 respectively, laid on the Table of the House on Tuesday, 20th February 2018.

Hon. Speaker: Order, Members.

(Hon. Didmus Mutua stood in his place)

Member for Kimilili, take your seat.

Debate on this Motion was concluded before we took the short break. What remains is the Question to be put which, I hereby do:

(Hon. Losiakou on 1.3.2018)

(Debate concluded on 1.3.2018)

(Question put and agreed to)

REPORTS OF MEETINGS OF THE ACP-EU JOINT PARLIAMENTARY ASSEMBLY

THAT, this House notes the Reports of the Kenya delegation to the Sessions of the African, Caribbean and Pacific (ACP) Parliamentary Assembly and the African, Caribbean and Pacific-European Union (ACP-EU) Joint Parliamentary Assembly, laid on the Table of the House on Wednesday, 21st February, 2018 as

- (i) Report of the 47th Session of the ACP Parliamentary Assembly and Inter-Sessional meetings of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 9th to 12th October, 2017; and

- (ii) Report of the 48th Session of the ACP Parliamentary Assembly and the 34th Session of the ACP-EU Joint Parliamentary Assembly held in Port-au-Prince, Haiti from 13th to 20th December, 2017.

(Hon. Nassir stood in his place)

Hon. Speaker: Why do you not take a seat, Member for Mvita? Do you feel a bit uncomfortable sitting?

(Hon. Nassir resumed his seat)

I was wondering how you can be uncomfortable while you are a Chairman of a Committee.

(Hon. Bady walked in the aisle)

Just take your seat. You are holding us.

(Hon. Losiakou on 1.3.2018)

(Debate concluded on 1.3.2018)

(Question put and agreed to)

Hon. Members, I think it is fair Members from this House who attend those various meetings of those institutions to which we are members bring their reports and table them for debate. We do not want to be debating reports which are three years, two years and one year old. I am saying this because I know some Members have attended some of the recent ones. I congratulate those who went to the recent Joint Parliamentary Assembly of the African, Caribbean and Pacific-European Union (ACP-EU) because they have already tabled their Reports.

Next Order.

BILLS

First Readings

THE PARLIAMENTARY SERVICE BILL

THE DIVISION OF REVENUE BILL

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

Second Readings

THE NAIROBI METROPOLITAN AREA TRANSPORT AUTHORITY BILL

Hon. Speaker: This is a Bill by the Leader of the Majority Party.

Hon. Washiali: Thank you, Hon. Speaker. On behalf of the Leader of the Majority Party, we wish to step down this Bill given that the Report is not ready for the Members to look at.

Hon. Speaker: It is so ordered.

(Bill deferred)

THE COMPUTER AND CYBERCRIMES BILL

Hon. Speaker: Oh, it looks like the Majority Whip is already in bed. The Bill is by the Leader of the Majority Party. Hon. Musimba and Hon. Osotsi reported to me separately that there are still consultations going on and they are still receiving views on this Bill. Is that the case? Hon. Osotsi, you are the one who approached me. Maybe, you could react.

Hon. Osotsi: Thank you, Hon. Speaker. The Computer and Cybercrimes Bill is under discussion in the Departmental Committee on Communication, Information and Innovation. The Vice-Chair is here and we are not yet ready with the Report. So far, there are a few areas we need to improve on. As Hon. Musimba has said, the Bill is largely hollow. There are so many types of cybercrimes which have not been captured. Hon. Members discussed some of those crimes this afternoon. Crimes like cybergrooming, cybersquatting and many others are captured in the Bill. Most importantly and to a large extent, the Bill is not aligned to international standards, as *mheshimiwa* alluded to. Therefore, we need to put in a lot of effort. The Committee is doing a lot in improving it. A few other clauses may be introduced, but we also welcome Hon. Members with ICT background, like Hon. Musimba, to present their views to the Committee before we present our Report to the House.

This is a very welcome Bill. Only yesterday, I read in UK newspapers that over 1,000 young people have been victims of cybergrooming; and that over 20 people have died as a result of that challenge. This is a very serious issue. An important thing that this country needs to look into is how to protect what we call “critical infrastructure information system”. For example, we have been discussing the issue of how criminals get our numbers. It is very easy for one to get into the databases of Safaricom and Airtel and get people’s numbers. Therefore, we would want the Computer and Cybercrimes Bill to also look for ways of protecting the critical infrastructure information system. These are matters that the Committee is looking into...

Hon. Speaker: Unfortunately, those are things you could say when you discuss the Bill. There is no Bill before the House now. I just asked you to confirm that your Committee is not ready. I think you are commenting on the earlier issue raised by Hon. Sabina Chege.

Hon. Osotsi: Hon. Speaker...

Hon. Speaker: Hon. Members, please, familiarise yourselves with the Standing Orders. I do not take it kindly when I see Members displaying so much ignorance of the rules that are supposed to govern their own operations in the House. Do not tell me that there is the Vice-Chair. What is the Vice-Chair supposed to do? We are not discussing the Bill. We have already given direction as to what should happen to the matter that was raised by Hon. Sabina Chege. It cannot be that the rest of the day, we will only discuss about how you have been conned and how

you have received funny photographs. Your mind must be dealing with other things; not just that issue. The long and short of it is that you are not ready, Hon. Osotsi? My advice is that since you are the people with that background, please, improve on that legislative proposal. Make sure that it captures all that is necessary, in your own imaginations. If you have other people who you think could enrich it, feel free to invite them. We would rather not begin debate on that Bill until such time that you have received as much input as possible from all possible shades of stakeholders.

Hon. Osotsi, the point you are making is that you are not ready. Never mind whether the Bill looks hollow. You are the ones to give it substance so that it captures all that you would feel comfortable to see in that kind of legislation. That is the long and the short of the matter. Therefore, we will defer debate on it. Is that the position, Hon. Washiali?

Hon. Washiali: Thank you, Hon. Speaker. Indeed, this Bill is very sensitive. As the leadership of the Majority side, we have been receiving a number of proposals, including one to provide for establishing a cybercrime police section. I have heard Members complain that officers are not acting. It is true that they may not have done anything because they may not have the knowledge or expertise to handle matters of cybercrime. With what we heard from hon. Members, we wish to request that we defer this Bill so that the Report can be done with the opinion of all Members on board, so that we can solve this problem once and for all.

Thank you, Hon. Speaker.

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

Hon. Speaker: What is it, Member for Nyeri Town?

Hon. Wambugu: Thank you, Hon. Speaker. Based on the conversation we have had on the issue of cybercrime since the beginning of this session, I personally think this particular Bill has been misplaced in terms of the Committee it has been directed to. We have been discussing issues of crime. I listened to Hon. Angwenyi talk about an ICT police department. In my opinion, at the very least, this Bill should have been referred to a joint committee of the committees responsible for national security and ICT matters. At best, the Bill should have been referred to the Committee responsible for national security matters because the primary issues we are discussing are about crimes committed within the cyberspace using information technology.

Hon. Speaker: You rose claiming to be on a point of order. What is out of order?

Hon. Wambugu: Hon. Speaker, the Bill should have been directed to the Committee on Administration and National Security, and not the Committee on ICT.

Hon. Speaker: The Bill has already been referred to the Committee on ICT. No Member is precluded from attending any committee sittings. If you think there is something about rearing of camels or donkeys which is before the Committee on National Security and you are not sure whether matters pertaining to donkeys belong to the Committee on Agriculture and Livestock or the Committee on Labour and Social Welfare or the Committee on Transport, please, attend because the debate will be about donkeys. If the matter is before the Departmental Committee on Labour and Social Welfare or the Committee on Agriculture and Livestock, attend the committee's sittings because a donkey is an animal. If it is before the Committee on Transport and you know about donkeys, please appear there and talk about how donkeys can be good in transporting goods. The diminutive Hon. Member for Mwingi Central will tell you how donkeys could be useful in transportation. I am giving these examples because it does not matter. Our committees oversee so many sectors. One committee could be overseeing several sectors. That is why the rules permit any Member to appear and participate in the proceedings of any committee of this House. The only thing they may not do is, in the event of voting, hon. Members may not

vote in committees to which they are not officially designated. It is only the Speaker who is not allowed to participate. In that sense, I am a little happy that I am not allowed to participate.

That business is deferred from the Order Paper.

(Bill deferred)

Next Order.

THE IRRIGATION BILL

Hon. Speaker: Leader of the Majority Party.

Hon. Washiali: Thank you, Hon. Speaker. The Report on the Irrigation Bill, 2017 is not ready. If you were watching keenly, the Vice-Chair, who is sitting next to me, was telling me that, as a Committee, they are not ready with the Report on this Bill. It is only when Members can read the Report that they can effectively participate in the debate of this Bill.

Hon. Speaker, if you allow me, I will take this opportunity to request Committees that have pending reports to hasten and finalise them because debate on all of these Bills will be based on the reports they will give to this House. Therefore, it would be much better for us to have Reports early enough so that we look at them before the Bills eventually land on the Order Paper. Therefore, I beg to step this Bill down because we are not ready as a House to debate.

Hon. Speaker: It is so ordered, but of course the request made by Hon. Washiali is a fair one. I urge the leadership of Committees, especially those who are considering various Bills, to please remember, you have a window of 21 days. If you need more time, you need to come to the House and seek more time. Do not just sit and say you are still considering. No, it is not enough. Just come to the House. Feel courageous enough to come to the House and say you are still engaging with stakeholders. It is a constitutional requirement. There is no mistake you will make in coming to state that, indeed, you are dealing with stakeholders. That is what the law expects you to do. However, for those who could be ready, please, hasten so that the House is able to move on and be busy.

(Bill deferred)

Next Order.

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.44 OF 2017)

Hon. Speaker: Although this Bill was signed by the Leader of the Majority Party, I have information that the Committee that has taken the lead in dealing with stakeholder and public participation is the Departmental Committee on Finance and National Planning. My information is that the Chairman of that Committee is the one who is supposed to lead debate on this. Hon. Limo, is that so?

Hon. Limo: Thank you, Hon. Speaker.

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

Hon. Speaker: What is your point of order, Hon. Wamalwa?

Hon. Wakhungu: Hon. Speaker, I want to thank you for this opportunity. I just needed your direction because we have stepped down all these Bills because of the absence of the Committee Reports. We appreciate that no Bill should be debated if we do not have the Committee Report. Pertaining to the next business of the Statute Law (Miscellaneous Amendments) Bill, may I know whether there was any Report from the Departmental Committee on Finance and National Planning or we are just debating because it is on miscellaneous amendments? I am saying this because last time we had an amendment...

Hon. Speaker: Let me just save you. I had taken the extraordinary step of going to permit Hon. Limo to table the Report of this Committee and lead the debate on this Bill. Hon. John Mbadi, you cannot question my exercise of power, nor ask a question.

(Laughter)

Hon. Ng'ongo: Hon. Speaker, just indulge me although I am bringing this a little late. I do not want to question your ruling for allowing debate on Order No.14. The last sitting that we had, the Leader of the Majority Party read out before this House, and everybody heard, the Bills that we are supposed to discuss today. I urge Chairpersons of Committees to be taking seriously the Statement from the Leader of the Majority Party on Thursday evenings because it is for something – The Statement is meant to indicate those Bills that we have approved as a House Business Committee (HBC) so that they prepare for the following sittings. We were advantaged this time because at least we had one-week recess although we were away. The Committees that were scheduled to present their Reports should at least have finalised by now. I urge the Committees to take seriously the Statement by the Leader of the Majority Party. Sometimes we think it is just a ritual and Members do not even listen. I think there is need for these Committees to take interest in that statement.

Hon. Speaker: You are absolutely right, but the only reason I have not reprimanded any particular Committee is because of the extraordinary circumstances between Monday and Thursday last week. The Committees could not have been able to sit. Perhaps, they might not have had sufficient time to sit and consider most of their Reports and be able to give us updates after returning back from Mombasa. That is the reason, in all fairness; I have not reprimanded any particular Committee. I have taken the liberty to allow Hon. Limo to lay the Report, give notice and lead the debate.

Hon. Musimba, do you also have a point of order?

Hon. Musimba: Hon. Speaker, I think it is a bit of housekeeping rules. I seek some direction from you. I think it is the way we introduce Bills in the House. You know they come marked in the name of the Leader of the Majority Party. Bills should be introduced by the Chairpersons of particular Committees so that we have a good order and following. The Leader of the Majority Party, though knowledgeable, cannot be knowledgeable in a wide array of things. I invite you, Hon. Speaker, to actually consider this for a good order because the Committees indeed sit and ventilate upon aspects for hours on end. So, when from time to time, the Leader of the Majority Party only reads through notes, he might not grasp what needs to be emphasised and what is not new. I seek your indulgence for purposes of good order.

Hon. Speaker: Well, it is not for me to guide. Since 2013, at the first post-election conference, we got a brief that the Executive, in a presidential system, introduces Bills in the House on request through any Member. That advice was given. I thought everybody was present. However, the Executive is at liberty and, it is the one that will introduce most of the Bills.

However, should individual Committees come with any legislative proposal, obviously, they would have those proposals in their names. That is the practice. Hon. Musimba, I believe you could approach the Leader of the Majority Party and the Majority Whip and try to share that proposal you have in mind.

Hon. Limo, the Floor is yours.

PAPER LAID

Hon. Limo: Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Tuesday 13th March 2018:-

Report of the Departmental Committee on Finance and National Planning on the Statute Law (Miscellaneous Amendments) (No.3) Bill (National Assembly Bill No.44 of 2017).

Thank you, Hon. Speaker.

Hon. Speaker: Very well. Hon. Limo, you may proceed. I had already approved the Report. Is it Hon. Washiali who is moving?

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO.44 OF 2017)

Hon. Washiali: Hon. Speaker, I beg to move that the Statute Law (Miscellaneous Amendments) (No.3) Bill (National Assembly Bill No.44 of 2017) be read a second time.

Hon. Speaker, I want to take this opportunity to indulge the new Members because this is the first time a Bill of this kind is coming to the Floor of the House.

As the heading reads, this is a Miscellaneous (Amendment) Bill, which includes a number of Bills put together. That is why it is a very interesting Bill. I would request you to read and participate.

Hon. Speaker, the National Assembly received 24 written memoranda from various stakeholders after publication of the Bill in December, 2017. The memoranda were from:

1. Kenya Union of Domestic Hotels, Educational Institutions, Hospital and Allied Workers (KUDHEIHA)
2. Donald Odera, Partner International Liaison / Head of Advisory Services, Horwarth Erastus & Co.
3. Lydia Da Costa.
4. Ministry of Health (Pharmacy and Poisons Board)
5. The Judiciary.
6. Rose J. Birgen, Natural Justice –Kenya Natural Resource Alliance, Save Lamu, Friends of Lake Turkana.
7. Central Organisation of Trade Unions (COTU)
8. Dr. Pius Wanjala: Pharmaceutical Regulatory Specialist (Pharmacy), Advocate of the High Court of Kenya and Senior Deputy Director of National Quality Control Laboratory, (MOH)
9. Cytonn Investment Management Limited, (National Environmental Tribunal)
10. Kenya Union of Clinical Officers (Amendment of the Clinical officers, Training Registration and Licensing) Act 1988 (No. 9 of 1988)
11. Mr. Okiya Omtatah Okoiti, Law Society of Kenya versus the Attorney General Constitutional Petition No. 3/2016.
12. Mr. Ernest Muguku Muriu, Certified Public Accountant.

13. Mr. James Wathigo (Pharmacy and Poisons Board).
14. Senator Kenneth Lusaka MP. Hon. Speaker, I do not know if it is the same Lusaka I know because it is completely different. It concerns county governments. Hon. Speaker, allow me to countercheck this because the facts as enumerated here do not add up.
15. Mr. Sospeter Otuya Katiechi (Pharmacy and Practitioners Bill 2014)
16. Salaries and Remuneration Commission (SRC)
17. The Kenya Coalition for Wildlife Conservation and Management (The Environmental Management Coordination Act of 1999) by Sydney Quintai, Chairman KCWCM
18. Federation of Kenya Employers, (The voice of employers).
19. The Institute of Social Accountability.
20. Trade Unions Congress of Kenya (TUC-K)
21. Pharmaceutical Society of Kenya.
22. Kenya Pharmaceutical Distributors Association.
23. Federation of Kenya Pharmaceutical Manufacturers.
24. Office of the Attorney-General and Department of Justice

Hon. Speaker, the Statute Law (Miscellaneous Amendment) Bill, 2017 is a simple and straightforward Bill. It seeks to make minor amendments to the various Acts including the Pensions Act (Cap 189), the Pharmacy and Poisons Act (Cap 244), the Environmental Management and Co-ordination Act No. 8 of 1999, the Salaries and Remuneration Commission Act No. 10 of 2011, the Statutory Instruments Act No. 23 of 2013 and Occupational Therapists Training, Registration and Licensing Act No. 31 of 2017.

Hon. Speaker, permit me to expound on the specific amendments that the Bill is proposing to introduce.

Firstly, it proposes to amend Section 2 of the Pensions Act by inserting the definition of the term “Minister” to mean “Cabinet Secretary (CS)” This is in line with the Constitution which uses the word “Cabinet Secretary” and not “Minister”. Further, the Bill amends Section 5(3) of the same Act in order to increase the number of years that an officer must complete in order to qualify for any pensionable benefits from five years to 10 years.

Secondly, the Bill proposes to amend the Pharmacy and Poisons Act so as to provide for a Chief Executive Officer (CEO) of the Pharmacy and Poisons Board who shall be competitively recruited and appointed upon terms and conditions of service as shall be determined by the Board.

Moving on, the Bill further proposes to amend the Environmental Management and Coordination Act in order to provide for the election of Chairperson and Vice Chairperson of the National Environmental Tribunal established under Section 125 of the Act from amongst the three lawyers nominated to the Tribunal. The three lawyers are the chairperson nominated by the Judicial Service Commission, advocate of the Environment and Land Court of Kenya nominated by the LSK and a lawyer with professional qualifications in environmental law appointed by the Cabinet Secretary for Environment and Forestry. Further, the Bill clarifies on the power of the Tribunal to issue orders of stay of proceedings maintaining the status quo in regard to any matter or activity which is the subject of appeal before the Tribunal until it is heard and determined.

Hon. Speaker, looking at the Bill, you will observe that the Bill seeks to amend the Salaries and Remuneration Commission Act in order to provide for the Commissioners of SRC to serve on a full time basis. I ask the Members to be keen on this amendment because, I am sure we have been victims of this Commission. We need to be very keen on whether we would want them to be on full time basis. Indeed, as you are aware, SRC plays a very critical role in ensuring that the

public wage bill is fiscally sustainable so as to promote economic development of this nation in line with its mandate as espoused and provided for in Article 230 of the Constitution.

Hon. Speaker, the Bill also proposes to amend Statutory Instruments Act in order to align the Act with Article 93 of the Constitution which establishes the two Houses of Parliament.

In this regard, the Bill amends Section 11 of the Act to allow for the tabling of statutory instruments to the relevant Houses of Parliament.

Finally, the Bill proposes to amend the Occupational Therapists Training, Registration and Licensing Act in order to correct a cross cutting error in Section 4(1) (a) of the Act.

As I conclude, the Bill therefore, simply proposes to clean up the Acts and further realign them with the Constitution. This being an omnibus Bill you referred it to the relevant Committees. I beg to move and ask the Chairperson of the Departmental Committee on Finance and Planning, Hon. Joseph Limo, Member for Kipkelion to second.

Thank you, Hon. Speaker.

Hon. Speaker: Who is seconding you? Hon. Limo, as a Chair you are not limited to 10 minutes.

Hon. Limo: Thank you, Hon. Speaker. I stand to second this Bill. First, let me state that ideally, this Bill is for housekeeping. Therefore, the new Members in the House should not be worried and think there is a mix-up because it is touching almost every corner of legislation. The purpose is to clean grey areas without going to substantially alter the various Acts of Parliament.

As the Departmental Committee on Finance and Planning, we played a coordinating role because other Committees held their meetings and went through the various sections which were touching on various Acts of Parliament and came up with various amendments which we combined with our own amendments and covered them in our Report. As I read this am bringing the House to speed on what the Bill proposes to do but that does not necessarily mean that the various Committees which went through this Bill are in agreement. If you get a Report from the Table Office you will come to understand the position of the various Committees which went through this Bill.

I will not repeat what the Majority Whip has said while moving but I just want to touch a few areas which he has not touched. Some of them are the Technical and Vocational Education and Training (TVET) Act, 2013 which the Bill proposes to amend by excluding institutions which are established under these individual Acts of Parliament from the mandate of the Kenya Universities and Colleges Central Placement Service (KUCCPS). As you can recall, there was a dispute between the KUCCPS and the Kenya Medical Training College (KMTC) on the issues of admission of students. Given that the Government has given a lot of resources in building the TVETs, we do not want to see a situation where there will be conflict between these boards with regard to admission of students. We want to have the TVETs managed independently by the various boards.

(Hon. (Ms.) Passaris crossed the Floor without bowing)

Hon. Speaker: The Member standing there, what are you doing? Also the Member for Nairobi, if you want to shake hands with people sitting to the right of Mr. Speaker, you must go up to the door, bow and then cross. You cannot just move from here and then you want to shake hands. This is not a public *baraza*. Even, the Member talking to Hon. (Ms.) Kathambi, what is his name? Please, it is good to learn our own Standing Orders.

Hon. Limo: I was saying that this Bill gives independence to the TVETs to admit students without reference to the KUCCPS. The Bill also proposes to amend the Kenya Roads Board (KRB) Act, in order to prescribe the qualifications of the Executive Director of KRB. At a later stage we realised that we need to revisit the Roads Bill, and ensure that there is flexibility especially on the appointment of directors, to allow all Kenyans who are able to contribute and build the nation to also be appointed.

The Bill also proposes to amend the Dairy Industry Act, to align the definition of “milk”. In this Act, milk was defined to only mean cow’s milk. Now, it is expanding to include goat and camel milk. We realised in line with making sure that we are a food secure country, we want to allow farmers to also keep goats and at the same time also recognise that our brothers from the northern part of the country drink camel milk. I understand that camel milk is very good and has medicinal properties. Therefore, it is good to include it in our Act.

The Bill also seeks to amend the Kenya Institute of Curriculum Development (KICD) Act to among other things reconstitute the governing council of KICD. This is in line with the current reforms in the education system. The Bill also proposes to amend the Alcoholic Drinks Control Act, 2010, to align the definition of the word “magistrate” with that of---

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

Hon. Speaker: What is your point of order, Hon. Chris Wamalwa?

Hon. Wakhungu: On a point of order, Hon. Speaker. I think there is a mix-up because ordinarily we have always said that this is a House of traditions. When a Miscellaneous (Amendment) Bill is here, normally they highlight which Acts are being amended. The Majority Whip has gone through the Bill, but while seconding, I have realised Hon. Limo is introducing new Acts which are not in the Bill. For instance, he has talked about KICD, KRB and TVETs. I have gone through the Bill and there is nothing like that.

So, can you give direction, so that we can know which Bill he is referring to? We have realised that when it comes to this Statute Law (Miscellaneous Amendment) Bill which is omnibus, we normally see some funny clauses being sneaked in. I think this is what Hon. Limo is busy trying to do. The Bill is here and there is nothing on what he is saying. Hon. Speaker, we need clarification.

Hon. Limo: Hon. Speaker, I only want to ask my brother to patiently wait for me to second and he can go through the Report and realise the areas he is not seeing. If he has gone through the Statute Law (Miscellaneous Amendment) Bill and failed to see these Acts, then, that is not my responsibility.

The Bill also seeks to amend the Clinical Officers (Training, Registration and Licencing) Act (No. 9 of 2017) to make consequential changes to the terminologies arising from the enactment of the Constitution. When the Constitution was enacted, it actually meant that some terminologies were changed. This will align the law with the Constitution.

As the Mover has already said, the Bill proposes to amend the Salaries and Remuneration Commission (SRC) Act. I want to bring this to the attention of hon. Members. They should read this one very carefully. You need to understand the import of making SRC commissioners full time.

Hon. Speaker...

Hon. Speaker: Sorry, Hon. Wamalwa referred to TVET?

Hon. Wakhungu: Hon. Speaker, what the Deputy Leader of the Minority Party, Hon. Washiali, mentioned...

Hon. Speaker: Remember that the Statute Law (Miscellaneous Amendments) (No. 2) Bill was withdrawn. We are dealing with the Statute Law (Miscellaneous Amendments) (No. 3) Bill. Are you looking at the Statute Law (Miscellaneous Amendments) (No. 3) Bill?

Hon. Wakhungu: Yes, I am on No. 3. Hon. Mbadi can confirm.

Hon. Speaker: Which begins by a proposed amendment to the Pensions Act?

Hon. Wakhungu: Yes, that one is there.

Hon. Speaker: The Pharmacy and Poisons Act?

Hon. Wakhungu: Yes, it is there.

Hon. Speaker: The Clinical Officers (Training, Registration and Licencing) Act?

Hon. Wakhungu: Yes, it is there. The SRC Act is also there.

Hon. Speaker: Just a minute. The next one is the Environmental Management and Co-ordination Act?

Hon. Wakhungu: Yes, it is there.

Hon. Speaker: After that, is the SRC Act?

Hon. Wakhungu: Yes.

Hon. Speaker: The Statutory Instruments Act?

Hon. Wakhungu: Yes.

Hon. Speaker: The Occupational Therapists (Training, Registration and Licencing) Act?

Hon. Wakhungu: Yes, and it ends there.

Hon. Speaker: That is the last one?

Hon. Wakhungu: Absolutely, Hon. Speaker. He is introducing new things. He is bringing the Kenya Dairy Board Act, and the TVET Act. He is reading a wrong one. Actually, he is misleading the House. That was withdrawn. He was not paying attention.

Hon. Limo: Hon. Speaker, if you look at page two of the Statute Law (Miscellaneous Amendments) Bill, immediately after the Pensions Act, there is the Dairy Industry Act.

Hon. Speaker: Even your own Report does not have those ones.

Hon. Limo: Hon. Speaker, we are properly guided. The No. 2 Bill was stood down. The one which I was given here is Bill No. 2 and the correct one is Bill No. 3. So, we are properly guided.

I have actually stated most of the things here. I was actually clarifying about the amendment to the SRC Act. I want to make clarification to Members here that the import of the amendment to the SRC Act is that it makes the commissioners full time. Hon. Members need to understand what it means to make the commissioners full time. We need to be very careful. I know you have understood what I mean. The Committee has recommended some amendments which you will read in our Report. We recommend that, because SRC has actually stayed long enough, it has a full-time secretariat which is well established. There will be really no need of making them full time. That is because much of the work is being done by the secretariat. At the same time, it has been done by consultants. They always hire consultants.

The Bill also proposes amendments to the Occupational Therapists (Training, Registration and Licensing) Act, 2017. This is basically to correct errors in the Bill. There is also a clause proposing an amendment to the Pensions Act to change the qualification. To benefit from pension, you must have completed 10 years. This will be in line with what is happening even in Parliament. There has been a feeling in this House that parliamentarians are subjected to 10 years while other civil servants are only required to serve five years and they qualify for pension. So, this is trying to align the Act with the practice here. If the feeling of hon. Members is that that is fine, then we should go by it. If not, then we amend the pensions relating to

Parliament to ensure that parliamentarians also serve five years like any other civil servants. This Bill ideally is for housekeeping to ensure that most of the Acts are consistent with the Constitution, and that they are also consistent with other existing laws.

As I conclude, I assure Hon. Members that the proposals in this Bill comply with the provisions of the Constitution and our Standing Orders.

With those remarks, I beg to second and ask Hon. Members to support it.

(Question proposed)

Hon. Speaker: Hon. John Mbadi.

Hon. Ng'ongo: Thank you, Hon. Speaker, for giving me this opportunity to contribute to the Statute Law (Miscellaneous Amendments) (No. 3) Bill of 2017.

I want to start by saying that I am particularly happy that this time round, we have what one would ordinarily call the Statute Law (Miscellaneous Amendments) Bill. I say so because the original idea behind the Statute Law (Miscellaneous Amendments) Bills was to correct minor errors and mistakes that do occur in the process of legislation. Especially, after the promulgation of the Constitution of Kenya, 2010, because there were a lot of changes that that Constitution brought, which would be inconsistent with the statutes, we were expected to use Statute Law (Miscellaneous Amendments) Bills to make the statutes tidy. There was need for all relevant agencies, ministries and departments to look at the Acts that affect their operations and propose miscellaneous amendments that would make them consistent with the Constitution so that we do not have to declare many sections of the existing statutes unconstitutional. It became necessary that we do these amendments. I hope that going forward we are likely to see the end of these proposed amendments because most ministries, departments and agencies will have aligned the Acts affecting their operations to the Constitution.

On the Bill that is before us, I have a couple of issues to raise, which I hope will be captured when we go to the Committee of the whole House, and which I expect the Committee that is chaired by Hon. Limo to look into. I am sure that you have been looking at this Bill.

First is the issue of amending the Pensions Act to increase the threshold for accessing pensions. I want to read out the particular section of the Pensions Act that is supposed to be amended. It is supposed to amend the Pensions Act as of right, which says:

“Where an officer has completed five years of pensionable service, the benefits accruing to the officer under this Act shall vest in that officer and shall become payable in such manner and at such times as may be determined under this Act.”

The proposed amendment is supposed to increase this to 10 years. I do not think this House should agree to that. We know the problems that people go through once they lose their jobs or when they retire. You cannot be forced to serve for 10 years before you become entitled to pension. Even the five years threshold was really unnecessary. If you have served and there is money that has been contributed by you and the State to the pension fund for your benefits, even if you serve for two years, it is important that you access it. I know the reason why the Pensions Department is proposing this amendment. It is because they cannot manage our pension funds properly to generate enough returns to ensure that when someone leaves service, he gets his or her pension. This is something that we must reject. We should retain it at five years and ask the Pensions Department to double their efforts and ensure that they manage our funds properly, so that whatever is accrued to any Kenyan leaving service anytime, he should access it.

Hon. Speaker, I also want to make a comment on the Environmental Management and Co-ordination Act. The appointment of the Chair of the National Environment Tribunal is being removed from the Judicial Service Commission (JSC). The Chair of the Tribunal in the current Act is appointed by the JSC. That responsibility is being taken away and given to the President. I want to urge caution here that tribunals transact business like a court process. A tribunal is part of a court process. The chair of a tribunal is like a judge. He presides over the case together with the other members of the tribunal. I know there is that space in law. I am sure Hon. (Ms.) Shamalla is more aware of this than I do. In the membership of a tribunal, there are some people who are not lawyers. The chairman of a tribunal must be a lawyer but giving this responsibility to the President is not right. We need to still allow the JSC to continue appointing the chair of the tribunal because it is a judicial process. We have to look at the competence. The JSC has the capacity and more competence to determine who qualifies to be a judge or to exercise powers of a judge.

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

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

Hon. Temporary Deputy Speaker, there is also the issue of the Salaries and Remuneration Commission. I am not contributing to this because of the issues that we have had with the SRC. I want to be very objective and say that there is no justification of making this Commission permanent. First, we have been pushing as a House and as people in the country that we give more capacity to secretariats of commissions, and reduce interference with day-to-day running of activities of commissions by the commissioners. We have been complaining. There was a time I brought a question in this House which led to some committee investigation to just confirm how much we spend on these commissions in the 10th Parliament. The results were shocking. This House was in agreement that we should try as much as possible to make our commissions part-time. We should relook at those commissions which are full time, and see if it is important to have full time commissioners. The problems that you see around between the commissions and the secretariat are there because the commissioners have too much time at their disposal, and they do not know what to do with it. They are full time commissioners. They end up interfering with the operations and activities of the secretariat. We cannot say one thing and then the following day, we do the opposite. I do not know the rationale. I listened to both the Mover and the Seconder of the Bill. They were not convinced that the membership of SRC should serve on full time basis. I think someone mischievously wanted some job to be created to people and make them permanent. If you ask me, it is not necessary to have members of this Commission on full time basis.

I suppose and assume that the amendment to the Statutory Instruments Act requires us to say that the Instrument shall be placed before the relevant House of Parliament. This means that if a Statutory Instrument is touching on matters that are not very relevant to one House of Parliament, it is not necessary to place it before the two Houses. It may be tidy to table the Instruments that affect only the national Government functions in the National Assembly but not in the Senate. I hope that this amendment will not ignite the sibling rivalry that we have had. As Parliament, both Houses need to look at this matter and ask ourselves whether all Instruments should come to the National Assembly and the Senate or those Statutory Instruments that affect

the counties should be taken to the Senate. This is a very hot topic. I must admit. Many times, you objectively express yourselves on issues that should not go to the Senate. A lot of time, the other House feels that we are fighting its existence which Members of this House will agree that the existence of the other House is critical in this country, and we need to respect it. We need to define whether it is waste of parliamentary time and delay when everything has to be taken to both Houses when the Constitution clearly defines that the Senate needs just to deal with matters and functions that touch on county governments and their functions. Those are clearly defined in the Constitution.

With those remarks, I want to support this Bill. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Leader of the Minority Party. The next on my request list is Member for Emuhaya, Hon. Jeremiah Omboko.

Hon. Milemba: Thank you, Hon. Temporary Deputy Speaker. Whereas this is a good Bill as explained by the Mover because it cleans up the Acts and realigns them with the Constitution, there are a few things that I would wish to make emphasis, in terms of whether they should go the way they are or not.

The first one is that we need to take cognisance of the fact that tribunals may not have the full authority of the court system. If we move and allow a tribunal to be allowed to give stay orders which are sometimes very punitive and punchy to the people whom they affect... That is one area which I think should be looked into properly, so that we do not end up giving tribunals which traditionally should be having quasi powers of judicial system to relieve those powers from the courts to the tribunals.

Two, an area which I also think is worth making a comment is on TVET institutions. I want to support the idea that the TVET institutions should be empowered to get their students without necessarily being cajoled, monitored or managed by universities. The area where we are now moving to is where we want to have the new curriculum in Kenya which is competence-based. With that, the TVET institutions will play a very key role in the development of education and the general employment output that we shall have which is the training of the students into employment in Kenya. Let them have the free will to recruit their students without being monitored, especially by the universities. If anything, for a long time, the universities have been eating up on the TVET institutions. They have been doing the work that should otherwise be done by TVET institutions. I want to properly and truly support that miscellaneous amendment.

I do not want to over-speak on the issue of pension because Hon. Mbadi, who has spoken before me, has made a very good suggestion. Since members in the Civil Service can get their pensions after five years, there would be no reason for us to punish them by insisting that we move the baseline to 10 years. If anything, this should be a House that looks into the welfare of the workers of Kenya. Instead of punishing everybody by increasing the five years to 10 years, we would rather place it at 5 per cent or even below; the way it has been correctly asserted by Hon. Mbadi. That way, anybody who has provided service should be able to access his pension without being punished in any way.

There was the issue mentioned on KUDHEIHA. This is a trade union that represents the workers in the hotel industry and schools to some extent. It mainly represents domestic workers. For a long time, KUDHEIHA has been fighting to have their issues mainstreamed, especially Convention No.189. I want to believe this Miscellaneous Amendment Bill also includes that. If that is the case, I support that vividly.

Lastly, the SRC commissioners should not serve on a permanent basis. The SRC only comes up to deal with issues of salaries whenever trade unions and other agitators want salaries. After that, they go mum until another episode occurs. The secretariat is enough to sustain their work. I will not support the idea that they become permanent commissioners.

With those many comments, I beg to support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Do you support or oppose?

Hon. Milemba: With those very many areas which I would want to be changed, the general will of this particular Bill is not bad. However, those areas which I have pointed out would need to be amended.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have Hon. David ole Sankok.

Hon. ole Sankok: Thank you very much, Hon. Temporary Deputy Speaker. At the outset, I support this Statute Law (Miscellaneous Amendments) (No.3) Bill (National Assembly Bill No.44 of 2017).

On the Salaries and Remuneration Commission Act No.10 of 2011, I want to offer a different opinion from the Hon. Member of Emuhaya. Our wage bill is at around 52 per cent. Those commissioners need to be in office full-time so that they can understand instead of making some decisions that are not well-informed. We need them to be in office full-time because, at times, they are misled by the secretariat. We have had situations whereby their decisions and suggestions of how this country can manage its wage bill have been wanting. At times, their advice has led to problems. What we are witnessing in the demonstrations across the country demanding for increase in salaries needs a commission with commissioners serving on a full-time basis, and who can sit down and reason with the secretariat. When you have commissioners who only have eight sittings in a whole year, they may not be able to give advice on those issues related to salaries which are affecting our country. I support this Bill.

I also want to take this early opportunity to congratulate the Right Hon. Raila Amolo Odinga, together with His Excellency Uhuru Muigai Kenyatta for those unity talks. I know some Members may not be very comfortable with it. They claim that they were not consulted. The only consultation we need as Kenyans is peace. When the country moves forward peacefully, we all support. I urge Members of this House to support those unity talks.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Member for Tharaka, Hon. Murugara Gitonga.

Hon. Murugara: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Miscellaneous Amendments Bill.

As a Member of the Committee on Delegated Legislation, I will deal with the aspect related to the Statutory Instruments Act which is proposed to be amended in certain sections. It is important to clarify that the Statutory Instruments Act is the parent Act that gives power to other institutions, apart from Parliament, to make laws which we term as subsidiary or delegated legislation. It is that Act which ensures that the subsidiary legislation passed is in tandem with the parent law. Otherwise, those institutions would make laws that are *ultra vires*.

There are several sections of the Statutory Instruments Act that are proposed to be amended beginning with the one that defines the Clerk of the National Assembly. In the parent Act, the “clerk” is defined as being the Clerk of Parliament. To ensure that there is conformity between the Constitution and the parent Act, it has become necessary to define “clerk” to mean the Clerk of the National Assembly and not the Clerk of the Senate.

There is also a proposed amendment which covers the explanatory memorandum which is supposed to accompany every legislation that is brought to Parliament for consideration. As I have said, those other authorities are not Parliament, but they make laws which have to be approved by Parliament so that they can come into effect. Where Parliament, through its Committee on Delegated Legislation, fails to approve those laws, they become annulled. The role of Parliament is either to approve or annul the laws.

There is also a proposed amendment such that when we bring the memorandum, it has to contain certain aspects which explain to Parliament whether those laws are *ultra vires* or *intra vires*, whether the mandatory requirements of the Constitution have been complied with and, therefore, the laws fit consideration and the passing by the House. It is in view of this that we are saying it is important that these laws are passed. It is also important to note that there are other statutes incorporated in this Statute Law (Miscellaneous Amendments) Bill which include the Environmental Management and Coordination Act. Debate has raged on whether the Chairman of the National Environment Tribunal should be appointed by the President or by the Judicial Service Commission.

Hon. Temporary Deputy Speaker, in most Acts of Parliament which give powers of setting up of tribunal which exercise quasi-judicial functions, it is ordinarily the Cabinet Secretaries who appoint the chairmen to them. In as much as there is a provision that the chairman has to be a lawyer, it is the CS who appoints. Therefore, if the proposed amendment that the President is given the powers to appoint the chairman of that tribunal, provided that there is a provision that that chairman has to be a lawyer, then the provision may be *intra vires* and will not be *ultra vires*.

In my considered opinion, I submit that the laws proposed to be amended are in tandem with the Constitution and should be passed.

I therefore, support that we pass the Bill with the amendments as set out. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Gitonga. Hon. Tonui Kiprotich, Member for Bomet Central. Hon. Wamalwa, your card has been on top, but you forgot to remove it from the intervention slot. You are the next. There is nothing out of order. Remove it from the intervention slot.

Hon. Tonui: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I wish to support this Statute Law (Miscellaneous Amendments) Bill. I believe it is important so that some areas in various laws which have challenges can be streamlined. I support it fully especially in areas to do with the Salaries and Remuneration Commission. I believe the thinking of the Committee is correct and I support it. The Salaries and Remuneration Commission mostly performs its work through consultancy. They engage various people on various issues to ensure that salaries and benefits of State officers and other public officers are dealt with through consultancy because they may not be that specialised in some areas. So, I support the proposal that they be part-time. I believe if they are hired on part-time basis, they will allow the secretariat to perform their professional work without much interference. When you have many people working full time, they will be competing to perform similar roles which are not very well defined.

On the Statutory Instruments Act, the Bill proposes an amendment to specify the House that will be dealing with specific regulations. This is a well thought-out amendment and should be supported by all of us. I believe it will reduce the time we take to approve regulations. Having lengthy processes of referring regulations to the Senate and back to the National Assembly is too long. It will be in order to specify the House to handle that.

A major shortcoming which I thought should be captured in the amendments to the Statutory Instruments Act is the time it takes the Committee to process the regulations before it. Currently, it is 14 days after it has been tabled. We know the mischief which most institutions engage in. They table the regulations on the last day when we are proceeding for recess so that the 14 days for considering them elapses and they become effective automatically. We need to capture that well; that it is 14 days of sitting. The Committee on Delegated Legislation, which I am a member, has proposed 28 sitting days. I believe that is reasonable time for the Committee to peruse the regulations. Serious laws which may not be captured in the actual Act are made under those regulations.

On Clinical Officers (Training, Registration and Licensing) Act of 1988, the Bill proposes a clean up to align it with the Constitution. Where previously we made reference to a Minister, we now have a Cabinet Secretary. That is captured very well in the Bill.

On the Environmental Management and Coordination Act of 1999, the Bill seeks to create a tribunal with specific rules that are well clarified in the Bill. Issues to do with appointment of chair and members of that committee are well captured. Grounds on which people can appeal to the tribunal on issues such as unfair refusal to issue licences, unfair conditions on licensing, revocation of licences... Recently, the Cabinet Secretary revoked the licences of those who are harvesting mature trees. It has interfered with that business. But it is well captured now. People can now go to a tribunal and make an appeal. They can appeal on the issue of unfair fees that is paid. If they are required to restore the environment in a certain way which they think is punitive, they can also make an appeal to that tribunal.

I believe the amendments proposed in the Bill will ensure that the rights of citizens of this country are protected. Actions of institutions of Government such as the National Environment Management Authority (NEMA) and the larger Ministry in charge of environment should not harass Kenyans unfairly, without a clear process of seeking justice when they step on their feet.

The Bill provides for payment of pension after one has worked for five years. In the teaching profession, most teachers get employed at the age of 45 years because it takes long to get the important recruitment letter from the Teachers Service Commission (TSC). Fifty is the retirement age by law. They may be required to retire at the age of 50 years. Because of the 10-year rule, they may not earn their pension. Many people think that 60 years is the retirement age. Sixty years is the mandatory retirement age. That means that when the Government observes you are not ready to retire, they kick you out of service. The shortcoming of this amendment is delayed pension. It takes a very long time for many public servants to be paid their pension. We need to capture in law that if pension is delayed, it should start earning interest from the time it has been delayed. That needs to be taken care of so that people processing the pensions can fast-track it so that people do not suffer when they retire.

I do not know whether the memorandum of objects of the Bill is very clear. I thought it is a Government requirement that when a Bill is brought here, there should be a statement indicating clearly that it does not concern the counties so that we know that we are dealing with it only in this House. That part of the Bill is not well stated.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chris Wamalwa.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this very important Bill.

In the history of Parliament, when you talk of a Statute Law (Miscellaneous Amendments) Bill, you are talking of amendments which are insignificant – amendments to do with spelling,

grammar and what have you. Having gone through this Bill, there are some sections which cannot qualify to be in a Statute Law (Miscellaneous Amendments) Bill or an omnibus Bill. We have seen in many cases from history that if the Government wants to pass a funny clause, they always find it fit to pass it through this kind of omnibus Bill.

I want to refer to a previous Statute Law (Miscellaneous Amendments) Bill, which touched on the Judicial Service Commission. It specifically touched on the issue of nominations of the Chief Justice. It was said that the JSC must send three names to the President so that the President can exercise discretion to appoint one. The matter went to court and the court made a determination. As legislators, we are here to enact laws, and the courts are there to interpret those laws. The court ruled in line with what we argued on the Floor of this House. It was very wrong. That matter was not supposed to have come through the Statute Law (Miscellaneous Amendments) Bill because it was a significant change. That matter should have been subjected to public participation, in line with Article 118 of the Constitution.

Why am I saying so? If you look at the issue touching on environmental coordination, there is a proposal that the President should appoint the chair of the Tribunal. Before then, the chair was appointed by the JSC. We know tribunals have quasi-judicial functions. When you give the grant of stay powers which are mostly exercised by the High Court, and we know courts have unlimited jurisdiction... In this case, for purposes of independence, we are going to oppose this proposal. This matter should be left to the JSC. During the Committee of the whole House, I will draft some amendments on the same. That is why I said the Departmental Committee on Environment and Natural Resources should have subjected this matter to public participation.

The Departmental Committee on Environment and Natural Resources, in the previous Parliament, was very active. We want to recognise the efforts of the former Chair, Hon. Amina Abdalla, and the current Governor of Vihiga, Dr. Ottichilo. It was one of the top committees of this House. So far, we have not seen any Member of the Departmental Committee on Environment and Natural Resources, or the Chair, commenting on this matter.

Secondly, when these Bills come here, they mostly do so under the name of the Leader of the Majority Party. We have opposed this several times. Even when Hon. Washiali was moving on his behalf, he had difficulties. He admitted that there was the name of Hon. Kenneth Lusaka. He even said that the two could not add up. The issue is that when Bills come here, they should come in the names of the Chairs. We know that the Bills come from the Executive, but the respective Chairs of the committees are the ones who conduct public hearings. Therefore, when they come here to move the Bills, things will be at their fingertips as opposed to having the Leader of the Majority Party, who might not be aware of how the public participation was done, moving the Bills. We have discussed this matter before. It is high time we changed that arrangement. When a Bill from the Executive touches on environmental matters, it is important that the Chair of this House's committee responsible for environmental matters moves it. That is because the Chair will have conducted public participation and internalised the issues. When he comes to the Floor of the House, he can articulate the issues much better than the Leader of the Majority Party. That is the way it is done in many jurisdictions. I remember this matter coming up during the proceedings of the Departmental Committee on Defence and Foreign Relations. Since the chairpersons are the persons who chair the public participation sessions, they have matters at their fingertips as opposed to the Leader of the Majority Party, who might not have time to participate in public participation. This is just an issue we thought about. It has come up. I thought I should raise it so that, as we move on, we can look at it and see how we can share. We should embrace a spirit of teamwork.

Today, many Bills were stepped down because the respective chairs have been sleeping on the job, or they have left it to the Leader of the Majority Party. You saw it happening today. Many Bills, which are in today's Order Paper, have been stepped down.

As I move on, I want to mention something on the Salaries and Remunerations Commission. We cannot afford to have those commissioners on full-time. We are talking about the issue of wage bill...

Hon. (Ms.) Shamalla Jeniffer: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chris Wamalwa, there is an intervention by Hon. (Ms.) Jeniffer Shamalla.

Hon. (Ms.) Shamalla Jeniffer: Thank you, Hon. Temporary Deputy Speaker. I rise on a point of order. I have heard the hon. Member refer to the Statute Law (Miscellaneous Amendments) Bill and state that the Chairman of the Environmental Tribunal shall be appointed by the President. Actually, nothing is further from the truth.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. (Ms.) Shamalla, are you replying to him, making contribution or are you saying that he is out of order? Do you want to inform him?

Hon. (Ms.) Shamalla Jeniffer: Hon. Temporary Deputy Speaker, I wanted to inform him because he is misleading the House.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chris Wamalwa, I would have asked whether you wanted information from her.

Hon. A.B. Duale: *(Off-record)*

Hon. Wakhungu: Hon. Temporary Deputy Speaker, the Leader of the Majority Party has just come in. He was not here when this Bill was being moved. I heard what Hon. Washiali said while moving this Bill. I have been paying a lot of attention. That is why I started by saying that we should leave this matter to the respective Chairs because they have internalised the issues. Even when Hon. Ken Lusaka's name came in...

Hon. A.B. Duale: *(Off-record)*

Hon. Wakhungu: Hon. Temporary Deputy Speaker, the Leader of the Majority Party should give us time, because he was not here when this Bill was being moved.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chris Wamalwa, let us hear the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I was in my office. I was following the debate. Therefore, whether I was here or not is not an issue. Hon. Chris is a man I respect a lot. He must know that this is a presidential system of government. The reason we pulled down those Bills today is because the Chairs of those committees consulted the leadership. We said during the 12th Parliament that we will not deal with a Bill if a report has not been tabled. The Chairs of the respective committees have consulted my office and the Office of the Speaker.

In the USA, and in all the other jurisdictions, it is the leadership that signs all Government Bills. The committees are supposed to critique. So, they cannot have a Bill in their signature and critique that Bill again. When the Bill comes for the Second Reading, the Mover – who is the Leader of the Majority Party or his representatives, like the Deputy Majority Leader or the Majority Whip – will move and the Chair is supposed to second and give the stakeholders' views. That has happened with the Roads Bill, and it will happen with the Metropolitan Bill as well as with the Computer and Cybercrimes Bill.

Hon. Kisang is out of the country in Geneva, and Hon. Pkosing says he will table the Report tomorrow. This was a Bill which lapsed in the last Parliament. It was looked into by Hon.

Chepkong'a and we have just re-published it. It is a small Bill. So, we are looking into this aspect. I am sure Hon. Chris was not privy to that information. We have agreed that in future, the Chairs and the membership of that Committee will be here to give the stakeholders' views, based on the amendments they are going to forward. I am sure everything is okay. Hon. Chris Wamalwa, we have agreed with you, as part of the leadership; that we are going to make sure that this Parliament becomes better than the 11th Parliament in terms of implementing the presidential system of government.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Hon. Chris Wamalwa, even before you wake up, at least, the Leader of the Majority Party has walked in when you were referring to a matter. He was able to clarify the arrangements to you. On the same note, he was talking about what Hon. Chris mentioned. It was about the Speaker of the Senate. Under Standing Order No. 87, you are not supposed to speak about members who are not here like the Speaker of the Senate.

Since Hon. Washiali has not referred to the Speaker of the Senate, I order that you withdraw that the Ken Lusaka you are referring to here is the Speaker of the Senate. You can withdraw that under our Standing Order No. 87.

Hon. Wakhungu: Yes. Thank you, Leader of the Majority Party. The Leader of the Majority Party knows I am a very good student.

Hon. Washiali: (*Off-record.*)

Hon. Wakhungu: Of course, there is spirit of unity. While you were away, Leader of the Majority Party, Hon. Washiali was trying to move, but he had a lot of difficulty because...

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Before you move that, can you withdraw as per my orders?

Hon. Wakhungu: No! No! I want to clarify so that he knows where I am coming from. Why I had indicated...

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You can clarify if you know because you referred to the Speaker of the Senate.

Hon. Wakhungu: It was there when he was moving. He mentioned the name of the Speaker, Hon. Ken Lusaka. He said: "Things were not adding up." I am saying he said that because, if there was an opportunity for the Chair of the respective Committee who did the public participation, the matter would have been at his or her fingertips. But, Hon. Washiali had difficulty. In fact, he said: "Things are not adding up" because there was an issue of Hon. Ken Lusaka, MP, who went and participated in the public participation. So, the import of this statement is that, in future...

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chris Wamalwa, did he refer to the Speaker of the Senate or an hon. Member?

Hon. Wakhungu: It is there! Maybe he can clarify. Let the Leader of the Majority Party clarify.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Point of order. Chris, let us have him for clarification because we have many Ken Lusakas.

Hon. A.B. Duale: I agree with Hon. Chris. Hon. Chris, let me own up. I am the one who read this thing properly. Because I was called to a meeting, I gave my Whip of the Majority Party the last minute.

The section he read was as follows: "The various stakeholders who appeared before the Committee and presented their views, among them, was the Speaker of the Senate, Senator Ken

Lusaka.” You are a Senator the moment you become a Speaker of the Senate. That was the only mistake. The bit of an MP, I think, was erroneous typing. But, the moment you become a Speaker of the Senate, you are one of the Senators; just like our Speaker is a Member of the House. The mistake was that I did not give my colleague enough time to digest this Report.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): From where I sit, Hon. Chris Wamalwa and Leader of the Majority Party, thank you for the clarification. Otherwise, there would have been an order that this is withdrawn. Now that you had indicated that there was confusion, the House can carry on.

Hon. Wakhungu: Hon. A.B. Duale, ensure you give them proper orientation and instructions next time you delegate. That is so that they do not do such mistakes when they are moving this Bill. We are serious legislators here.

Hon. A. B. Duale: (*Off-record*).

Hon. Wakhungu: I am very serious. That is why I was the Leader of the Minority Party and you know that. We will continue with serious business. That is why, when we were being misled by Hon. Limo, who was moving a wrong Bill while you were away... Hon. Leader of the Majority Party, Hon. Limo was misleading the House by moving a wrong Bill until the time I had to point out, through the Hon. Temporary Deputy Speaker. He had to rectify. So, you should congratulate me for being serious to correct such a serious mistake in the House.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I can protect you, Hon. Chris. Indeed, you are serious.

Hon. Wakhungu: Thank you. As I continue on this issue of the Salaries and Remuneration commission, when we were debating on the Ethics and Anti-Corruption Commission (EACC), we decided on commissioners being part-time. We have a functioning secretariat. The bulk of work is done by the consultants when it comes to the SRC. We do not see any value added for us to, again, amend the SRC Act and bring the commissioners to full-time basis instead of being part-time. At the Committee level, I am going to draft an amendment to oppose that, that the commissioner on the SRC must be part time. Once they come in, we are going to start hearing of conflicts with the secretariat. This is one of the sleeping commissions we have had because even the issues of the Job Evaluation Policy have not been put in place. This is a commission that has been in existence and yet, the wage bill is still high. We have not seen value addition. We strongly oppose that. That clause should not think of any full-time employment. They should be there part-time.

On the issue of pension, we have talked of five to ten years just because the pension of Members of Parliament is given after 10 years. We want to oppose this. Pension for those in the Public Service Commission should be entitled to them within five years. In other jurisdictions, you are supposed to be given your pension the moment you are out of employment. Because of the difficulties in cash flow which we are seeing in the struggling and broke National Treasury, they cannot pay; they want to extend it to 10 years. You will find that many of the Hon. Members who have lost their seats are miserable. We have seen many of our colleagues coming here. They are languishing in poverty. The moment you clear work, you are supposed to be paid. So, we oppose the issue of changing from five to ten years. We are going to draft some amendments at the Committee of the whole House stage. That is so that the issue of 10 years is opposed and we have the same five years. Again, we have teachers who have not got their pension 10 to 15 years down the line. In the spirit of the time value of money, it must attract interest. If you left employment 20 years down the line, the way we are seeing with the teachers,

they have suffered and have not been given pension. We must add a clause that money should attract some interest if the delay of pension is going to be there.

Thank you, Hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Chris Wamalwa for your contribution.

I will give the Floor of the House to Member for Makueni, Hon. Maanzo Kitonga.

Hon. Maanzo: Thank you Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this Bill.

First and foremost, I am part of the Committee on Delegated Legislation. Our Committee had some amendments to make. A miscellaneous statute law exists to make little corrections on statutes. It should not be for substantive issues or matters which need serious debate or which change, substantially, the original text or meaning of an Act or the intention or entertain or introduce a mischief into a statute.

I have looked at the Pensions Act. The issue of a Cabinet Secretary is now in the new Constitution. Therefore, it merely defines and also substitutes (v) with a word that means, “an increment”. If you look at the amendments on the Clinical Act, they are all about aligning the old Act with the new Constitution where the word “minister” has now been substituted with “Cabinet Secretary”. That is something that was done to lots of other statutes. Immediately we had the Constitution, it was the main activity of the ministries to align the statutes. I can see that amendment is quite in order.

There are issues with the Environmental Management and Co-ordination Act of 1999. There are, also, minor amendments there. There are, obviously, substantive issues to be dealt with in this amendment. We have addressed issues about the Tribunal. Ordinarily, the Chairperson of that Tribunal should be somebody with deep knowledge of the law and also, maybe, a person who qualifies to be a judge.

I have seen these amendments and I have no issues with them. There is also an appeals tribunal and the Environmental Management and Coordination Act is quite substantial such that it needs not to have come under the Statute Law (Miscellaneous Amendments) Bill. We also have the Salaries and Remuneration Commission Act. The amendments introduced here substantially change the whole structure. However, these Members will have an opportunity at the Committee of the whole House stage to bring amendments to deal with this. I agree with Hon. Chris Wamalwa that SRC should be on an *ad hoc* basis or since there is a secretariat, be on a part-time basis. That should be the case in most of the commissions especially the ones which are not so busy. Therefore, this calls for attention because it may be better that we revert to the original status owing to the history of what this commission has done.

The particular amendments deal with statutory instruments. We had to deal with the relevant House of Parliament. Parliament means the Senate and the National Assembly for now. When dealing with statutory instruments which are the legislations made by Ministries or Cabinet Secretary after a main statute, it became an issue on some of the areas under the Fourth Schedule, where some matters are devolved and others remain at the national level. Statutory instruments mainly deal with that and are a very important part of law. In fact, they were to be given sufficient time because there was mischief from the ministries to sneak in when we are out of session so that time can expire and automatically, that particular legislation becomes part of the laws of the country through the backdoor. The amendments under the Statutory Instruments Act were to rectify that mischief and to also insert the words “relevant House of Parliament” in certain sections. Basically, this is a very big section of the law which most of the times, people

do not pay keen attention to. Instead of making substantive amendments, at times, you can introduce delegated legislation made by the Cabinet Secretaries, and that has to be approved by Parliament under the Statutory Instruments Act.

We also have the Occupational Therapists (Training, Registration and Licensing) Act. This was made law in the last Parliament. Therapists have to be trained and, therefore, there was need to rectify or make corrections in certain areas. In the past, we have seen statute miscellaneous amendments which were very substantive and some ended up in court and were nullified or reorganised with the advice of the court. That is because some of them had gone beyond what would be miscellaneous amendments. It is like there was need for a Bill of its own to amend a main statute. Therefore, I want to thank the different committees which prepared this Bill and look forward for amendments at the Committee of the whole House.

Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Member for Makueni. Hon. (Ms.) Jennifer Shamalla.

Hon. (Ms.) Shamalla Jennifer: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Statute Law (Miscellaneous Amendments) (No. 3) Bill of 2017. I wish to point out because I have heard it said this afternoon and early evening that the Chairperson of the Environmental Tribunal will be appointed by the President. As I reiterated earlier, nothing is further from the truth. In fact, the amendments ensure that the people who are eligible to stand as chairpersons are from the Judicial Service Commission who should be persons qualified as judges of the Environmental and Land Court, an Advocate of the Environment and Land Court and a lawyer who has professional qualifications in Environmental Law appointed by the Cabinet Secretary. The amendments provide that the chairperson shall be elected from these three categories. Indeed, it is a democratic process and one that is welcome as opposed to the previous section which said that the chairperson was to be appointed by the JSC. It also makes provisions for the vice-chair who can be elected from amongst any of the members and does not necessarily have to be a lawyer.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Kibunguchy Wamalwa, Member for Likuyani.

Hon. (Dr.) Kibunguchy: Thank you, Hon. Temporary Deputy Speaker. I will touch on a number of these amendments. The first amendment that I would like to talk about is, when we are talking about the Pharmacy and Poisons Act, we propose to delete the word “Chief Pharmacist” and substitute therefore with the word “Chief Executive Officer of the Board.” I do not know what informed this because we know what is in a name. So long as we know the functions of this individual, what is in a name? If you remember, William Shakespeare said: “A rose by any other name smells just as sweet.” Probably, I would understand it a little further if we are saying and we are defining by saying, this is an individual who has executive powers. If that is the issue, I will agree with that amendment.

The second issue that I would like to comment on is what everybody has talked about - SRC. I would not want to so much dwell on whether it should be permanent or part-time. The consensus that is evolving in this House is that, that commission should remain part-time. The amendment went a little further especially with the nomination of the chairperson. This was left solely to the President. If I may read that amendment, it says:

“The President shall, within seven days in receipt of the names forwarded under subsection (2), nominate the members of the Commission from each category and forward the

names of the nominees, together with the name of his nominee for Chairperson of the Commission, to the National Assembly.”

There are several categories that nominate members of this commission. If we left this solely to the President, we would have excluded the public participation. The previous Act was very elaborate, especially when it came to the selection panel; the panel that will select those commissioners and they received views from the public. The Constitution is very clear that these days, we must have public participation. That aspect of nomination of the Chairperson of the Commission is another area that I will urge Members of Parliament to reject and go back to the original Act that allowed widespread consultation and public participation so that we get the best person across the board. Let us not leave these things like that. We are trying to get away from everything being centralised around the President so that we allow the public to participate in some of those individuals being nominated.

Secondly, I am a member of the Departmental Committee on Finance and Planning. I would like to understand: Who are these people proposing these amendments? This is because the Salaries and Remuneration Commission itself, in its own memorandum, objected from being full-time. If the body itself does not want to be full-time, who is this individual out there who is saying that the SRC should be full-time?

Finally, on the issue of pension for public officers, I agree with all Members who have said we should not increase the time within which an employee of Government is eligible for pension from five to ten years. Let us retain it at five years. If possible, and this is within our powers, we can even say Parliament should re-introduce the fact that if you are a Member of Parliament for one term of five years, then you are eligible for pension.

With those few remarks, generally, I tend to support. We will bring amendments where appropriate in the Statute Law (Miscellaneous Amendments) Bill so that we look at some of those areas that we have concerns with.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Osotsi Godfrey, the Floor is yours.

Hon. Osotsi: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill.

I have two issues to raise in this Amendment Bill. The first is the issue of the SRC. If you read through the Amendments Bill, it clearly does away with the selection panel. There was a reason why the initial Act proposed a selection panel. It proposed it because if you look at Article 249(2) of the Constitution of Kenya on the issue of Objects, Authority and Funding of Commissions, it is very clear that constitutional commissions are independent and not subject to the direction or control by any person or any authority. What has happened in this Amendment is that the selection panel has been removed and the powers to interview and shortlist have been vested in the nominating body, which in this case is the Public Service Commission. We all know that PSC is part of the Executive. The reason why we had the selection panel was because we wanted to ensure that the process of selecting commissioners to independent commissions adhered to Article 10 of the Constitution which talks about national values. It was also important that we have an element of public participation. But this amendment is going to do away with all these. If you look at Article 249 of the Constitution, which talks about the objects and authorities of constitutional commissions, it is very clear that they must be seen to protect constitutionalism. It must also be seen to protect the sovereignty of the people. If this amendment is effected, I am sorry that there is no element of protection of constitutionalism in this Act. So, on that part, I

think that this amendment is unconstitutional. We have had cases where Parliament has passed laws which have been nullified by the courts. This particular amendment is unconstitutional. Anyone can go to court and raise an issue of constitutionality on this matter.

Hon. Temporary Deputy Speaker, the report on the Assessment of the Socio-economic Impact of the Constitution was very clear that we need to look at ways of ensuring that the constitutional commissions are not a burden to this country. Reduce the number of commissioners.

In some countries like India, they have a maximum of three commissioners in constitutional commissions whereas we have nine in this country. These commissioners have been serving on part-time basis and we now want to give them full-time basis. This is going to increase the wage bill and yet, we have not seen the impact of SRC. The wage bill has continued to rise posing a major challenge to the economy of this country. So, it is not proper or justified to now say that commissioners will now serve on full-time basis. I propose that the commissioners continue serving on part-time basis because, in any case, they depend on experts who work in the secretariat. This should be the case with all the other constitutional commissions, including the Independent Electoral and Boundaries Commission (IEBC) and others, so that we can reduce the wage bill.

The other matter I want to comment on is the issue of statutory instruments. I am a member of the Committee on Implementation. This week, we had a meeting and a notice was given that there are many laws which require some statutory regulations which are still pending. This is a serious matter that we need to look at because, if we do not come up with these statutory instruments in time, then it would defeat the purpose of having those laws. I am happy that my friend, the Majority Whip is here, because he is from the sugar-cane growing areas. Our sugar-cane farmers have been crying for the relevant Ministry to come up with sugar regulations, but that has not been done. We need a system to ensure that the relevant Government agencies are able to process the regulations in time and table them before the House. Many things go wrong because regulations have not been tabled in the House on time. So, as we look at these, as a Parliament, we need to look at...

I support this Amendment Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You were not on microphone when you made your last statement. Maybe, I can give you a minute.

Hon. Osotsi: I think I had finalised. With those Amendments, I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): For the purpose of keeping records with the HANSARD, it is good to be heard on record. Hon. Mutai Kiplangat, the Member for Bureti, the Floor is yours.

Hon. Mutai: Thank you, Hon. Temporary Deputy Speaker. I rise to support the amendments of the Bill before the House.

On the issue of the SRC, I believe it is about time we streamlined it. I support the appointment of the chairperson by the President. If you look at the provisions of the Constitution, they do not strictly cast in stone the methodology of getting a chairperson. It strictly says who the nominees should be and which areas they ought to come from, but it silently and expressly gives powers to the President to appoint. It does not state whether to nominate or otherwise.

This gives the President a leeway to decide who should be appointed chairperson. We are aware that the current term of the commissioners came to an end recently and, therefore, there is need to put other commissioners in place. What I do not support is having those commissioners to serve on full-time basis. Most of the work being undertaken by the Salaries and

Remunerations Commission is almost complete. The review of salaries, evaluation of the work done by State officers and public officers is almost done. What new thing will the current SRC do on a full-time basis? We are talking of the national wage bill ballooning. Having the SRC commissioners on a full-time basis would raise that wage bill. Most of the work that that SRC did when they came into being in 2013 was to evaluate the work done by public officers. There is nothing new for them to do. Most of the work done is what is done from Monday to Friday. The environment, the conditions and the terms of service remain the same. I do not see any need for the Commissioners of the SRC to work on a full-time basis. We can have them serve on a part-time basis. When any new challenges arise, that is when they should be called to look into the issue. Having them on a full-time basis is not fit for this country.

Hon. Temporary Deputy Speaker, this is not to say that the SRC is a panacea for the ballooning wage bill. The parameters that are already in place are enough for a disciplined nation called Kenya to follow suit. However, they are not a panacea for the ballooning wage bill. So, on that aspect of the Bill, I do find it fit that we have the SRC Commissioners working on a part-time basis.

Next is the amendment of the Pensions Act. The Bill seeks to amend the Pensions Act to insert a new clause to increase the number of years that an officer must have served to qualify for pension payments from five years to 10 years of pensionable service. That will make a majority of Kenyan workers suffer. We are currently facing challenges in the area of pensions. Most of our retired elders are suffering. Extending the five-year period to 10 years will subject them to difficult and harsh conditions. These are persons who have served this country diligently. Extending the pensionable service period from five years to 10 would cut out certain sections of the community that would have benefited.

Section 5(3) of the Pensions Act states that where an officer has completed five years of pensionable service, the benefits accruing to the officer under the Act shall vest in that officer and shall become payable in such manner and at such times as may be determined under the Act. Extending the five-year period to 10 years would be cutting out most people who in any given day would have benefitted.

With those few remarks I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Washiali, there being no other request, you reply.

Hon. Washiali: Thank you, Hon. Temporary Deputy Speaker. First of all, I thank the Members who have contributed to this Bill despite the challenges they have had as a result of not having the various committee reports in good time. As the leadership of the House, we have noted the points that have been raised. I want to encourage them to ensure that their opinions are captured through introduction of amendments during the Committee of the whole House. They should propose amendments that will improve this Bill.

This Bill has a few other issues that we need to look at. I have just noticed that there is a typo on page 1428, on Section 125 (5) – the proposal to delete the words “a Vice-Chairperson to the Tribunal” and substitute therefor the words “a Chairperson to the Tribunal from amongst the persons appointed under paragraphs (a) (b) and (c) of subsection (1) and a Vice-Chairperson from to the Tribunal amongst all members.” I just want to use this opportunity to notify the drafters that there is a typo, which we will amend.

This Statute Law (Miscellaneous Amendments) Bill was brought to the House after 24 memoranda were forwarded to Hon. Speaker following approval of the various Bills by this House and the subsequent operationalisation of the statutes. The various stakeholders noted the

problems as they operationalised the Acts. Given that Members have given their opinions, it is in order that we proceed to amend the various Acts contained in this Bill during the Committee of the whole House.

With those remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, the debate on this Bill has been replied to. However, for reasons cited very well in our Standing Orders, I am not in a position to put the Question now.

(Putting of the Question deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, pursuant to Standing Order No. 36 and the time being 1757 Hours, the House stands adjourned until tomorrow, Wednesday, 14th March 2018 at 9.30 a.m.

The House rose at 5.57 p.m.