

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 15<sup>th</sup> December, 2011

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

### QUESTIONS BY PRIVATE NOTICE

#### EXHUMATION OF FRANCIS MBUTHIA'S BODY

**Mr. Kiuna:** Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) What led to the exhumation of the body of one Mr. Francis Mbutia at Banita Farm on 30th November, 2011?

(b) What measures has the Minister taken against the people who incited the public and facilitated the exercise?

(c) What action has the Ministry also taken against the Assistant Chief and Senior Chiefs in that area, who supervised the illegal exhumation?

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. This matter appeared on the Order Paper last week and I raised a point of order on the issue of *sub judice* and the Chair then, Mr. Farah, said that he was going to deliver a ruling on it. That is what we are expecting today.

**Mr. Speaker:** Let me just ascertain the position.

*(Mr. Speaker consulted the Clerk)*

The Member for Kisumu Town West, I have verified that, indeed, you raised the issue of this matter possibly being *sub judice* and that the presiding officer did indicate that a ruling would be made today. Unfortunately, however, the matter was not drawn to my attention but I understand that the requisite communication is under process. I may then be able to give it next week before this matter appears again on the Order Paper.

**Mr. Olago:** That is suitable, Mr. Speaker, Sir.

**Mr. Speaker:** The Member for Molo, please note that we will have to make communication on this matter as to whether it is *sub judice* or not next week.

**Mr. Kiuna:** Mr. Speaker, Sir, this Question was asked last week and it was deferred to today. It is a very sensitive issue---

**Mr. Speaker:** Order, the Member for Molo! It is as if you were absent. Did you not follow what has transpired in the last ten minutes? I do not think you need to belabour the matter. Before that communication is made, you cannot ask the Question!

**Mr. Kiuna:** Thank you, Mr. Speaker, Sir.

*(Question deferred)*

AWARD OF TENDER FOR SECOND  
HAND MOTOR VEHICLE INSPECTION

**Mr. Kapondi:** Mr. Speaker, Sir, I beg to ask the Minister for Industrialization the following Question by Private Notice.

(a) How many companies bid to offer second hand motor vehicle inspection clarification services to the Kenya Bureau of Standards (KEBs)?

(b) Under what circumstances was the tender awarded to a Japanese company, M/s Japan Vehicle Inspection Centre?

**The Assistant Minister for Industrialization** (Mr. Muriithi): Mr. Speaker, Sir, I beg to reply.

(a) There were six companies that bid to offer inspection services for purposes of second hand motor vehicles.

(b) There was no award of tender. This tender was cancelled and re-advertised and is currently under technical evaluation.

**Mr. Kapondi:** Mr. Speaker, Sir, while appreciating the answer from the Assistant Minister, could he explain why the tender was cancelled twice instead of being awarded to the winner? Instead an extension was done twice to the same company and yet this is against procurement rules. Could he explain that?

**Mr. Muriithi:** Mr. Speaker, Sir, yes, there was extension of the bidding period twice. I think one was for four months and another one for 70 days. It was because of those extensions that we felt that there was external influence being brought to bear on the Kenya Bureau of Standards (KEBS). As you know these contracts, though they are not fee contracts, the contractors charge a fee to the users of the service. They are rather lucrative contracts and we felt as a Ministry that there was undue influence being exacted on the decision makers at the Bureau. Therefore, we cancelled the tender and asked that it be done again. It is now being redone under careful scrutiny so that no malpractice is extended.

**Mr. Kigen:** Mr. Speaker, Sir, the Assistant Minister has said that there was external influence in the processing of the tender award. How did it happen and what has been done to remedy the situation so that there is fairness?

**Mr. Muriithi:** Mr. Speaker, Sir, this included solicitation where officers of one of the bidders sought to have discussions with some of our officers and obviously, this is not allowed. On what has been done, we are working with the Procurement Oversight Authority. As I said, the tender was cancelled and fresh bidding ordered. The fresh bids are now under evaluation. Normally, a technical team looks at the technical evaluation and then takes the matter to the board of the institution.

**Mr. Njuguna:** Thank you, Mr. Speaker, Sir. It is clear that six interested companies applied for participation. Could the House be informed of the particulars of these companies?

**Mr. Muriithi:** Mr. Speaker, Sir, these companies were Japan Export Vehicle Inspection Centre (JEVIC) Quality Inspection Services, Bureau Veritas, Auto Termini Services of Japan and East African Auto. As to the particulars of the company, I am not sure whether the Questioner is asking for the registration details, the size of the company

or what specific particulars. Suffice it to say, these are companies that are involved in a programme for verification of conformity. These are companies that offer inspection services to the public, or to any interested party. They are contracted by the Kenya Bureau of Standards (KEBS); when Kenyans import second hand vehicles these companies then inspect those vehicles for conformity to our standards, for quality and so on. It is part of a larger programme of pre-shipment inspection of conformity because all goods entering the Kenyan market must conform to Kenyan standards. I thank you.

**Mr. Speaker:** The hon. Member for Baringo Central.

**Mr. Mwaita:** Mr. Speaker, Sir, the Assistant Minister has said that the tender now is at the evaluation stage. What mechanism has the Ministry put in place to ensure that there will be no external influence in this second tender?

**Mr. Muriithi:** Mr. Speaker, Sir, the mechanism available to us is clear instructions to the board of directors as to the work we expect carried out, and how that work is to be carried out. This board has been properly and clearly directed by the Ministry.

**Mr. Speaker:** The hon. Member for Mt. Elgon.

**Mr. Kapondi:** Could the Assistant Minister explain why JEVIC, which was given an extension twice, having been mentioned adversely, got the extension? Further, the allegations---

**Mr. Speaker:** Order, hon. Member for Mt. Elgon! The supplementary question is supposed to be one; that is why you have two opportunities to begin and to end.

**Mr. Kapondi:** Correct, I take your instructions, Mr. Speaker, Sir. So, could you explain whether JEVIC, that was involved in unsolicited information and got the extension twice--- Could he explain why despite that anomaly, JEVIC was still considered?

**Mr. Muriithi:** Mr. Speaker, Sir, as you know, in the normal procurement and the way bidding takes place, during the bidding process, if one of the bidders, for example, seeks a clarification, we inform everybody and if that clarification were to necessitate an extension of the bidding period, then the procuring authority would typically do so. These are the sorts of things that happened in this bidding process.

However, as we have from the outset explained, the KEBS, as you know, is under scrutiny all the time. There are lucrative contracts and many allegations from time to time; therefore, we as the Ministry have to be very watchful and careful at each step. So, we found that two extensions appeared to be too many. We, really, said, let this process be done again and let it be done under the watchful eye of ourselves, and of the oversight authority to ensure that we get quality services for Kenyans.

**Mr. Speaker:** The hon. Member for Konoin!

#### SHORTAGE OF BCG VACCINE IN SOUTH RIFT REGION

**(Dr. Kones)** to ask the Minister for Public Health and Sanitation:-

(a) Is the Minister aware that there is an acute shortage of BCG vaccine in public health facilities in the South Rift region?

(b) What measures will the Minister take to ensure that there is immediate supply of the vaccine in all public health institutions?

**Mr. Speaker:** Member for Konoin is not here? Question dropped!

*(Question dropped)*

*(Dr. Kones stood up in his place)*

**Mr. Speaker:** The hon. Member for Mathioya.

*(Laughter)*

#### LIST OF AVIATION MEDICAL EXAMINERS IN KENYA

**(Mr. Wambugu)** to ask the Minister for Transport:-

(a) Could the Minister provide a list of all qualified and approved aviation medical examiners operating in Kenya?

(b) Under which conditions may a medical certificate issued to a flight crew member be suspended before expiry, and could the Minister state under what circumstances the Kenya Civil Aviation Authority's (KCAA) medical certificate issued to Capt. P. M. Waweru on 17<sup>th</sup> January, 2011 was suspended on 26<sup>th</sup> May, 2011 and could the Minister table the medical report used to suspend Capt. P. M. Waweru's certificate?

(c) Is the Minister aware that due to the suspension of the medical certificate, Capt. P.M. Waweru subsequently lost his job at Kenya Airways, and what action will the Minister take to restore the officer's medical certificate?

**Mr. Speaker:** Where is the hon. Member for Mathioya? The hon. Member for Mathioya is not here? The Question is dropped.

*(Question dropped)*

The hon. Member for Ikolomani!

#### CONSIDERATION OF 2009 CENSUS RESULTS IN CONSTITUENCY CREATION

**Dr. Khalwale:** Mr. Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

Could the Minister clarify whether or not the determination and creation of 80 new constituencies before the 2012 General Election will take into account the 2009 census results which were nullified in eight districts in northern Kenya?

**Mr. Speaker:** Where is the Minister for Justice, National Cohesion and Constitutional Affairs?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Speaker, Sir, I beg the indulgence of the Chair to allow me to look for the Minister for Justice, National Cohesion and Constitutional Affairs---

*(Dr. Kones consulted with the Chair)*

Mr. Speaker, Sir, I wanted your attention to what I was saying.

**Mr. Speaker:** You have it, Assistant Minister.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I am seeking the indulgence of the Chair to allow me to get hold of the Minister for Justice, National Cohesion and Constitutional Affairs. In the meantime, we can go through other Questions. I am sorry about that.

**Mr. Speaker:** Very well; we have just two Questions left. The hon. Member for Yatta!

## ORAL ANSWERS TO QUESTIONS

*Question No. 956*

### ALLOCATION OF MONEY TO MATUU/YATTA POLICE STATIONS

**Mr. C. Kilonzo** asked the Minister of State for Provincial Administration and Internal Security whether he could indicate the amount of money allocated to Yatta and Matuu Police Stations for fuel and vehicle maintenance in the last three financial years.

Mr. Speaker, Sir, I have not been given the answer; I do not mind if I am given the same now and we proceed.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, he has not received the answer because he has just walked in.

*(Mr. Ojode laid the written answer on the Table)*

Mr. Speaker, Sir, I beg to reply.

The department does not issue funds directly to police stations but through their respective Officers Commanding Police Divisions (OCPDs). The disbursement of funds for purchase of fuel and maintenance of motor vehicles for OCPD, Machakos and Kangundo, under whom Yatta and Matuu Police Stations fall was as follows:-

In 2008/2009, Machakos got Kshs3.150 million; maintenance Kshs800,000.

**Mr. C. Kilonzo:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it, the hon. Member for Yatta?

**Mr. C. Kilonzo:** Mr. Speaker, Sir, you notice that this Question was deferred and all we want is specifics for the two stations. The Assistant Minister is reading the same, same answer! All I need to know is how much was allocated to these two police stations, and we do not waste the time of the House. I have not received the answer.

**Mr. Speaker:** I recollect that to be the position.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, it is true, but I have supplied the answer, is that not so?

**Mr. Speaker:** Assistant Minister, I recollect that this matter was transacted previously, and all you needed to do was to indicate how much money was given to the said police stations.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, the answer is that Yatta and Matuu Police Stations received fuel and maintenance funds as follows:- During the Financial Year 2008/2009, fuel funds for Matuu were Kshs259,200; 2009/2010, Kshs306,600; 2010/2011, Kshs231,000 and 2011/2012, Kshs266,660.70. Yatta got money as follows:- 2008/2009, Kshs259,200; 2009/2010, Kshs306,000; 2010/2011, Kshs231,000 and 2011/2012, Kshs266,666.70. That gives us a total of Kshs518,400 for 2008/2009; Kshs612,000 for 2009/2010; Kshs462,000 for 2010/2011; and Kshs533,333 for 2011/2012.

For maintenance, Matuu got Kshs110,186 in 2008/2009; Kshs105,500 in 2009/2010; Kshs101,200 for 2010/2011 and Kshs106,666.70 for 2011/2012. For maintenance, Yatta got Kshs96,500 for 2008/2009; Kshs130,750 for 2009/2010; Kshs102,350 for 2010/2011 and Kshs106,666.70 for 2011/2012.

Going by these figures and the prices of diesel, each station received between six to eight litres of diesel per day, which is not adequate. However, under the ongoing police reforms, the situation will improve, not only to Yatta and Matuu, but within the whole Republic.

**Mr. C. Kilonzo:** Mr. Speaker, Sir, the Assistant Minister has accepted that is too little. Cases of insecurity and crime in Yatta and the neighbouring constituencies are on the rise. These stations do not only serve one constituency, but they serve about three and a half constituencies. As a matter of urgency and because we cannot wait for the police reforms, what is the Government doing to make sure that these stations and others in the country are given more money? Giving them six to eight litres is forcing the police officers to demand for money for fueling the vehicles from the citizens.

**Mr. Ojode:** Mr. Speaker, Sir, that is true. As I mentioned, this eight to ten litres is not enough. However, we have asked the Treasury to allocate more money to us because we have more divisions and stations. They said that they are considering allocating more money for us to give to the police stations. Let us hope for the best. If the Treasury releases the money today, I will increase the level of the fuel which is being distributed.

**Mr. Speaker:** Member for Naivasha!

**Mr. C. Kilonzo:** Mr. Speaker, Sir, I am not sure whether we are through with my Question, but I am satisfied.

**Mr. Speaker:** Order, Member for Yatta!

**Mr. C. Kilonzo:** Mr. Speaker, Sir, I want to ask the Question on behalf of the Member for Naivasha.

**Mr. Speaker:** Order, Member for Yatta! You may be satisfied. Indeed, you are entitled to be satisfied, except for this: That if you recollect, we had come to a point where we were giving you the last opportunity to ask your second question. So, I am well aware that, in fact, you would ask the last question, which you have done.

**Mr. C. Kilonzo:** Mr. Speaker, Sir, if you recall, your ruling was that the answer given by the Assistant Minister did not respond to the Question. I am also on a point of order, but that as may, I am comfortable.

*Question No.920*

STATUS OF PEV CASES

**Mr. C. Kilonzo**, on behalf of **Mr. Mututho**, asked the Attorney-General:-

(a) how many cases relating to the 2007/2008 Post Election Violence (PEV) have been investigated and forwarded to the Attorney General with recommendations to prosecute, how many have been successfully prosecuted and what the status of each case is;

(b) what measures are in place to fast-track all investigations and prosecutions relating to PEV before the 2012 General Elections; and,

(c) what legal measures have been put in place for the protection of witnesses involved in the ICC investigations.

**The Attorney-General** (Prof. Muigai): Mr. Speaker, Sir, I beg to reply.

On 23<sup>rd</sup> November, 2011, you directed me to provide the House with data relating to sexual offences and incitement cases in relation to post-election violence. I consulted the Director of Public Prosecutions (DPP) and he availed to my office the following information:-

(a) There were 369 cases relating to sexual gender-based violence that were reported. About 139 cases were taken to court resulting in 53 convictions, 16 acquittals and 48 cases were withdrawn. Sixteen cases are still pending before the courts and 16 cases are pending the arrest of known suspects. About 162 cases are pending under investigations and 62 cases have been closed for lack of evidence.

(b) Seventeen cases of incitement to violence were reported, 17 cases were taken to court resulting in four convictions and four acquittals. Eight cases were withdrawn and two cases are pending under investigations. There are no cases pending before court nor are there any other cases pending arrest of suspects. I have with me the full report of the DPP, and with your permission, I would like to avail it to the Member.

*(Prof. Muigai laid the document on the Table)*

**Mr. C. Kilonzo:** Mr. Speaker, Sir, it is one thing for a case to be pending before court and it is another thing for a case to be pending under investigations. What is the Government doing to fast-track the process of the cases which are pending under investigations, to ensure that the culprits are brought to book?

**Prof. Muigai:** Mr. Speaker, Sir, the question of PEV and local justice for the victims is a top priority for the Government. However, because of the nature of the events surrounding these cases, it has been very difficult to conduct investigations. Many people moved from their original locations. The police are working hard. There is a special taskforce that the Commissioner of Police put together for this purpose. I am

assured by the DPP and the Commissioner of Police that everything possible is being done to trace witnesses to bring the culprits before the court.

**Dr. Khalwale:** Mr. Speaker, Sir, in the list of the cases the Attorney-General has read out, I have carefully listened and I have not heard any case where somebody is being sued for forcefully displacing or expelling a Kenyan from his rightful place of settlement, neither has he said whether there is any case where somebody is being tried for forceful acquisition of such land. Since we know that these cases are there, that we have Kenyans who were forcefully displaced, how many cases is the Attorney-General aware relating to these kinds of people? Since there is normalcy in these areas, what plans does the Government have to ensure these people are resettled back on those pieces of land or allowed to sell those pieces of land?

**Prof. Muigai:** Mr. Speaker, Sir, the reason why the information sought by the Member is not contained in this report is because as you will recall, I had issued another comprehensive report on all the offences and then you directed me to bring one concentrating on sexual gender-based violence and incitement to violence. In my previous report, I had indicated situations where property related offences, including forceful taking of property, was involved.

I want to assure the Member for Ikolomani that this remains a priority area for the Government. The resettlement of the victims of post election violence remains a priority area in particular. There are many initiatives, including that being carried out by the Truth, Justice and Reconciliation Commission (TJRC) and the other Agenda Four commissions to address the specific problems that have been raised.

**Mr. Njuguna:** Mr. Speaker, Sir, while I appreciate the good answer given by the Attorney-General, could he inform this House the special precautions the Government has taken to make sure that security of the prosecution witnesses and their families is guaranteed?

**Prof. Muigai:** Mr. Speaker, Sir, I want to assure the Member that it is my privilege to be Chairman of the Witness Protection Board. As we sit here today, there is a meeting going on in my Chambers. This is a priority area for us, not only with domestic cases, but even in international cases. The Members would be happy to know that our witness protection agency is working alongside the ICC as well to support the ICC in its witness protection programme. I would be very confident that we will provide these witnesses with all the protection that they require.

**Mr. C. Kilonzo:** Mr. Speaker, Sir, we are moving to an election next year. What measures is the Attorney-General putting in place to ensure that in case this happens again, the mistakes that occurred in carrying out investigations and delaying justice do not occur again?

**Prof. Muigai:** Mr. Speaker, Sir, this was a learning experience for all of us in very tragic circumstances. The agencies of the Government have learnt. I can assure the Member that my office is involved alongside other arms of the Government, in preparing to ensure that we will have free and fair elections, we will have the security that is required and an outcome that the people of Kenya will accept. We, probably, may never be able totally to eliminate criminal action, criminals will be apprehended, prosecuted and the law will take its course.



## QUESTION BY PRIVATE NOTICE

### CONSIDERATION OF 2009 CENSUS RESULTS IN CONSTITUENCY CREATION

**Dr. Khalwale:** Mr. Speaker, Sir, for the second time, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

Could the Minister clarify whether or not the determination and creation of 80 new constituencies before the 2012 General Elections will take into account the 2009 census results which were nullified in eight districts in northern Kenya?

**Mr. Speaker:** Minister for Justice and Constitutional Affairs!

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I undertook to find out where the Minister was. I am told that he went to Naivasha for official duty and he is on his way back to Nairobi. I would seek the indulgence of the Chair to defer this Question to next week.

**Mr. Speaker:** Member for Ikolomani, what is your reaction to that request?

**Dr. Khalwale:** Mr. Speaker, Sir, this is a fairly straightforward Question. We just want the Government to be clear. There is the possibility of a long recess and the possibility that during that long recess, the Independent Electoral and Boundaries Commission (IEBC) will make a decision on this matter; it would have been nice for the answer to this matter to be read by even the Attorney-General, whom I see here, or the Acting Deputy Leader of Government Business. Could they clarify whether they can read out the answer before I agree with them?

**Mr. Speaker:** Fair enough; I see your concern. Assistant Minister, are you able to respond to this Question or is the Attorney-General able to respond to it? It is just a single-paragraph Question.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I have just checked with the Clerks-at-the-Table and they say that there is no written answer to the Question. So, it becomes very difficult, even if we were able to answer it without the actual answer from the Ministry. I assure you that Members of the Front Bench are capable of answering this Question. It is only that we do not have the written answer.

**Mr. Speaker:** Order, Assistant Minister! I have no doubt that you have the capacity to answer, but could you just take a minute and consult with the Attorney-General because the Attorney-General may well be aware. As I see it, this is a matter which he may be conversant with. If he is not able to react immediately, then it will be fine.

*(Mr. Ojode consulted the Attorney-General)*

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, we have consulted and the Attorney-General has suggested that hon. Mutula Kilonzo should come with a comprehensive answer to this particular Question.

**Mr. Speaker:** Very well! Member for Ikolomani!

**Dr. Khalwale:** Mr. Speaker, Sir, let me strongly say that the constituencies that are affected are in marginal and minority communities areas like Turkana and Kenyan Somali areas. Without Parliament acting, these marginalised communities might be short-changed. Three new constituencies are meant for Turkana, three in Mandera, one in Wajir East and one in Lagdera. We must, surely, find a way of ensuring that this Government, which appears to only share things to favour the two Principals, is going to be conscious of the minority and marginalised communities. More importantly, if they are going to deny these people the constituencies, we should also know where the constituencies will go, because we have cases of places in the country, which almost got constituencies but missed out because of lack of affirmative action.

**Mr. Speaker:** Very well, Member for Ikolomani! You have made your point. I am certain that those Kenyans who reside in those areas, which you have classified as marginal, will know that they have been heard, and that Parliament is aware that they need to be attended to just like other Kenyans. So, we will defer this Question to Tuesday, next week.

*(Question deferred)*

Hon. Members, that brings us to the end of Question Time.  
Next Order!

## STATEMENTS

**Mr. Speaker:** Hon. Members, we will take Ministerial Statements that may be ready for delivery first and then we will take requests.

Mr. Ojode, proceed!

## MINISTERIAL STATEMENTS

### SHOOTING/KILLING OF TEN PEOPLE IN SIRISIA CONSTITUENCY

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, on 7<sup>th</sup> December, 2011, hon. Wamalwa rose on a point of order and sought a Ministerial Statement on the shooting of ten people in Sirisia Constituency, at a place known as Namang'ofulo.

In his request, he wanted clarification on the circumstances in which the said people were shot and killed and the role of the Provincial Administration in the incident.

Finally, the hon. Member sought clarification on the actions that the Government will take to ensure the security of farmers and their property.

Mr. Speaker, Sir, on 5<sup>th</sup> December, 2011, at about 4.30, a gang of about 14 persons who were armed with machetes and clubs attacked and killed three watchmen guarding Namang'ofulo coffee factory. The deceased were later identified as Isaac Kiwa, aged 35 years; Festus Sitati, aged 45 years, and John Kiathi, aged 40 years. Members of the public responded to the distress call and managed to corner two of the suspects, who

were carrying two bags of coffee, and killed them. The two were later identified as Otieno Achole and John Asitimi.

It is alleged that a third suspect, Hosea Unyiru Nyalieka, aged 25, informed the public that during the robbery, they were accompanied by an Administration Police (AP) officer only identified as Ogutu. The angry mob killed the suspect as well. The alleged disclosure by the suspect appeared to have infuriated the public more.

Mr. Speaker, Sir, when the police arrived, led by the Officer Commanding Police Division (OCPD), the District Criminal Investigations Officer (DCIO) and the District Commissioner (DC), they became riotous. They started stoning the security team and digging trenches on the earth road leading to the factory, making it completely impossible for the police to reach the scene, while accusing the DC, Mr. Paul Marinyang, of involvement in the coffee theft.

A confrontation ensued between the police and the riotous mob, during which another member of the public, Abraham Changasia, sustained serious gunshot injuries. He was rushed to Bungoma District Hospital, where he later died while undergoing treatment.

Mr. Speaker, Sir, following the incident, Inquest File No.1/2011 of Luakhakha Police Station has been opened to determine the circumstances leading to Abraham's death. Ballistic investigations are also ongoing. In addition, Motor Vehicle GK A359D, a Land-Rover belonging to the DCIO, Bungoma South; Motor Vehicle KAR 153L belonging to Kenya Revenue Authority (KRA), Luakhakha; Motor Vehicle GK A253S for Cheptais Police Station, were damaged. One police officer, Police Constable John Kimati of Luakhakha Police Station, sustained head injuries and was treated at Bungoma District Hospital and discharged in a fair condition. Later, the bodies were removed to Bungoma District Hospital Mortuary for a postmortem.

Mr. Speaker, Sir, it is worth noting that seven people, including three suspects, died during the incident, and not ten people as was being alleged. Allegations that Provincial Administration officers were involved in the planning and execution of the incident are being investigated by the Provincial Criminal Investigations Officer (PCIO), Western Province, vide Police Criminal File No.911/883/2011.

Though investigations are ongoing, one suspect, Mike June Miruye, has since been charged in court for robbery with violence vide court file No.2515/11.

Mr. Speaker, Sir, to forestall further skirmishes and ensure farmers' property is safeguarded the following measures have been put in place:- Security in the area has been beefed up in all coffee factories within and around Sirisia Constituency, mobile and foot patrols have been intensified, the public has been sensitized and advised to co-operate with the police to help in identification of people involved in coffee theft in the area. Similarly, the public has been warned against taking the law into their hands and instead requested to hand over suspects to the police.

**Mr. Wamalwa:** Mr. Speaker, Sir, the Assistant Minister has indicated that only one suspect has been arrested so far – he mentioned Mike June Miruye. What about those who had been mentioned as having been behind the nefarious crime that saw this gang loot and kill, including the DC, Marinyang and AP Corporal Ogutu? Why have the two not been arrested? Why are they still walking around scot-free and intimidating witnesses? Why are they still intimidating even an award winning journalist with *The Standard* newspaper and KTN, Robert Wanyonyi, who has gone into hiding because he

exposed life footage of evidence against the area DC and the AP, Corporal Ogutu? Why have they not been arrested? What is the Assistant Minister doing to guarantee the security of this journalist, whose life is in danger?

**Mr. Ojode:** Mr. Speaker, Sir, I have a lot of information with regard to coffee theft in this constituency. I have the registration number of a vehicle which was used in the robbery, that is, KBP 227K. We are looking for that vehicle. We will arrest and apprehend whoever was using that vehicle. We will also impound the vehicle. With regard to the AP, Corporal Ogutu and the DC, we are investigating the matter and in the meantime, I think it is prudent for me to move the DC from that area, so that investigations can take place without any intimidation.

**Mr. Wamalwa:** On a point of order, Mr. Speaker, Sir. There is a journalist who is in hiding as a result of death threats from administrative officers in this area. He is called Robert Wanyonyi. What is the Assistant Minister doing to ensure that his security is guaranteed?

**Mr. Ojode:** Mr. Speaker, Sir, it is very difficult for me to say anything because I do not have any information that the security of that particular journalist is threatened. If, indeed, that is true, then he needs to report to the police so that I can take action.

*(Mr. Njuguna stood up in his place)*

**Mr. Speaker:** Order, Member for Lari! You know how we normally conduct business under Order No.7. So, that actually rests the matter. Is there any other Statement for delivery today? Minister of State for Special Programmes!

#### MEASURES TO MITIGATE EFFECTS OF FLOODS

**The Minister of State for Special Programmes** (Ms. Mathenge): Mr. Speaker, Sir, I have a Statement to give with regard to floods. It was requested by hon. Ochieng.

Several parts of the country have been receiving heavy rains that have resulted in floods. The floods have caused displacements, destroyed property, damaged infrastructure and even killed 17 people. The Government, with support of other stakeholders, has spearheaded response efforts by providing relief supplies and evacuating the victims. Reports reaching the Ministry indicate that the rains have subsided in the past few days in the flood-affected areas, especially around River Nzoia, whose water level has dropped by 3.85 metres. Although the situation continues to improve, the negative effects will continue to be felt for at least three months. The infrastructure, food, water, sanitation and health sectors are the worst affected. The 17 districts that have been affected have 165,655 people affected. The damage is estimated at around Kshs10 billion, but this is not conclusive because we are still assessing the damage to the roads, houses, schools, and medical facilities.

With regard to mitigation, in all these areas, we have provided food and non-food items and because I do not want to read the whole list, I would like to table the information about what we have done so that hon. Members can see what we have done.

*(Ms. Mathenge laid the document on the Table)*

On a short-term basis, especially around River Nzoia, we have done river draining, constructed check dams, built evacuation centres and a community radio station. In the long term, and with regard to catchment management areas, afforestation activities are ongoing. We are also reconstructing dykes and designing multi-purpose dams at middle catchment areas. Regarding disaster preparedness, especially in the Budalang'i area we have a data bank of infrastructure that enables the monitoring team to get real time metrological data. This enables the officers to issue daily bulletins both at the local and regional levels. This information is disseminated through a local radio station, Bulala FM, the Provincial Administration offices and also through key stakeholders in the Budalang'i area. We hope that we will be able to replicate this in all the flood-prone areas.

I would like the House to note the measures that the Government has taken; the Right Hon. Prime Minister will be chairing a Cabinet Sub-committee on the resettlement of the affected families. Further, I would like to confirm that the Prime Minister and I have visited some of the affected areas, and we will continue to visit all those who are affected to ensure that they are given care.

I wish to reiterate that the issue of flood mitigation is multi-sectoral. The Ministry will continue the co-ordination work and we shall expect all the line Ministries to play their role. This will require a substantial amount of funds; it will also require the support of this House and line Ministries.

**Mr. Ochieng:** Mr. Speaker, Sir, the problem here is that some of these people now camping outside their homes have had their homes swept away by floods. Some of them, their economic activities have been interfered with; they cannot do business. This means that come next term which begins next month, they will not be able to pay school fees for their sons and daughters who will be joining secondary school.

Could the Minister confirm that the Ministry will be able to support these families in terms of paying school fees for their children and also put up houses for them, so that they can leave the schools where they are residing now and go back to their homes?

**Mr. Wamalwa:** Mr. Speaker, Sir, I did not hear the Minister emphasize much on the dykes with regard to the Budalangi area. The Government had put up dykes and there was a request for maintenance of these dykes. I do not know what the Government is doing about the dykes in Budalangi and also the children and women who are affected. When we visited Budalangi they were in bad state. The food being supplied was not conducive for little children. They needed Unimix or something softer than just the maize and beans being supplied. Is there some special attention to the children in the affected areas?

**Dr. Nuh:** Mr. Speaker, Sir, I want to thank the Minister. At least, she has been going round to see for herself what we, as Members of Parliament have been complaining about. But last year, the Ministry of State for Special Programmes had mitigation measures even before the floods happened. District Commissioners and District Officers had stocks waiting to see if there would be some people who would be displaced so that they could assist them. But this time round, it seems like the Ministry is just reacting to whatever has happened.

Now that the Minister says over 20,000 people were affected in Tana River District and that the allocation they have given is just a meager 500 bags of rice and 200 bags of beans respectively, could she think of increasing this quantum to a higher level

that can at least sustain the people for the next one month and ensure that even for these foodstuffs that they are saying they have delivered, which I am sure it has not reached the ground, they are able to speed up, so that at least people can get the food quickly?

**Mr. Njuguna:** Mr. Speaker, Sir, the Minister has just informed the House that 17 Kenyans perished through the floods. Could she inform the House what humanitarian assistance is being extended to the affected families?

**Mr. Yinda:** Mr. Speaker, Sir, I would like to request the Minister while she is looking at the areas that have been affected by floods to look at Usonga and Alego. There are between 3,000 and 4,000 families in Usonga and Alego that have been affected. So, if there is any move by the Government to assist flood victims, let it be extended to those areas.

**Mr. Anyanga:** Mr. Speaker, Sir, the Minister has visited quite a number of areas, including Budalangi. Could she confirm when she will visit Nyatike to assess the situation on the ground?

**Eng. Rege:** Mr. Speaker, Sir, I want to join my colleagues in asking the Minister to kindly look into the perennial problem of flooding in a more serious sense. Could she assure this House that the Government will put more dykes to mitigate the floods that occur year in, year out, in these areas? It is a pity that these people construct houses every year and they are swept away. I believe she will be visiting Karachuonyo where over 9,000 families were affected.

**The Minister of State for Special Programmes (Ms. Mathenge):** Mr. Speaker, Sir, first of all, in response to Mr. Ochieng, we are discussing with the Ministry of Education because even the schools have been destroyed. Once we arrive at a consensus on the kind of assistance that we should give, we will go ahead and do that.

On the issue of dykes, that is a long term plan and they are being done. We also want assistance from Members of Parliament because in some cases where the Ministry of Water and Irrigation has wanted to do dams there has been resistance on the ground. So, we want to ask you to help us, so that we can educate our people that dams are being done for their own good.

I would also want to inform hon. Members that the rains that came were actually unprecedented. So, even the stock that we had was not enough and most of the roads have been swept away. However, we are increasing the amounts between now and the end of the week. So, that is being taken care of.

On the issue of Nyatike, Karachuonyo and South Nyanza, I hope I will be visiting you in the course of next week, so that we can assess the situation and so that we can give you whatever assistance that is needed. On Budalangi, the western Kenya project is now back on course. We will rehabilitate the dykes, so that we do not have this issue of water causing havoc again.

**Mr. Speaker:** A further Statement from the Ministry of State for Provincial Administration and Internal Security.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Speaker, Sir, I have two Statements to make. One Statement is with regard to Christmas and New Year celebrations.

## CHRISTMAS AND NEW YEAR CELEBRATIONS

Mr. Speaker, Sir, while wishing all Kenyans Merry Christmas and a happy New Year, we wish to inform them that police have put in place stringent measures which include use of police helicopters for general crime and traffic control. The helicopters will cover areas along Nairobi-Mombasa, Nairobi-Nakuru and Nairobi-Kisumu highways.

Similarly, leave for all police officers has been suspended during this festive season and those already on leave, recalled. All police officers have been put on high alert owing to the current security threats. However, while security is assured to all it is imperative to note that the public plays a very crucial role in the provision of security.

Consequently, people living in urban areas are cautioned against leaving their urban residential houses unattended while proceeding on Christmas holidays. The public is also requested to co-operate with security agencies and report to the nearest police station or officer of any suspicious-looking characters within their locality. The public is also requested to pass any information to the police which may be used to fight or deter crime.

The police would wish also to caution the public against drinking outside the stipulated time. Drivers for both public and private vehicles are cautioned against driving under the influence of alcohol. Passengers are cautioned to be wary of drunk drivers and are advised to report such drivers to the police immediately.

Those wishing to hold Christmas parties whereby large numbers of people are expected are also advised to inform the police well in advance to be able to get adequate security coverage. Organizing large gatherings of people without informing police should be avoided at all costs.

A sad example is given of the tragic incident on 11<sup>th</sup> December, 2011, in which a senior ODM leader organized a meeting at Kitere area of Rongo District without informing the police and a clash occurred between two rival ODM supporters leading to unnecessary loss of lives.

Mr. Speaker, Sir, terrorism is now a reality in Kenya and the world in general. The public is cautioned to be wary of suspicious characters, abandoned objects, parcels or luggage or people known to them who have mysteriously disappeared and have reappeared. Such persons, objects, parcels or luggage should be reported immediately to the nearest police office for immediate investigation.

Lastly, over-speeding on our roads remains the main contributor of fatal accidents and all drivers are cautioned to drive carefully and observe traffic rules. Meanwhile, passengers in Public Service Vehicles (PSV) are also advised not to board overloaded vehicles, the drivers and the public are similarly advised to obey traffic rules and officers will be deployed throughout the country to enforce the law. All are requested to abide by the law to make this festive season the safest of all seasons.

Mr. Speaker, Sir, the other Statement---

**Mr. Speaker:** Order, Assistant Minister! We have to ascertain if there are any Members who want clarifications from your Statement. Are there any Members who may be interested in clarifications in that Statement? None.

Assistant Minister, you may proceed to the next one.

## CLASH OF ODM SUPPORTERS IN RONGO

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, the other Statement is on the clash of ODM supporters at Rongo.

On 11<sup>th</sup> December, 2011, it was reported by members of the public that at about 4.30 p.m., at Kitere area about five kilometers south of the Kamagambo Police Station, vide OB. No.21 of the same date, the two ODM Party rival groups one allied to hon. Dalmas Otieno; the Minister of State for Public Service and another allied to the former Member of Parliament, Mr. Ochilo-Ayacko, clashed. Police, under the command of Migori OCPD, Mr. Fredrick Lai, rushed to the scene and on arrival found three dead bodies lying on the road which were later identified as Paul Otieno, Yabo Okuda and Lucas Omondi. Lucas Opara succumbed to injuries while in hospital. One person, Maurice Onjiko is still in hospital up to now.

Mr. Speaker, Sir, following the incident, police commenced investigations and four suspects namely; Mark Philip, Peter Onyango Okeyo, Jared Otieno Aruma and Albert Ogwaye Opondo were arrested and charged vide Kamagambo Police Station Criminal No.662/168/11 and High Court File No.113/11. One more suspect Naphtali Omollo Ogonde was tracked and arrested in Lang'ata Police Station area in Nairobi and will be soon transferred to Migori to be charged together with the others. The suspect is alleged to have been the financier and had ferried people to the area of the incident.

Mr. Speaker, Sir, in mitigation the Government has put in place adequate security measures to forestall attacks on politicians and their supporters while campaigning. Similarly, the police have put in place adequate security plans in preparation for next year's general elections. However, for the police to adequately cover such political campaigns, the conveners are advised to notify the local police stations in areas they intend to visit in time to enable proper and adequate security preparations to be put in place to avoid similar incidents in future.

I came up with this Statement because I had been informed by Mr. Kapondi who is the Chairman of the Committee in charge of security that he will ask me to respond to the clashes which happened in Rongo.

Thank you.

**Mr. Speaker:** Members interested in clarifications? Yes, Chief Whip, Member for Gem.

**Mr. Midiwo:** Mr. Speaker, Sir, what happened in Rongo cannot be taken lightly. Arising from what happened four years ago in this country because of politics, this Parliament must condemn in the strongest terms possible the issue of political violence. The Assistant Minister has said that the police is putting measures to stop political thuggery as we approach the general election next year. What measures is the Assistant Minister and the Ministry taking to educate members on the sections of the Political Parties Act that do not allow any kind of violence whatsoever in any kind of politicking? People should know that if you are walking around with youths who have the potential of killing or harming anybody, you will be personally liable and you will also be disqualified from participating in elections.



**Dr. Kones:** Mr. Speaker, Sir, I also want to take this chance to condemn what happened in Rongo and extend the same to what happened in Bomet during the Jamuhuri Day Celebrations. I would like to know what the Assistant Minister is going to do with some politicians who would want to cause chaos particularly during public holidays like what happened in Bomet. I hope the Assistant Minister is aware.

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. It is quite clear from the Assistant Minister's Statement what happened in Rongo but the Member of Parliament has talked about something happening in Bomet. We do not know what it is. Would I be in order if I requested him to substantiate so that the House can know what happened in Bomet?

**Mr. Speaker:** Member for Konoin, that is a legitimate challenge, substantiate.

**Dr. Kones:** Mr. Speaker, Sir, during the Jamhuri Day Celebrations in Bomet which falls under Bomet District, towards the end of the celebrations one of the politicians from the neighbouring districts came with a group singing songs of a political party and disrupted a public function that was going on. In the process, there was stone throwing and one of our colleagues was actually chased away from that function and he had to hide in one of the police stations. So, it is actually something which is very similar to what happened in Rongo. I really want to know what the Assistant Minister is going to do to ensure that such actions do not happen particularly when we have public holidays like those.

**Mr. Gaichuhie:** Mr. Speaker, Sir, in the Assistant Minister's Statement, he stated that one group belonged to Dalmas Otieno; the Minister of State for Public Service and the other one was allied to Mr. Ochilo-Ayacko. Could he tell this House if he has taken statements from both Mr. Dalmas Otieno and Ochilo-Ayacko and what steps he is taking against them?

**Mr. Mbadi:** Mr. Speaker, Sir, let me also take this opportunity to condemn the incident which happened in Rongo which all of us agree painted a very bad picture of us as a county and to the people from that region. The clarification I would like to get from the Assistant Minister is that if a politician is planning to carry out political activity in an area like opening party offices and another politician is planning to disrupt it, we should be having state machinery through intelligence to know well in advance that there is likely to be violence. What is the Government going to do to ensure that the intelligence network performs its function of pre-empting these activities before they happen so that we stop them from happening instead of coming to investigate an incident once it has occurred?

**Mr. Kapondi:** Mr. Speaker, Sir, I would also wish to take this opportunity to condemn in the very strongest terms the culture of political violence which appears to be taking some kind of pattern. It appears that there are sacred cows in this case and those who have been apprehended are basically small people. Could the Assistant Minister confirm to the House that the sacred cows who have not been arrested in this case are going to be arrested? Unless these big shots are apprehended, we are going into an election year and we shall be giving them the leeway to proceed to use the small people to perpetuate the culture of political violence.

Assistant Minister, please, clarify that.

**Mr. Speaker:** Mr. Assistant Minister, you may now make your response. I am sorry we cannot accommodate afterthoughts.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I have to respond as follows:- Hon. Jakoyo Midiwo asked whether there is any civic education which we are offering. Yes, it is not just the police fraternity which is offering civic education on the need to uphold law and order but there are a number of Non-Governmental Organizations and Community-based Organizations which are also doing the same. The Political Parties Act is very clear on the violence issue. We will continue and I want to plead with my colleagues in this House that they should preach peace and ask their constituents to abide by law and order at all times.

Dr. Kones asked about the clashes during Jamhuri Day. Yes, we are investigating this issue. We just got information yesterday. We are investigating and definitely we will take action against whoever is involved. The Member for Subukia asked whether we have taken statements from the two politicians. If you remember what I said, I said that the supporters allied to one politician caused problems. I did not say that it is the two politicians who created chaos. However, investigations are going on and if there is need for a statement from either of them, we will definitely get statements from the two politicians.

Hon. Mbadi has asked why we cannot preempt chaos before they happen. That is what we always preach about. When we get intelligence information, we normally stop rallies or any gathering, be it one of a church or of a national day like Jamhuri. We normally stop them even at the 11<sup>th</sup> hour although some of our politicians argue negatively on why we should stop the rallies after they have invested heavily on them.

Hon. Kapondi asked whether we are sparing some people or sacred cows. I want to say in this House that we will never spare anybody irrespective of his or her position. Whether you are a Minister or who in this Government, as long as your people and yourself cause chaos, we will arrest you and later on you will tell us your position after which we will release you according to the rule of law.

Mr. Speaker Sir, that is our stand.

**Mr. Ochieng:** On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead this House that they will arrest whoever whenever a situation of that kind arises, and yet two weeks ago in Kisumu, I was being attacked by the supporters of my opponent, including a councillor who is known? We reported the case to Kisumu Police Station and I called the Commissioner of Police who promised to come back to me on the same day but up to today, he has never come back to me.

*(Applause)*

Nobody has ever been arrested and yet those people are known. Is it in order for the Assistant Minister to mislead the House?

**Mr. Speaker:** Mr. Assistant Minister, that is a genuine challenge. You have been given intelligence and a report and according to the Member for Nyakatch, you have done nothing.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, it is not a question of us doing nothing. When I received the information that he had reported the matter, I directed the Director of CID to go ahead, look for those people and arrest them. To date, those people are hiding.

If the hon. Member knows where the councillors are, let him inform me and I will arrest them tomorrow.

*(Laughter)*

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. In fact, my point of order is precisely on the same thing only that it is a different version. It is in public domain that in the incident that took place in Bomet, there were two sitting Members of Parliament, each in charge of a gang. These youths clashed and resulted in the incident that Dr. Kones has said. If, indeed, the Assistant Minister is proactive, what has he done about the two sitting Members of Parliament, one of them who is a Minister?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I have said here and I want to be on record that we will arrest those who cause chaos. We will arrest those who have political goons and those who hire goons irrespective of their status in this country. The law is very clear. You are not supposed to hire goons to attack your opponent. You are not supposed to cause chaos anywhere anytime. I also want to encourage my colleagues that if there is any such thing, please, call me, call the Police Commissioner, call the substantive Minister or call anybody within the Office of the President and we will take action straightaway. I also want you to note that you might also be involved if your own youths are causing chaos. I will arrest you without any hesitation.

*(Laughter)*

**Mr. Speaker:** Order! Order, hon. Members! The matter must now rest there with the assurance from the Assistant Minister. Mr. Assistant Minister, you have said that to the House in the presence of all these Members of Parliament. You have also said that to the country and we are now waiting for action.

HOUSE BUSINESS FOR THE WEEK COMMENCING  
20<sup>TH</sup> DECEMBER, 2011

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Thank you, Mr. Speaker, Sir. May I make the following Statement with regard to the business for next week?

As we come to the close of this year, let me take this opportunity to applaud the good work and the zeal demonstrated by hon. Members both at the House Plenary as well as at the Committees of this House.

In particular, we have not only been able to meet deadlines of key constitutional implementation Bills but also to dispense with other key Bills by Private Members and on the part of the Government. Members will notice that on the Order Paper today, we have listed a Motion for Adjournment which Members will have an opportunity to debate. In the event that this House does not proceed on recess, which is against my expectation, we will consider the following business for next week.

The House will consider at the Committee Stage the Public Service Superannuation Scheme Bill, Bill No.24 of 2011 and the Kenya School of Government Bill, Bill No.30 of 2011. The House will also consider the Committee Reports and

Motions as well as the Motion for Adjournment yet again. I do not want to anticipate debate and that is why I have given this Statement.

Finally, the House Business Committee will meet on Tuesday, 20<sup>th</sup> December, in the event we do not adjourn to consider business for the rest of the week.

Thank you, Mr. Speaker, Sir.

**Dr. Khalwale:** Mr. Speaker, Sir, according to Articles 22, 26 and 229 of our Constitution, within six months after the end of each financial year, all accounts of Government and State organs are supposed to be audited by the Auditor-General. Article 226(4) specifically provides that the accounts of the Auditor-General shall be audited and reported on by a professionally qualified accountant appointed by the National Assembly. Whereas we know that the Auditor-General is currently auditing the other accounts of State organs and the Government, on the Accounts of the Office of the Auditor-General, this Parliament has not initiated the procedure of appointing such a professionally competent accountant so that this provision of audit within six months is complied with. Could the Leader of Government business confirm to us if we go on Recess this requirement of the Constitution will be met so that the Office of the Controller and auditor General will be audited in accordance with the law?

**Mr. Speaker:** Leader of Government business, you want to respond to that?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, I see the learned Attorney General is actually in the House and I would like to refer this matter to him. In fact, for reasons that I will give a little later, it may very well be, that we want to seek adjournment, not today, but next week.

**Mr. Mbadi:** Mr. Speaker, Sir, the Leader of Government business has indicated and actually it appears on the Order Paper that we are likely to proceed on Recess, if this House approves.

He did commend the House because of the fact that we have managed to meet the deadlines for Constitutional Bills. It is also obvious from the Constitution that there are some legislations on the land chapter, that is Article 68, Devolved Government, the whole of Chapter 11, and also the removal of County Governor, those legislations have 18 months the deadline which is supposed to be 27<sup>th</sup> of February, 2012. Could we get an indication and an assurance from the Leader of Government business that this House will be meeting in good time to pass these legislations to avoid the last minute rush that we saw last time?

*(Dr. Nuh stood up in his place)*

**Mr. Speaker:** Leader of Government business, maybe, you just want to keep a note on that one. I can see from the demeanour of the Member for Bura that he is likely to raise a matter on a point of order that is aligned to what the Member for Gwassu has just raised.

You may proceed, Member for Bura.

**Dr. Nuh:** Mr. Speaker, Sir, mine is just to complement the point of order raised by hon. Mbadi, and to raise one more issue that has to do with in the unlikely event--- Because some of these Bills which are supposed to be enacted to give effect to the legislative parts of the Constitution, many a times, we are rushed as a Parliament to the effect that we are told we have passed some laws which clash with each other. Just to ask,

if we were to go on Recess today and we are to come back any other time, that we will not be recalled again as it happened last year, to come again to pass Bills which we will not be adequately prepared.

Mr. Speaker, Sir, I can recall that last year, we were recalled to come and give effect to some of the Bills, and when we came the Government was, again, neither ready nor prepared to move the Bills. We went back to our constituencies. So, I just want an assurance from the Leader of Government business that, in case, we go on Recess, then they will adequately prepare as a Government, so that they do not rush us at the last minute.

**Mr. Speaker:** Very well! Leader of Government business.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, I want to give that assurance. First, the hon. Member for Gwassi is quite right. There is quite a bit that we have to do to beat the constitutional deadline. He did refer to the deadline of 27<sup>th</sup> of February, 2012. It is anticipated that before the 27<sup>th</sup> the House will then meet to be able to specifically comply with the requirements of the Constitution with regard to that deadline. I want to give assurance to the Member for Bura that, indeed, we will be thorough. We are a very serious Government. Therefore, we will be prepared. That is the assurance.

## POINTS OF ORDER

### DISCONNECTION OF ELECTRICITY TO LITEIN WATER SUPPLY

**Dr. Kones:** On a point of order, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Water and Irrigation. This statement is in relation to the disconnection of electricity to Litein Water Supply.

In the Minister's statement, I would like her to explain why Lake Victoria South Water Services Board failed to pay up to Kshs8 million to the Kenya Power Company for supply of water to Litein, and why the Board has failed to sign an agreement with Tililbey Water Company to manage the water supply.

I would also like to know from the Minister the reason why, for the last two months, the staff and employees of the Board of Litein Water Board Services have not been paid their salaries. Why the Ministry has not allocated money to get water from upstream that is Kipsanoi River by gravity instead of pumping it using electricity.

Mr. Speaker, Sir, finally, I would like to know from the Minister, when the money owed to KPLC shall be paid, so that power could be reconnected, and water supply resumes.

**Mr. Speaker:** Minister for Water and Irrigation! This disconnection of water, yes, Member for Embakasi. You are the Assistant Minister, so you speak as the Minister.

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Mr. Speaker, Sir, the statement will be ready by Tuesday, next week.

**Mr. Speaker:** Very well! You will deliver it on Tuesday, next week.

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Yes, Mr. Speaker, Sir.

*(Dr. Khalwale stood up in his place)*

What is it, Member for Ikolomani.

**Dr. Khalwale:** Mr. Speaker, Sir, the Leader of Government business, His Excellency the Vice-President has referred my issue to the able Attorney-General, who is present in the House.

**Mr. Speaker:** Order! Order! The Attorney General!

**The Attorney General** (Prof. Muigai): Mr. Speaker, Sir, may I have time to look into that matter. It requires a reasoned opinion.

**Mr. Speaker:** Yes, indeed, you are entitled to have time.

*(Mr. Shakeel stood up in his place)*

What is it, Member for Kisumu Town East!

#### OWNERSHIP OF LAND IN SYOKIMAU

**Mr. Shakeel:** Mr. Speaker, Sir, I would like to request for a Ministerial Statement from the Minister for Lands relating to the matter of ownership of land in view of the evictions in Syokimau and other areas. In his statement, he should indicate when the following Bills will be introduced to the House as there was a commitment that they be introduced within 15 months of the promulgation of the Constitution. We have only one and half months left; the National Land Commission Bill, which I understand, has been ready since August, Eviction and Resettlement Bill, which I again understand, is ready. The Land Registration Bill, the Community Lands Bill, and the Land Bill. I hope that these will be ready within the 15 months required.

**Mr. Speaker:** Who would deal with this, Leader of Government business, it looks like your baby?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, we do take note, we will deal with it.

**Mr. Speaker:** Very well. Would you be able to give an indication to the House, sometimes, maybe next week. Very well! Next week.

#### TRANSFER OF BARCLAYS BANK OFFICE OPERATIONS TO INDIA

**Mr. Jamleck Kamau:** On a point of order, Mr. Speaker, Sir.

Mr. Speaker, Sir, I had requested for a Ministerial Statement from the Deputy Prime Minister and Minister for Finance on the intention of the Barclays Bank of Kenya to transfer its banking office operations to India. This statement was supposed to have been delivered today.

**Mr. Speaker:** Deputy Prime Minister and Minister for Finance, when will that statement be available? Leader of Government business?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, could we again put it to next week, because the Deputy Prime Minister and

Minister for Finance is not in the House. I am hearing it for the first time; we will let him deal with it.

**Mr. Speaker:** Leader of Government business, I will put that off to Tuesday, next week. Hon. Members are aware that this is a very important matter for the country. Barclays Bank is a major investment here and we need to know the direction clearly.

#### UNCONSTITUTIONAL WITHDRAWAL OF FUNDS FROM THE CONSOLIDATED FUND

**Mr. Mbadi:** On a point of order, Mr. Speaker, Sir. I had sought a Ministerial Statement from the Attorney-General which he promised to give I in think two weeks ago. Last Tuesday I reminded him, but he was not in the House. Hon. Ojode promised to relay the information and it was promised that the Statement will be made today. That Statement was with regard to the budgeting process and we are just in another circle. I can see the Attorney-General is seated in the House today and is attentive. Could he supply my Statement?

**Mr. Speaker:** Mr. Attorney-General, if you recollect that, would you like to give an indication?

**The Attorney-General** (Prof. Muigai): Mr. Speaker, Sir, unfortunately, that particular information was not relayed to me. However, I would like to assure the hon. Member that as late as this morning I was talking with my officers about our comprehensive Statement on that. It is almost ready and I could bring it to the House next Tuesday.

#### ERRORS OF COMMISSION AND OMISSION AT THE GOVERNMENT PRINTER

**Mr. Ogindo:** On a point of order, Mr. Speaker, Sir. Four months ago I rose in this House and sought a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security in connection with errors of commission and omission at the Government Printer. The undertaking was that the Statement would be delivered in two weeks and it is now months. Could I seek the guidance of the Chair?

**Mr. Speaker:** Yes, Mr. Assistant Minister, Ministry of State for Provincial Administration and Internal Security!

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I did promise this House that I will be issuing that Statement. In fact, I should have done it long time ago, but because you have realized that I have very many Ministerial Statements to make, majority of which border on security, I had to give the ones on security first in order to save lives. I can give this Statement on Thursday, next week if we do not go on recess.

**Mr. Speaker:** Very well! Since I have directed that several Statements be issued on Tuesday, this will have to be issued on Wednesday, next week.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): On a point of order, Mr. Speaker, Sir. I had requested the Chair to allow me to issue it on Thursday because I will be out of the country until that time.

**Mr. Speaker:** Very well! Then I direct that the Statement be given on Thursday, next week at 2.30 p.m.!

Hon. Members, that brings us to the end of Order No.7!

## COMMUNICATIONS FROM THE CHAIR

### ORDER OF BUSINESS: COMMITTEE OF THE WHOLE HOUSE ON FINANCE BILL AND MALARIA CONTROL BILL DEFERRED

**Mr. Speaker:** Hon. Members, before we move on to Orders Nos.8, 9, 10 and subsequently Order No.11, I wish to make the following Communication with respect to Orders Nos.9 and 10.

On Order No.9(i), the Deputy Prime Minister and Minister for Finance has indicated to me that he has as yet to work on the many amendments that have been received with respect to this Bill. As a matter of fact, up until ten minutes before the House commenced this Sitting, we received a further set of amendments. It is, therefore, expedient and makes sense that we allow the Minister time to acquaint himself with those amendments so that we have his input and I can also, as the Speaker, process approval or otherwise of those amendments.

I also wish to inform the House that we have received further communication from some of the stakeholders indicating that they would like to be heard and are taking issue with some of the amendments. If you take into account the provisions of the Constitution as it stands today, those stakeholders must be accorded an opportunity to be heard. So, under those circumstances, I will defer Order No.9(i) to such time that we have an indication from the Minister and the relevant Parliamentary Committee that they are ready to transact business at Order No.9(i).

Hon. Members, with respect to the business at Paragraph (ii), I will also defer that business until such time that the sponsor of the Bill indicates to the Speaker that he is ready to prosecute the Bill through the House. I will defer that infinitely because I have no indication at all from the hon. Member as to when he will be ready.

## COMMITTEE OF THE WHOLE HOUSE

(i) THE FINANCE BILL

*(deferred)*

(ii) THE MALARIA PREVENTION BILL

*(deferred)*

### DIRECTIONS FOR DEBATE ON REPORT ON NOMINEES TO EACC

**Mr. Speaker:** Hon. Members, with respect to business at Order No.10, I did receive a draft amendment or proposed amendment to that Motion from the Member for



Yatta, hon. C. Kilonzo. I have looked at the amendment in a very short time and I did not, before this Sitting, have adequate opportunity to look at the import of the proposed amendment. But I have, for as long as I have been sitting here, been able to do so. The import of the amendment is such that it will in its three parts negative the effect of the Motion. The Motion by the Departmental Committee on Justice and Legal Affairs asks the House to adopt its Report which has the effect of rejecting the proposed nominees to the positions of Chairperson and Members of the Ethics and Anti-Corruption Commission laid on the Table of the House on Wednesday 14<sup>th</sup> December, 2011.

The amendment proposed by the Member for Yatta seeks to do the converse and so, in effect, it will negative the Motion. Applying Standing Order No.55(2) which reads to this effect:-

“No amendment shall be permitted if in the opinion of the Speaker it represents a direct negative of the Question proposed.”

In my opinion, the proposed amendment by the Member for Yatta does so. So, the net effect, therefore, is that the House has the discretion to deliberate on the business at Order No.10 and decide one way or the other. The House may agree with the Committee, in which case, it will adopt the Committee’s Report or the House may disagree with the Committee, in which case, it will reject the Committee’s Report. If the House rejects the Committee’s Report by defeating this Motion, then the effect will be that the nominees as proposed by His Excellency the President in consultation with the Prime Minister, will stand. I hope I am clear on that.

So, we will then proceed accordingly!

**Mr. Mbadi:** On a point of order, Mr. Speaker, Sir. My point of order is with regard to your first Communication on the withdrawal of the Finance Bill. I have two issues to raise on that. The first one is that we need to pass this Bill by 31<sup>st</sup> of this month. Assuming that the Adjournment Motion succeeds then obviously, we will not need the legal requirement of passing the Finance Bill. However, my second fundamental issue is with regard to the Executive’s interference with the functions of Parliament. I have with me a letter---

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! Let us hear the hon. Member for Gwassi.

**Mr. Mbadi:** Mr. Speaker, Sir, this letter is from the Office of the President, Permanent Secretary, Secretary to the Cabinet and Head of Public Service. It is copied to the Attorney-General, the Permanent Secretary in the Office of the Prime Minister; the Permanent Secretary, Office of the Vice-President and Ministry of Home Affairs and also to the Permanent Secretary, Office of the Deputy Prime Minister and Minister for Finance. It is also copied to all Ministers and Assistant Ministers. I just want to highlight one paragraph which I find offensive to this House. It says:-

“The Cabinet noted the intentions of some Members of Parliament to interfere with the Finance Bill, 2011/2012 which would be suicidal for it will raise a public outcry, lead to hyper inflation and adversely affect the ongoing negotiations with the International Monetary Fund (IMF). The Cabinet considered these issues and directed the Office of the Prime Minister and the Office of the Vice-President and Ministry of Home Affairs as Leader of Government Business to petition the Speaker of the National

Assembly to block - and I want us to underline that word “to block - the introduction of superfluous issues into the Finance Bill 2011/2012”. This letter is signed by Ambassador Muthaura and I will table it.

Mr. Speaker, Sir, I find this an affront and an attack on the integrity of this House by the Executive.

*(Applause)*

It is wrong for a Permanent Secretary to indicate that Members of Parliament can interfere with the Finance Bill. I hope that the Executive should be reminded that this House legislates. We do not interfere with any Bill but we legislate. It disturbs me whether whatever is happening has something to do with this letter.

Thank you, Mr. Speaker, Sir.

*(Mr. Mbadi laid the letter on the Table)*

*(Several hon. Members stood up in their places)*

**Mr. Speaker:** Order, hon. Members! On this matter, really, you must hold your emotions. I do not want it to escalate unnecessarily. I would like, first, to look at the letter.

**Dr. Nuh:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, the Member for Bura! Hon. Members, I would like to take the reaction of the Leader of Government Business alone on this matter and then give directions.

**Dr. Nuh:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, the Member for Bura! Not on this one!

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, deliberations by the Cabinet are by their very nature secret and I would like to very strongly appeal to this House not to move in that direction. I want to agree with the Chair that we exercise moderation here. This is a copy of a letter and I am sure it would have been typed “secret”. Therefore, I want to suggest that we do not engage or address ourselves to the contents of this letter.

**Mr. Chanzu:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, the Member for Vihiga!

*(Several hon. Members stood up in their places)*

Order, hon. Members! I have already appealed for restrain

**Mr. Midiwo:** On a point of order, Mr. Speaker, Sir. I just have one issue. Kindly-

--

**Mr. Speaker:** Order, Chief Whip! On this one, restrain yourself. I will give directions as may be necessary on this letter on Tuesday.

**Dr. Nuh:** On a point of order, Mr. Speaker, Sir. It is on a different subject.

**Mr. Speaker:** Order, the Member for Bura! Not on this subject. I have to give directions on the matter raised by the Member for Gwassi with respect to the passage of

the Finance Bill not later than the 31<sup>st</sup> December this year. I am sure that all hon. Members are aware of that deadline and that we must meet it. If we do not meet it, the consequences are very dire. Among others, the effect would be that any taxation levied in accordance with the Finance Bill would be illegal and so the Executive understands that, and I think we all do as Kenyan Members of Parliament. The Leader of Government Business as well as the Deputy Prime Minister and Minister for Finance will surely be awake to that. As to whether or not the Motion which is appearing as the last on the Order Paper will see the light of day, if I make any comment on that I think I will be breaching Standing Order No.77. That would be being anticipatory and we do not want to speculate. Let us leave that to the House in its wisdom. So, we will proceed and take the next Order.

## **POINT OF ORDER**

### **WITHDRAWAL OF MOTION FOR EXTENSION OF HOUSE SITTING AND MOTION FOR ADJOURNMENT**

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): On a point of order, Mr. Speaker, Sir. Clearly, in the light of what you have just elaborated and in view of the gravity of this matter with regard to the need for the House to enact the Finance Bill, I propose to withdraw consideration of Order No.8 and also the Motion of Adjournment because if we were to adjourn without passing the Finance Bill, the consequences as you have rightly put it would be dire. I gather that the Deputy Prime Minister and Minister for Finance would have been using the Provisional Collection Order (PCO) and if by 31<sup>st</sup> December, 2011, this legislation is not in place then one of the things that the Treasury must do is to refund all the taxes that would have been illegally levied. I think the consequences to this nation and to what we stand for would have been dealt a grave blow. Therefore, I want to seek the Chair's indulgence and, indeed, the indulgence of the House that I withdraw Order No.8 as well the Motion of Adjournment.

## **PROCEDURAL MOTION**

### **EXTENSION OF SITTING TIME**

THAT, notwithstanding the provisions of Standing Order 20(2) this House resolves that the sitting time of the House be extended from 6.30 p.m. until conclusion of business appearing on the Order Paper.

*(Procedural Motion withdrawn)*

**Mr. Midiwo:** On a point of order, Mr. Speaker, Sir. I am a Member of the House Business Committee that decided to put on the Order Paper the Motion of Adjournment. It is true that the Leader of Government Business is the one to move it but this amounts to a threat to this House. The reason why the Deputy Prime Minister and Minister for Finance is not engaging this House--- In fact, the Motion is being withdrawn because of

the Finance Bill and yet he, himself is not even here at a time when the country is at a standstill.

*(Applause)*

The reason that the Minister is giving is that somebody purportedly, the Commission or a Member of Parliament has in this Finance Bill tried to give hon. Members some supposed gratuity and yet no Member or the Commission has done that. I have been engaging the Deputy Prime Minister and Minister for Finance a couple of times today over the issue of interest rates of banks. He told me that he will withdraw the Finance Bill until I withdraw my amendment and that is not fair to this Parliament. That is a threat.

*(Applause)*

So, I want to plead with the Leader of Government Business that this is a Coalition Government and their numbers are many. They can agree on something but you cannot put a knife on our neck so that we do some things. I want to say that I will not withdraw my amendment because it is my right to legislate and it is not the duty of the Government to force hon. Members on how to legislate. They will not follow that. We have given them a leeway to negotiate. We have sat with bankers but they are fleecing Kenyans. So, the Government must agree. The Government of this country has no business protecting banks.

**Mr. Speaker:** Order, Chief Whip! I think you have done as much as you ought to do but you are now going overboard. You do not have to go beyond the first part because the Motion is not before the House.

**Dr. Nuh:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Yes, the Member for Bura, and note that you must restrain yourself!

**Dr. Nuh:** Mr. Speaker, Sir, I want to go by your guidance and hope that you will be restraining that. I think I stood up on this issue of withdrawal of the Finance Bill; if we do not pass it by 31<sup>st</sup> of December, the consequences you have cited will be great.

**Mr. Speaker:** Order! Order, hon. Member for Bura! Order! Just before you proceed, I am not going to be unfair to you; I can see you are being very apprehensive.

*(Applause)*

But you have used a statement which is not valid, that is the matter of the withdrawal of the Finance Bill. That has not transpired; the Finance Bill has not been withdrawn. You may then proceed after correcting that part.

**Dr. Nuh:** Thank you, Mr. Speaker, Sir. I stand guided on the Finance Bill. The reason hon. Members of Parliament usually go for recess is that they use this time to connect with the constituents, which they cannot do during the normal working of Parliament. Some of us who come from far need all the time to be with our constituents.

Mr. Speaker, Sir, the consequences of the withdrawal of the Motion by the Minister for Finance would have ripple effects---

**Mr. Speaker:** Order! Order, hon. Member for Bura! Just be accurate; I have no quarrel with you! The Deputy Prime Minister and Minister for Finance has not withdrawn the Bill. I have deferred it.

**Dr. Nuh:** Thank you, Mr. Speaker, Sir. I stand guided.

Mr. Speaker, Sir, the deferment of the Bill will have a ripple effect where we, hon. Members of Parliament, may be convinced that it would not be timely for us to go for recess. We will be in a catch 22 situation; it will have the effect of this Parliament going on recess and being unable to meet the deadline, or having to stay until the Minister moves this Bill for this Parliament to pass it.

Mr. Speaker, Sir, it is a situation where now the Executive is hoodwinking us and trying to give us the timetable for this House. Many times we have wanted to delink ourselves from the Executive. As a Parliament, we want to legislate for our own calendar, so that we know when to go home and when to come back to legislate. But it seems that the Executive, through some – I do not want to use some uncouth words like mischievous – some other avenues tries to draw a calendar for this Assembly, and tries to keep us here longer here than we ought to. I would want to request that you find the Executive in contempt of this Parliament by not trying to abide--- They had all the time to prepare this Finance Bill. For them to, again, say that there is a last minute surprise and they want to consider some of the amendments is not being fair to this House.

**Mr. Speaker:** Very well, hon. Member for Bura; you have made your point. Now that we are tending towards a possible sitting next week, those sentiments will be brought before the House Business Committee (HBC), and they will be directed not to interfere unnecessarily with the calendar of Parliament.

*(Applause)*

This House, in its entirety, is represented in the HBC.

*(Mr. Kenyatta stood up in his place)*

Order, Deputy Prime Minister and Minister for Finance! You need not speak to this matter. I do not think it will be healthy for you, because you have not followed what has transpired.

*(Applause)*

*(Mr. Kenyatta stood up in his place)*

Order, Deputy Prime Minister and Minister for Finance! You will get into a situation that may not be very easy for you to handle.

*(Laughter)*

I want to direct, having heard the Leader of Government Business, that the business at Order No. 8 and the last Motion, which is the Motion for adjournment at Page 3154--- Note, hon. Members, that a Motion for adjournment is dilatory business; it does

not have strict rules of procedure applying to it. Therefore, the Leader of Government Business is within his rights to withdraw those two Motions, and I order that they stand withdrawn.

*(Applause)*

*(Order No. 8 and the Motion for adjournment withdrawn)*

We will, therefore, now proceed with the next Order of business.

## **MOTION**

### **ADOPTION OF REPORT ON NOMINEES TO ETHICS AND ANTI-CORRUPTION COMMISSION**

**Mr. Baiya:** Mr. Speaker, Sir, I beg to move:-

THAT, this House adopts the report of the Departmental Committee on Justice and Legal Affairs on the rejection of the proposed nominees to the positions of the Chairperson and Members of the Ethics and Anti-Corruption Commission laid on the Table of the House on Wednesday 14th December, 2011.

Mr. Speaker, Sir, on 1<sup>st</sup> December, this year, you informed the House that his Excellency the President had, after consultations with the Right Hon. Prime Minister, nominated the following persons to be considered for appointment as Chairperson and Members of the Ethics and Anti-Corruption Commission (EACC) by the National Assembly, pursuant to Provisions of Section 6 (6) of the Ethics and Anti-Corruption Commission Act, No. 22 of 2011. One, Mr. Mumo Matemu, Chairperson; second, Prof. Jane Kerubo Onsongo, member and, third; Mrs. Irene Cheptoo Keino, Member. You directed the names and *curriculum vitae* of the nominees to be referred to the Departmental Committee on Justice and Legal Affairs for consideration prior to the approval of the House, and directed the Committee to deliberate on the nominees and table its report before the House.

Mr. Speaker, Sir, the Committee held a meeting with each of the nominees on 14<sup>th</sup> December, starting at 9.30 a.m. The nominees made submissions on why they should be appointed to serve in the Ethics and Anti-Corruption Commission.

The background to this matter is that the Ethics and Anti-Corruption Commission is established under Article 79 of the Constitution and the Ethics and Anti-Corruption Commission Act, No. 22 of 2011. Article 79 of the Constitution provides that:-

“Parliament shall enact legislation to establish an independent ethics and anti-corruption commission, which shall be and have the status and powers of a commission under Chapter Fifteen, for purposes of ensuring compliance with, and enforcement of, the provisions of this Chapter.”

Mr. Speaker, Sir, Section 3 of the Ethics and Anti-Corruption Commission Act, No. 22 of 2011 provides for the establishment and membership of the Commission. Section 4 thereof provides, *inter alia*, that the Commission shall consist of a Chairperson and two other members appointed in accordance with the provisions of this Act.

Mr. Speaker, Sir, this Commission will replace the Kenya Anti-Corruption Commission (KACC), which was established by Section 6 of the Anti-Corruption and Economics Crimes Act. The effect of this new Act is to reduce the number of commissioners from nine, as they formerly were, to three, who are now sought to be nominated. Following the enactment of the Ethics and Anti-Corruption Commission Act, the President constituted a selection panel which held its inaugural meeting on 12<sup>th</sup> September, 2011. The said panel on 26<sup>th</sup> September, 2011, advertised in the Daily Nation and The Standard newspaper one vacancy for the position of the Chairperson and two vacancies for the positions of members of the Commission. Twenty-one applications were received for the position of Chairperson and 164 applications for the position of member. However, due to insufficient number of qualified female applicants for the position of Chairperson, the selection panel decided to re-advertise the said position.

Mr. Speaker, Sir, the names of all the applicants for the position of member and the shortlisted candidates were published in the media on 18<sup>th</sup> October, 2011. All interviews were conducted on 1<sup>st</sup> and 2<sup>nd</sup> November, 2011, at the Public Service Commission. Re-advertisement for the position of chairperson was done in 24<sup>th</sup> October, 2011, in the *Daily Nation* and *The Standard* newspaper. Upon closure of that re-advertisement on 1<sup>st</sup> November, 2011, the selection panel had received a total of 79 applications. The selection panel shortlisted nine candidates and the names plus the names of all the applicants for the position of chairperson were published in the Print Media on 4<sup>th</sup> November, 2011. Interviews were conducted on 8<sup>th</sup> and 9<sup>th</sup> November, 2011. The selection panel, pursuant to Section 6(5)(e), (f) and (g) of the Act, forwarded to the President the following names for the positions of the chairperson and members as follows:- For the chairperson, there was:-

- (i) Eric O. Omogeni
- (ii) Mumo Matemu, MBS
- (iii) Dr. Sarah M. Kilemi

The members were:-

- (i) Prof. Jane Kerubo Onsongo
- (ii ) Mr. Ochilo Polycarp J. Omolo
- (iii ) Mr. Robert Francis Shaw
- (iv) Ms Irene Cheptoo Keino

A letter from the office of the Permanent Secretary, Secretary to the Cabinet and Head of Public Service dated 24<sup>th</sup> November, 2011, to the Clerk of the National Assembly indicated that His Excellency the President has, in consultation with the Prime Minister, nominated Mr. Mumo Matemu as the chairperson, while Prof. Jane Kerubo Onsongo and Ms. Irene Cheptoo Keino had been nominated as members of the Ethics and Anti-Corruption Commission (EACC).

On 1<sup>st</sup> December, the Speaker in a Communication to the House referred the three names to the Departmental Committee on Justice and Legal Affairs for vetting and directed the Committee to submit its recommendation to the House by 7<sup>th</sup> December, 2011. The Committee considered all the nominees who were nominated to serve in the EACC, as I have said, pursuant to Section 79 and 250 of the Constitution, Sections 6, 7 and 8 of the Ethics and Anti-Corruption Act, 2011. At a meeting held on 14<sup>th</sup> December, 2011, the Committee examined the candidates against the criteria set out in the schedule

to public appointment, Parliamentary Approval Act, No.33 of 2011, which provides for criteria for vetting, approval of nominees for appointment to public office by Parliament.

The criterion requires nominees to disclose information on their personal and professional life, including their political affiliations, tax compliance and potential conflict of interest, among other things. The qualifications for appointment to the office are set out in Section 5 of the Ethics and Anti-Corruption Act, No.22 of 2011. The chairperson of the EACC shall be a person who meets the requirements of Chapter 6 of the Constitution, holds a degree from a university recognized in Kenya and has knowledge and experience of not less than 15 years in any of the following:- Ethics and governance, law, public administration, leadership, economics, social studies, audit, accounting, fraud investigation, public relations and media or religious studies or philosophy and has a distinguished career in his/her respective field. The members of the EACC shall be persons who meet the requirements of Chapter 6 of the Constitution, citizens of Kenya, hold a degree from a university recognized in Kenya, have a proven relevant experience in any of the following fields:- Ethics and governance, law, public administration, leadership, economics, social studies, audit, accounting, fraud investigation, public relations and media or religious studies or philosophy and have had distinguished careers in their respective fields.

The Committee having considered the *curriculum vitae* of all the applicants, made the following recommendations. The Committee deliberated on the nominees to the EACC and noted the following: That the nominees lack the passion, initiative and the drive to lead the fight against corruption in this country. We are relating this conclusion based on where we are coming from and where we are anticipating to go. The new EACC is anticipated to take the struggle against corruption in this country to where the new Constitution anticipates that it is going to be taken; to a new level.

*[Mr. Speaker left the Chair]*

*[The Temporary Deputy Speaker  
(Prof. Kaloki) took the Chair]*

We have had experience with the previous two Commissions and we are aware of the various shortcomings that we have noted. One of the Commissioners, for instance, reacting to concerns from the Committee about her experience with regard to Anglo Leasing commented that she is aware that there is a big room in the Commission where there is all kind of evidence regarding Anglo Leasing, but as far as she is concerned, she cannot make head or tail about it and to her, it is a mystery. Based on that, the Committee felt that all the nominees did not demonstrate sufficient interest in the fight against corruption. It is one thing to have the paper qualifications, but the kind of challenge that is needed to lead the struggle against corruption in this country, certainly, requires something beyond papers.

We have no doubt that these nominees have what it takes in terms of papers and careers, but they are expected, especially from the Chairperson all the way to the members, to shepherd the struggle against corruption. Indeed, we took account of the fact that the menace of corruption in this country stems not just from ordinary Kenyans, but even from highly placed officials in public offices. It requires people who have known



passion and have taken a stand against corruption. More particularly, they need to demonstrate ability to stand up for the public against corruption, amidst potential challenges and threats. This is because some of the people they will be expected to take action against are high powered individuals within the public domain.

The Committee, therefore, recommends to the House that the House rejects the nominations of the following persons for appointment to serve in the EACC:-

- (i) Mr. Mumo Muteru                      Chairperson
- (ii) Prof. Jane Kerubo Onsongo        Member
- (iii) Ms. Irene Cheptoo Keino        Member

The Committee recommends that the Executive submits fresh names for consideration and approval to the EACC based on experience and also demonstrated commitment in the fight against corruption.

The Committee further observed that the Executive failed to furnish details on the criteria they used, for instance, to by-pass the best candidate, for example, for the Chairperson. Even on the members, they by-passed some and there were no explanations. The Committee found itself inundated with issues and complaints that were made by the members of the public complaining why so and so was picked and not so and so. Currently, we are in the era of accountability and transparency and we expect explanations to be forthcoming from the Executive why they have not, for instance, picked number one for the Chairman and have gone for number two. Without that explanation, this Committee was not only vetting the names, but also the process. We felt that the process was not satisfactory.

Lastly, I beg to acknowledge the support and all the assistance from the staff of Parliament and also the Speaker's office. I beg to move. I will request my colleague, hon. Musyimi, to second the Motion.

**Mr. Musyimi:** Mr. Temporary Deputy Speaker, Sir, I stand to second the Motion.

We were privileged to be part of an interview panel yesterday. As you know, we have not met for a good nine months or so. We did our job. We were all very impressed by the qualifications of the nominees. They struck us as career people. They struck us as decent Kenyans. They struck us as people who can do a good job in most places. On that, we were unanimous. We were equally unanimous that something was lacking. The only word we could get for that was "passion". Having asked the question: "How do you define 'passion'?" I was asking an hon. Member here: "What was it that the country found in Dr. Willy Mutunga to be Chief Justice?" Whatever that thing is, that is what we saw lacking in these nominees. Call it credentials. Call it an ideological position. Whatever that thing is, that was what we felt was lacking in these candidates.

Mr. Temporary Deputy Speaker, Sir, it is not an easy position to take because we were taking a position on people who have gone through some thorough vetting but we are the Committee. Mind you, we have not found ourselves agreeing on a lot of things. So, it struck me as quite interesting that on this aspect, we actually---

**The Minister for Nairobi Metropolitan Development (Mr. Githae):** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that "passion" was one of the qualifications laid down either in the Constitution or in the Act itself? It is not. The qualifications are given in the Act. I think the hon. Member is confusing passion with a love affair. This is not a love affair. This is an engagement. You have passion in a love fair.

**The Temporary Deputy Speaker** (Prof. Kaloki): Yes, hon. Mutava Musyimi.

**Mr. Musyimi:** Do I proceed, Mr. Temporary Deputy Speaker, Sir?

**The Temporary Deputy Speaker** (Prof. Kaloki): Yes.

**Mr. Musyimi:** Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Could you deal with the issue of “passion” first?

**Mr. Musyimi:** Mr. Temporary Deputy Speaker, Sir, let me continue with my line of argument.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Musyimi! Before you proceed, clarify the issue raised by hon. Githae.

**Mr. Musyimi:** Mr. Temporary Deputy Speaker, Sir, before he even started speaking, people were making noise. So, could he, kindly, repeat himself?

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I will repeat, with pleasure.

Is the hon. Member in order to mislead this House by suggesting that “passion” was one of the qualifications laid down in the Constitution or in the Act of Parliament? As far as I know, “passion” is what you have when you are in a love affair. This is an engagement in a public office.

**Mr. Musyimi:** Mr. Temporary Deputy Speaker, Sir, the Minister has completely misheard me and he is now, deliberately, misrepresenting me. I did not say that “passion” was a qualification. I said that, the thing the country found in the Chief Justice, whatever you call it, is what we saw lacking.

In my humble submission, we saw people who were strong from the standpoint of institutional capacity, but they lack ideological commitment with respect to the fight against corruption. I was privileged to be the first Chairperson of the National Anti-Corruption Steering Campaign Committee. It is now headed by Bishop Wabukhala. One was able to ask a number of questions about this and other commitments of this particular Commission. One of them is, of course, public education. We were not persuaded, given the huge difficulties the country is in.

Mr. Temporary Deputy Speaker, Sir, if we are looking for people who are going to move the horizons, drive the agenda through in the country, step up to another level, we did not feel that these nominees had the capacity to help the country. What we can do is to submit our Report for the good of the country.

With those remarks, I beg to second.

*(Question proposed)*

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, I rise to oppose the Motion.

For the three years I have been in Parliament, I have witnessed Parliamentary Committees approve or reject names of nominees. At no time have we ever approved names of nominees on the basis that somebody has passion. At no time have we ever rejected a name of a nominee on the basis of somebody lacking passion. This is the first time I am hearing words like “passion” being used in rejecting names of nominees to public office. This is the first time I am hearing words like “could not demonstrate sufficient interest” yet a person has applied for the job.

Mr. Temporary Deputy Speaker, Sir, this is the first time I am hearing very interesting words like “the nominees lack initiative”. I would have expected this Committee to table a Report indicating complaints raised by various parties against particular nominees, and citing such as reasons for not finding particular nominees suitable for the job. However, in the entire Report, I do not see any justifiable reasons for rejection of these nominees, apart from the statements that the nominees lack passion and interest.

That said and done, I would like to go ahead and try to find out what people say about these nominees, and in particular one nominee, namely Mumo Matemu. What do other people say about him? We, Members of Parliament, are not demi gods. We cannot look at hon. Githae and say that he has passion or look at hon. Munya and say that he does not have passion, because these hon. Members will have appeared before us only once. So, I bothered to go and find out what these people were.

Mr. Temporary Deputy Speaker, Sir, in respect of Mumo Matemu, for example, in the first place, the Committee agrees in its own Report that all the nominees have had excellent careers and have excellent academic qualifications. That is what the Committee also did when they recommended the appointment of PLO Lumumba. In the Report that recommended the appointment of PLO Lumumba, they never spoke about passion. In fact, they never even spoke about career. They said that the Committee was satisfied that the three candidates had the requisite academic and professional qualifications for the positions under consideration.

However, when it came to these other names, the Committee developed another thing. I just want to give an example of the Kenya Revenue Authority (KRA). Mr. Mumo Matemu was nominated by KRA as a candidate to serve in the World Customs Organisation as Director, Tariffs and Trade Affairs, and the Authority said as follows:-

“The Authority has confidence that Commissioner Matemu is competent and well suited to serve in the organisation.”

Mr. Temporary Deputy Speaker, Sir, these are the people who know the man. As a Member of Parliament, if I want to make a decision about somebody, I will ask the people who know him better. I would probably interview them. This Committee did not call anybody from the KRA to ask about the conduct of this particular person.

Let us go to somebody else. This is none other than His Excellency the President, Hon. Mwai Kibaki, CGH, MP. On the recommendation by the KRA during Jamuhuri Day, on 12<sup>th</sup> December, 2010, in State House, Nairobi, he gave the following citation:-

“He has rendered a distinguished service as a team leader for KRA ISO Certification Project. He has been a team leader through protecting Government revenue through successful court actions. He has championed the use of information and communication technology (ICT) in support of functions at KRA.”

Mr. Temporary Deputy Speaker, therefore, if this man moves to this new Commission to fight corruption, he is going to bring three qualities. He is a team leader and he has protected Government revenue through successful court actions. He is able to do that now that he has a proven record. We took PLO who had no proven record – see where he landed us. He is also going to make sure that there is advanced Information and Communication Technology (ICT) in the new Commission. He was awarded the Order of Elder of the Burning Spear (EBS) for his outstanding contribution to the country. Now, is this a man we can say lacks passion? This is a man who has been fighting court cases!

I find it very hard to destroy people's careers in one sitting and condemn them without facts. The last time we were here appointing the predecessor, PLO Lumumba--- The man had passion if you want to say he had passion. However, nobody spoke about passion. Let us assume he had passion. Where did passion land us? You cannot gauge passion. You gauge passion with people who are in employment. It is the employer who provides conditions to make sure that the workers have passion for the job and not the other way round.

I was involved in the constitution making process at Bomas of Kenya. I sat with some members in a particular committee. I never thought they would make good legislators. To me they looked as if they were people without passion. For example, Millie Odhiambo, when she came here, she had the passion for being a Member of Parliament, but before she came to Parliament, I could not tell whether she had passion or not. She looked just schooled, but with no passion. However, when she was given the job, she has demonstrated that she had passion. There are many other examples.

I know hon. Members want to contribute. My appeal to this House is that the fact that the Committee has not given reasons for any of them apart from their different qualifications--- For you to fight corruption, you do not need to be a lawyer. We have Heads of States who are not lawyers and they have fought corruption in their respective countries. All we need to ensure is that of the three directors, at least, one of them is a lawyer.

With those few remarks, I oppose.

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I stand to strongly oppose this Motion. This Motion is dangerous. The Committee has introduced something which hitherto has been unknown as far as qualifications are concerned. All the people we have approved have never said that they had passion or they lacked it. This is the first time we are hearing of passion. Passion is not permanent. In 2002, a Member of this House was being considered as a compromise candidate because he had passion for politics and good governance. People are now asking, "Where is that passion?" So, it is dangerous. We are introducing something that is very dangerous.

Mr. Temporary Deputy Speaker, Sir, I am also shocked by this Committee. It had been hitherto inactive and in the first job they have been given they have dropped a bombshell in this House. People are now wondering whether it would have been better when the Committee was inactive rather than when we have just struggled so much to make it active and then it goes against the---

**Mr. George Nyamweya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. As much as my friend wants to be very passionate, is he not, in fact, imputing improper motives on the Members of that Committee by suggesting that the Committee was moribund or dysfunctional because, perhaps, they are very bad Members? Is that not the effect of what he is saying, that it would be better if they were, maybe, not even in the House? Surely, he cannot be allowed to proceed that way as much as he may want to push his case.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Githae, what did you mean?

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, that is far from the truth of what I wanted to say, and I

have no intention of imputing any improper motive. I have just raised a historical fact that previously, this Committee was inactive. That is a historical fact. In fact, hon. George Nyamweya has severally been on the Floor asking that this Committee be reconstituted.

Be that as it may, I do not understand when the Committee says that there was no passion. Surely, after somebody sits down to prepare a CV and then makes an application and then you say he has no passion for a job! You say that the person is not interested in the job? You say that the person has no drive? Somebody agrees to submit himself or herself to tough questions from the Committee Members and you say that the person has no passion, drive or interest? We have heard cases--- I think the Committee confused two issues. They confused sobriety with verbosity. I think they were comparing the previous holder of that job to Mr. Mumo Matemu. This job does not require an orator – it does not. In fact, the person who will be appointed should not even appear in the media. We should just be hearing of the people he has taken to court and not him saying that he is going to bring “high voltage” cases and then keep the country waiting for months until he is asked where the voltage cases are, and then he says that they are on the way.

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek your direction on the line taken by the Minister. Some of us have gone through so much pain to put this Committee back on track; I think it is wrong to bash it. We have confidence in this Committee. I was going even to support the Motion because Mr. Mumo is my friend, but if the Committee is to be bashed, I think some of us will then take a different line of argument. I do not think it is fair to the Committee.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Midiwo! You stood on a point of order. What is your point of order?

**Mr. Midiwo:** Is it in order to bash the Committee as opposed to talking about the substance of the Report?

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I am not bashing the Committee. I am only showing the errors that the Committee may have committed.

Mr. Temporary Deputy Speaker, Sir, we need the Ethics and Anti-Corruption Commission as a matter of urgency. When you look at the CVs of these people the President and the Prime Minister recommended, you will realize that they are qualified and learned. Some of them are professors. Even more, they have been awarded honours by the Head of State. Mr. Mumo was awarded EBS by the Head of State. He was able to collect a lot of taxes when he was at the KRA. The tax collection of KRA has increased from Kshs200 billion to Kshs600 billion. This is as a result of joint efforts by the Commissioner General and his Commissioners. Surely, a person has been able to collect for this country Kshs600 billion and you say that he has no passion! A person has risen at the KRA from a Management Trainee to a Commissioner and you say that he has no passion, drive and interest in a job? Surely, something is definitely wrong.

Lastly, Mr. Mumo is a sober man. I know him. He was my classmate. I went to school with him. I can assure you hon. Members that you will not go wrong in the appointment of these people. They are competent and capable. We know them.

Mr. Temporary Deputy Speaker, Sir, I beg to oppose.

**Mr. Mbadi:** Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion.

First of all, Members of the Justice and Legal Affairs Committee are not known for working together and coming to a consensus. If you see this Committee united and unanimous on a decision, then that decision must be right. It is high time that this House also trusts the Committees. There is a reason why we form Committees in this House. It is because in the plenary like this one we may not go into the details of interviewing and vetting these particular nominees.

Today we are being told of some qualifications of some people who have gone to school with others. Some of us have not gone to school with these people. These people cannot appear before us here in Parliament. We gave the task to the Committee to vet these personalities and bring a report to us. For me I will trust the report of this Committee.

I want to say something about “passion.” We are not just appointing any other commission. The commission we are putting in place today is the Ethics and Anti-Corruption Commission. It is not a question about your qualifications. It is not a question about how many offices you have held in this country. It is about determination to eradicate the culture and the dragon of corruption. We have got it wrong many times. We have had so many heads of anti-corruption bodies. This time this House will not be treated kindly by Kenyans if we neglect our duty and push through nominees over whom a committee of this House has expressed doubts as to their passion in terms of fighting corruption.

I want to correct my friend that passion has nothing really to do with love. That is a corruption of the word “passion”. I would ask my colleague to really get the correct meaning of word “passion.” You are corrupting the word “passion” to use it in other ways and that was not the initial intention.

I read here in the report that one of the persons is being spoken of as being someone who has moved revenue from Kshs200 billion to Kshs600 billion. Some of us are still questioning whether this country can only collect Kshs600 billion in a year. This country has the capacity to collect over Kshs1 trillion. Let us not be blinded by the fact that someone has been working in the KRA, and the KRA has been collecting Kshs600 billion. This same individual has worked with AFC. It went under when he was working there. Why are we not mentioning that one?

We, as a Parliament, have a responsibility to this country. If we are doubting the capability of individuals, let us return to the sender. Let the appointing authority bring us other qualified Kenyans. We have so many of them. Even if you want someone from your region, there are so many from those regions who can still qualify for this position.

Application alone does not show passion. Kenyans are looking for jobs and they apply left, right and centre. If you look at most of these adverts, the applications that are received are so many. It is not every Kenyan who applies who has passion to do the job.

With those many remarks, I beg to support.

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, first let me declare my interest. I want to say that the person who is proposed to be the chairman, Mr. Matemu Mumo was my classmate. So, that is a personal interest in the matter. The second interest in the matter is that when he retired from KRA recently, I gave him a job to do for my Ministry. I gave him work to do research and come up with two Bills that we brought to this House to give reforms in the Immigration Department in line with the Constitution. He delivered

on time and the House was very happy. So, those are my personal interests. But now let me come to---

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Proceed, Mr. Kajwang.

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Thank you, Mr. Temporary Deputy Speaker, Sir, because I have not done anything out of order.

Let me now come to the debate. There was a very good debater in this House. He has since left us; he was called hon. Odongo Omamo. Hon. Omamo was good in delivery even in this House or outside. At one time, he was accused of disloyalty to KANU for which he worked for very hard. He asked: "But how have you shown that I am disloyal?" He was told: We looked at your heart and we think you are not very loyal at heart. So, hon. Omamo at one time got upset and said: Is there a heart-o-meter in KANU to measure my loyalty? From that date, nobody ever touched Omamo on the question of his loyalty. He would have said barometer which we always know, but he chose the word "heart-o-meter".

This word has been brought here today; "passion" for the job. There is no "passion-o-meter" with which we can measure how somebody is passionate about his job.

*(Laughter)*

This is because it is something which is fluid; something you cannot hold and say; "now this is called passion".

Mr. Temporary Deputy Speaker, Sir, when I was a student at the University of Nairobi, there were two very serious political science lecturers. One of them is a Member of this House called Prof. Anyang'-Nyong'o and the other one has since left us; he was called Mukaru Ng'ang'a. They were talking about something called the Murang'a peasantry. After Mukaru Ng'ang'a explained - because he came from Murang'a - what the Murang'a peasantry is, Anyang'-Nyong'o who was then responding said:

"Now, you do not see a fisherman standing at the lake and you see he is happy and you think that he is happy because the boat which is coming in is carrying fish. He might as well be very happy because the sun is rising. So, Mr. Mukaru Ng'ang'a, can you arrest the Murang'a peasantry and bring it here and say; now, this is the Murang'a peasantry?"

I want to ask the Committee to arrest this thing called passion and bring it here and say; now, this is passion.

There was a Committee that was, first of all, appointed in also a very laborious way. That committee worked diligently through many applications. If there was something called passion, I am sure that Committee would have dealt with it. This is because they were also looking for somebody, probably, with that passion. But after checking through all those applications they came up with---

**The Assistant Minister for Industrialization** (Mr. Muriithi): On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Proceed, Mr. Kajwang.

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, after they have worked so hard and come up with some three names of persons they consider to be the best in this republic, at least, for those who applied, there could be many other good Kenyans who did not apply. There could be many Kenyans who feared to go through that rigorous---

**The Assistant Minister for Industrialization** (Mr. Muriithi): On a point of order, Mr. Temporary Deputy Speaker, Sir! And no amount of intimidation including from the Leader of Government Business---

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, there is somebody who is heckling in this House. This House is a House of gentlemen; it is not a House of hecklers.

**The Assistant Minister for Industrialization** (Mr. Muriithi): On a point of order, Mr. Temporary Deputy Speaker, Sir! This is a House of gentlemen and not hecklers! However, passionate you feel about this, you must give me time to be heard!

**Mr. Abdikadir:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to say that Members are heckling in this House? There are no hecklers in this House.

**The Temporary Deputy Speaker** (Prof. Kaloki): Minister, Members do not heckle! Could you clarify that?

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, I do not know the language. However, as a matter of fact, when I was speaking, and you had not given him a chance, he was making serious noise.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Minister! Can you withdraw that remark and then proceed?

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, if it was not heckling, then it was very serious noise. However, I withdraw the word heckling and replace it with making noise.

**The Assistant Minister for Industrialization** (Mr. Muriithi): On a point of order, Mr. Temporary Deputy Speaker, Sir. First of all, is it really in order for the Leader of Government Business to try to intimidate me not to rise on a point of order? With regard to personal interest, is it not in order for all of us in this House, who wish to speak on this matter, to declare, for example, if we have outstanding corruption cases, which five people are expected to adjudicate on? How can we be sitting here and contributing to this Motion? Is that not a very serious conflict of interest?

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, on a similar point of order. Is it in order for the Minister not to declare his full interest in this matter? He has said that the nominee is working in a task force in his office---

**Hon. Members:** He finished! He finished!

**Mr. Kioni:** He may have finished but allow me to finish also.

Can the Minister inform this House whether the file that was before the former Kenya Anti-Corruption Commission relating to him has been concluded, so that we can listen to him in sobriety and how it was handled?

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): First and foremost, Mr. Temporary Deputy Speaker, Sir, you should not just



come here to be seen on camera heckling. I have not committed any crime. I have no pending investigation before anybody, including the anti-corruption body.

**An hon. Member:** You are a bishop!

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): I am not quite a bishop, but, at least, I have no corruption cases. You know you do not just disturb somebody who is on his feet because you do not want to hear what he is saying. This is a very bad culture, which Members must learn to avoid.

There is no such thing and I want to say the following: The people who did these interviews, we did not know them; they applied, they were appointed by some appointing authority and they did their job for a long time. There were many applications and there are many Kenyans who may not have applied. They may be good, but they did not apply. They included the former director. He did not apply but he was qualified to apply. So, we cannot then say that we did not get the best people. These are the best of the people who applied. You see this idea---

**Mr. Abdikadir:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to say that these were the best of the people who applied when the first person in that list was left out? That was the best of the people who applied.

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, I do not know about that because it does not appear in the Report. What I know is in this Report is passion, which cannot be measured. The Report also talks about sufficient interest in fighting corruption. I do not know how you measure that sufficient interest but it does not matter. All these nominees had had excellent careers and have excellent academic qualifications, but lacked passion. Therefore, this thing is about passion and sufficient interest, both of which cannot be measured. At least, we are not being told how they were measured by this Committee. This Committee must bring to this House serious matters that can be discussed. If you have an issue, just say, "So-and-so while doing this job, committed this crime and he has not disclosed it". We can deal with that. You do not come here and give us bombastic words like "passion", which cannot be measured.

Mr. Temporary Deputy Speaker, Sir, I support this Committee.

**Hon. Members:** Oppose! Oppose!

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, I forgot.

I oppose.

**Mr. Jamleck Irungu Kamau:** Mr. Temporary Deputy Speaker, Sir, I rise to oppose this Motion.

I reckon that the first thing is that these names were forwarded by the President to this House after short listing was done by a competent body. When I see the recommendations which have been brought by this Committee, especially number one, which says that the nominees lacked passion, initiative and drive to lead the fight against corruption in this country. I look at the minutes of this Committee and with reference to the first nominee; Mr. Mumo Matemu, there is absolutely nowhere in the minutes where it says that Mr. Matemu lacks passion, initiative and drive to lead the fight against corruption. In essence, to me, it looks like whatever was deliberated on in the Committee, whose minutes we have, is actually not what is reflected in the recommendations of the Committee.

Mr. Temporary Deputy Speaker, Sir, when you look at the issues they have talked about, passion that has been talked about a lot here by so many people--- I am also wondering whether there is any degree or PhD that somebody can get, so that he can have passion; do we have, for example, a BA in passion? There is absolutely nothing like that. If it was a requirement, it should have been among the list of requirements when the advertisement was done. Nothing like that was in the requirements.

Therefore, I find it difficult to support this particular Motion the way it is. Talk about the fact that nominees did not demonstrate sufficient interest in the fight against corruption. Just take that statement alone. How do they demonstrate sufficient interest? How do you look at that? What does the Committee have to measure this interest?

My colleague talked about *passionmeter*. Is there an *interestmeter* too? It is very difficult for us to look at this thing and let it go the way it is.

Without any further ado, I wholeheartedly oppose the Motion.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, thank you for this opportunity to contribute to this Motion.

**Mr. Bahari:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Bahari!

Minister, please, proceed!

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Thank you for this opportunity to contribute to this particular Motion.

I would like, first and foremost, to congratulate the Committee on Justice and Legal Affairs for the speed at which they have been working since they were reconstituted. It shows that we have missed a lot of things that would have happened earlier had this Committee been in place. I want to congratulate them for that.

However, Mr. Temporary Deputy Speaker, Sir, the contents of this particular Report is not what I can support. It is very clear even when you go through the Report on every nominee that there is basically nothing but praise of the qualifications of all the people they interviewed. There is nowhere they have cited a single issue that questions the integrity of the persons. There is nowhere they have questioned the ability of the persons. There is nowhere they have questioned the commitment of these particular individuals. The only thing it says is that they lack passion. Passion can only be determined once somebody has been given a job to do and the results are out. That is the only time when one can demonstrate passion. Interest was demonstrated when they applied for the job. If they had no interest, they would never have applied for these jobs.

Mr. Temporary Deputy Speaker, Sir, my good friend, hon. Abdikadir, mentioned something which I think I need to bring again to this Floor. He spoke on a point of order when an issue was raised that there were others who were, indeed, more qualified. Indeed, that could possibly have been the case. However, I want to remind this House, that recently, we approved the name of the Controller of Budget. It is very well known that the person who was number one was not the one who was chosen. In fact, the person who was chosen was number four or five. The person who was number one was Mr. John Njiraini. That would have been the name that this House would have approved had it been that the issue---

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Deputy Prime Minister and Minister for Finance in order to compare the two cases and

yet the Committee is very clear? In the first case of the Controller of Budget, the reasons why the number one, two and three were bypassed were clearly stated by the appointing authority. In this case, the Committee has observed that that is lacking. So, is the Deputy Prime Minister and Minister for Finance in order to compare the two cases?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Mbadi, what is wrong with that?

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, the issue here is that by comparing the two, the Deputy Prime Minister and Minister for Finance is misleading this House because he is trying to persuade the House that the two cases are similar and yet they are different.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Mbadi! I do not see anything wrong with that.

**Mr. Mbadi:** Mr. Temporary Deputy Speaker, Sir, you do not need to see.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Thank you, Mr. Temporary Deputy Speaker, Sir. I appreciate that but the truth of the matter still remains. If it is the question of ability and commitment, it should always be the person who is number one who is selected. There can be no other reason in a society if what we are looking for is the best that we have in the country and that is the word that was used. He is the best that we have. If he is the best, then the best is always number one. I have never seen a school where a person who gets a “D” becomes the most brilliant student in that particular school. So, the fact of the matter is that even if we will be taking and choosing positions, let us do so on a level playing ground. Let us not victimize people because of where they come from or because I do not like this particular person. This should be based on the ability. This panel has gone through this and it has done it. If the Justice and Legal Affairs Committee had come and found one single reason that questions the integrity of these people, issues that they had done or maybe they had not met their tax provisions or whatever other issues, then I would have concurred with the Committee. So, my plea to this House is that, indeed, we reject this Report and allow these good Kenyan citizens to go about the business of ensuring that we fight corruption in this country.

I beg to oppose.

**The Assistant Minister for Defence** (Maj-Gen. Nkaiserry): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I rise to oppose this Motion. I think the Committee wanted this House to approve it and instead of putting the word “approve”, they put the word “reject”.

*(Laughter)*

This is because if you look at all the recommendations and the institutional experience---

**Mr. George Nyamweya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am a Member of that Committee and we are quite clear and unequivocal that we are recommending rejection. Is the Assistant Minister in order to mislead the House that we meant to do something other than what we rightly said?

**The Assistant Minister for Defence** (Maj-Gen. Nkaiserry): Mr. Temporary Deputy Speaker, Sir, in the minutes of the Committee, there is nothing serious that will

go against these people being approved. First, they talk about institutional experience. That alone should give these people the opportunity to serve in this Commission. Secondly, two of the members of this Commission have already been vetted. They are already working in the former KACC. So, they have already done a good job. So, the issue of continuity is there. Therefore, I do not see why the Committee should reject these very qualified individuals.

In case of Mr. Matemtu, he had worked in KRA and the issue of competence is there. The Committee did not find any reason to recommend the rejection. I quite agree with the Deputy Prime Minister and Minister for Finance that there is no "*passionometer*" to test the passion of an individual. If you apply for a job, you have a passion for that job. That is why they applied for it. If the two ladies had worked in the KACC before and Mr. Matemtu in KRA, then the issue of integrity is paramount or fundamental. These people have done a good job and they should be given this job so that they can continue to help this country rid itself of the dragon of corruption.

Because I know quite a number of my colleagues want to contribute to this Motion, I completely oppose this Report.

**Mr. Bahari:** Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to support this Motion and my reasons are as follows. Listening to the arguments that have been raised here about how you measure - and I want them to take this lesson today those who do not know how to measure that--- In the first instance, this is a realm of social science. It is measurable and it can be proven. Those who have no idea can come for those lessons.

One of the reasons why you go through the papers and at the same time ensure that they attend a face to face session with the Committee is to judge exactly that. Otherwise there would be no good reason whatsoever. This is a Committee of the House, carefully chosen particularly, on legal and administrative matters. If you look at their composition, you will see that they are men of integrity. The fact that this House is already divided on this matter sets a very uncertain future for this Commission. You can confirm through a face to face interview the general disposition, the attitude of that candidate and the aspects related to initiative of that candidate. You can also see that this Committee is fair because they said that as far as the academic qualifications are concerned, they were satisfied to that extent. Therefore, they are very balanced in their argument.

I have heard that most of the Members who have supported the candidature of some of these candidates is because they were classmates. That can prejudice you, the fact that you were classmates. We have many of them. Because of that, we do not know how hon. Kajwang procured the services of the candidate he was talking about. Was it subjected to any transparent process? Was there an advertisement for that process?

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The rules of the House are very clear. A Member must declare his interest. That is what hon. Kajwang and hon. Githae have done and anybody else. If you do not do that, you are flouting our own standards. My good friend is not new in this House. He knows that very well.

**Mr. Bahari:** Mr. Temporary Deputy Speaker, Sir, that point of order is misplaced. I am not questioning why he declared his interest. I am saying that even if he

is the one who appointed him to be in charge of whatever work that he gave, I am not sure how the services of his classmate were procured. Maybe it was influence.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, Mr. Bahari! Could you proceed to make your contribution? Please, could you get out of that now?

**Mr. Bahari:** Mr. Temporary Deputy Speaker, Sir, as much as I am not convinced, I would be getting out of it. There is no rule that I have breached---

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Bahari, why do you not move on with your contribution?

**Mr. Bahari:** Mr. Temporary Deputy Speaker, Sir, I now understand you. Now, we are communicating.

Mr. Temporary Deputy Speaker, Sir, we might set a very dangerous precedent if we are going to turn down the results of people we have given tasks. They have done a wonderful job in most of the cases.

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Member in order to mislead the House that we would be setting a very dangerous precedent if we do not agree with the Committee? This Committee is advisory. It is for this House to approve or not approve.

Mr. Temporary Deputy Speaker, Sir, it is not the first time where a Committee has made recommendations and this House has disagreed.

**Mr. Bahari:** Mr. Temporary Deputy Speaker, Sir, I am not out of order. There is no rule that I have breached. I am sure hon. Githae as a lawyer and as an old Member of this House understands what it means by a point of order.

Mr. Temporary Deputy Speaker, Sir, there is no rule that I have breached. I have just said that we tasked this Committee to do this job. They have given reasons why they have not recommended this gentlemen and ladies for appointment.

With those few remarks, I beg to support.

**Mr. Wamalwa:** Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion.

Mr. Speaker, Sir, I am a Member of this Committee that has been troubled for many months, and it was not easy for this Committee to come together. It was not easy for this Committee to agree. We took our time and executed our mandate in vetting these candidates, particularly who is to become the Chairman of Ethics and Anti Corruption Commission. By so doing, our mandate was guided by the provisions of the law, particularly Section 5 of the Ethics and Anti Corruption Commission. That particular section requires that a person shall be qualified to be appointed the chairperson, if that person meets the requirements of Chapter 6 of the Constitution. Section 6 of the same Act provides also that members must meet the requirements of Chapter 6 of the Constitution. What does Chapter 6 of the Constitution require of these candidates?

Mr. Temporary Deputy Speaker, when you look at Chapter 6 and one thing many Members who have contributed, I think they are backing the wrong tree. They are blaming the Committee, and they are, probably, casting aspersion. But they have not looked at the provisions of Chapter 6, particularly Article 7(2), which requires that the guiding principles of leadership and integrity, including selection on the basis of personal integrity must be taken into account.

Mr. Temporary Deputy Speaker, Sir, integrity is only one aspect we are looking at. Competence is another aspect. This, we are saying, is Matemu a person of integrity?

We are saying yes. Is he competent? We are saying yes. For Onsongo and Keino, we are saying they both meet the test of integrity and competence but there is a third test. That is the test of suitability. That is also a requirement over our Constitution. They are competent and people of high integrity. However, are they suitable for the job?

Mr. Temporary Deputy Speaker, we looked at these issues as a Committee. We had more time with them than this House will ever have. We gauged each candidate according to merit. This Committee that you are casting aspersions about consists of some of the top lawyers in this country. This Committee is made up of people of integrity who took their time to look at the law and the candidates before they arrived at a conclusion.

Mr. Temporary Deputy Speaker, Sir, for the time, it was unanimous. Apart from 73(2), we must also look at the provisions of Article 73(2)(e). Apart from competence and integrity, the persons to be selected, we must also look at the discipline and commitment to service to the people of Kenya.

Mr. Temporary Deputy Speaker, Sir, if you are to look at the commitment, it goes back to the fight against corruption in this country. We failed in the fight against corruption in this country. We have fallen short of the glory. That is why we sent home Lumumba and his team. That is why we are bringing in a new team. It has been said, and this was said in a conference about the Kenya We Want. We spent over Kshs30 million for a conference, and we came up with two things that stand in the way of the Kenyan dream. This is corruption and tribalism. We also came to a conclusion in fighting for the Constitution of this country, and it was a recommendation of the Kiplagat report that unless there is commitment, unless there is political will right to the top, this country will never get a new Constitution.

Mr. Temporary Deputy Speaker, when there was political will, the two principals; President Kibaki and Prime Minister Raila Odinga, united in leading from the front, this country got a new Constitution. Unless we apply the same passion and commitment, the war against corruption in this country will never be won.

We might have looked at the dictionary meaning of the word “passion” but the constitutional requirement also provides under Article 73(2)(e) commitment. They might have had integrity and competence. What is their commitment to the fight against corruption? We looked at their records and interviewed them. We asked particularly the two who had served before in the previous Commission: “You were part of this Commission, you were part of failed past, what new ideas do you have? What can you bring to the table for this country to win the war against corruption?” They did not satisfy us. The Members who made the recommendation had the benefit of interviewing and interrogating the candidates. They might have found out that, these candidates as good as they are and as competent as they; they lack something which is necessary, if this country is going to win the war against corruption.

With those few remarks, I beg to support.

*(Several hon. Members stood up in their places)*

**Mr. K. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Certainly, we have heard both sides of the coin. Hon. Members have ventilated enough. Would I be in order to call on the Mover to reply?

**Hon. Members:** No! No! No!

**The Temporary Deputy Speaker** (Prof. Kaloki): I think what I am getting from the Members is that we need to continue a little bit longer to get more contributions. So, we go on with hon. Kioni.

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I want to be very brief because I believe every Member who wants to speak on this issue should be allowed to do so.

I want to start by saying that I stand to support the Motion as proposed by the Committee. We must continue and ensure that we respect the work that is done by the Committees. If it is the question of the quality of the work, we say so, but trying to do character assassination will not be useful at all.

Mr. Temporary Deputy Speaker, Sir, I only want to deal with one issue. If you look at the Report for those who have it, I think it is on page 11, paragraph 21. It says: "The Committee further observed that the Executive failed to include details on the criteria used to bypass the best candidate. The Committee, therefore, recommends that future nominations should be accompanied by reports outlining the standards used." There must be a reason as to why we pass No.1. I have been on this Floor severally saying we really need to give everybody an opportunity to run for whatever office one desires. But it is important to observe as a nation, that if you want the country to move forward, we must use our best. Many times, the Prime Minister has stood on this Floor to tell us how Singapore, Malaysia and others have performed. However, when you look at the history of those countries, they were never run by anything else other than candidates who scored As in their examinations. We will not develop if we do not use the best among us. If we desire to go the route of Malaysia, Singapore and others, we must use the best that we have in the country.

We have had many reports on this Floor. As I said before, the best way to go is to have the best candidate at the right place. I know we have the issues of gender, regional balance and ethnicity. However, the issue of merit is given prominence in our Constitution. The fact that we had a better candidate than the person who has been nominated here allows me to support the position taken by this Committee. The requirements that the standards that have been used by those who have been nominated before be brought to the House, so that we remain informed, is a necessary requirement.

With those few remarks, I support the recommendations of this Committee.

**Mr. George Nyamweya:** Mr. Temporary Deputy Speaker, Sir, I am also a Member of that Committee. I would like the House and Kenyans to know that we did not come to this conclusion easily. We do understand the weight and responsibility of the work that we were to discharge. That must be made abundantly clear.

Mr. Temporary Deputy Speaker, Sir, I can say, for example, that I know the nominee for Chair. He worked at the Agricultural Finance Corporation (AFC) where I served as the Managing Director. He has also worked at the Kenya Revenue Authority (KRA). Our concern was particularly because we were required to give notice to members of the public about anybody who may have issues with the members. Indeed, we did receive concerns from members of the public. One of the greatest concerns which really gave us considerable agony was that it was being suggested that the proposed Chairman of the Ethics and Anti-Corruption Commission, whilst in charge of the legal services at the KRA negotiated with a company which owed the KRA Kshs2.4 billion

and the arrangement was that, that company should pay Kshs1.4 million per week to offset the Kshs2.4 billion. The question we asked ourselves---

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): On a point of order, Mr. Temporary Deputy Speaker, Sir.

**Mr. George Nyamweya:** Mr. Temporary Deputy Speaker, Sir, I thought we gave you considerable leeway for your schoolmate!

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. George Nyamweya!

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is a Member of this Committee and what he is now telling us may have happened in the Committee. But we have looked at this Report and we have not seen anything. That would have touched on integrity and they would have said so clearly. I wonder why the hon. Member should be allowed to tell us things which happened in the Committee which are not in this Report.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. George Nyamweya, is the information you are bringing up in the Report?

**Hon. Members:** No!

**Mr. George Nyamweya:** Mr. Temporary Deputy Speaker, Sir, in the Committee, we have HANSARD recordings. When you eventually make your recommendations, unless you are saying that we should bring the HANSARD report in its totality and all the exhibits that we received--- If that is the new way of doing things, you can tell us that that is the new way of doing things and we will do so. But nevertheless---

*(Several hon. Members stood up in their places)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. George Nyamweya, since you can see the interest of that remark, I would like you just to move on and make your contribution. This is because the particular information you have brought is not contained in the Report.

**Mr. George Nyamweya:** Thank you, Mr. Temporary Deputy Speaker, Sir. I did say that we are aware of our responsibility and, indeed, it will be our duty to inform this House, as a Committee, that we have concerns with the work you have given us about these nominees. This is the most serious Commission that we can ever set up to deal with the ethics and corruption in this country. There is no bigger threat to this country than corruption. We lose over Kshs200 billion per year because of corruption. We are saying that we must have faith in the person we want to entrust with that job.

Mr. Temporary Deputy Speaker, Sir, I stood here not too long ago and raised concerns that I did not think that Dr. P.L.O Lumumba was suitable. I was in the minority but I did not shy away from discharging that responsibility and I am not going to shy away that I am not satisfied. That is what the Committee has been asked to do. It has been asked: "Are you satisfied? Have you looked at these people and interviewed them?" If you are satisfied, tell the House: "We think that they are suitable." If the House agrees with us, fair enough! If they do not agree with us, that is also the responsibility of the House. But for goodness sake, we must point out to Kenyans. The House can, of course, overturn us. That is quite in order, but we must also be aware that we have warned you



that this is not a suitable person for this job. That is why as much as the nominee is a very well known person to me---- He is a colleague; he is lawyer like me, but I do not take that sort of action with pleasure. I must clear my conscience that I am doing what I think is suitable for the country.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to support.

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. You do recall that in my contribution, I said that the Report lacked facts and information. When a Member of that Committee brings facts and says that this information is available in the HANSARD when that HANSARD has not even been interpreted and printed--- I want to seek your indulgence on this matter, such that if the hon. Members who are contributing from that Committee withheld information from this House, then they cannot come and use it here as if they are hiding some cards under the table.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. C. Kilonzo, we have a Motion before us. We have a Report already and I think the hon. Members have copies of the same. So, the hon. Members have already read the Report and made their own conclusions, and that is what they are debating. Any other issues are not contained in the report. It is also difficult to follow some of the proceedings to do with some particular findings which are not in the Report. So, hon. Members should restrict themselves to the Report that is before us.

Yes, hon. Mwau!

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, I am slightly pained because when I look at the recommendations in this Report, they do not talk about any of the candidates being a witch-hunter, a person who is of questionable credibility, a person who lacks in integrity, a person who lacks in capacity or a person who in any way would not be able to perform the task of fighting corruption in this country.

I would also like to point out that the Departmental Committee on Justice and Legal Affairs is an agent of this House. I am not a rubberstamp. When they finish their recommendations, they come here and I am the final person. They are not the final person. They are my agents. Therefore, it is wrong for us to set very bad precedence. I have children and grandchildren and I hope that the other hon. Members also have children. I would like when my child goes for an interview for a job, the standards that are set are followed. You do not change the course in the middle because it is the son of so-and-so or because it is so-and-so. Here people went through the first interview and in the second interview--- We are not talking about Chapter Six here because it talks about integrity. The Committee is not questioning the integrity of these people. The Committee has now set up new standards or qualifications which are not legal, constitutional and are not found in any guidelines or rules and regulations. There are no guidelines in the Government that require you to show passion.

**Mr. Kioni:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that the Committee is setting a bad example to our children, while in essence they are actually setting the best example to our children? This is because in Paragraph 21, they are saying that the best candidate was by-passed. We would like our children to know that once you become number one, you take the certificate home. It should not be given to number two.

**The Temporary Deputy Speaker** (Prof. Kaloki): Proceed, Mr. Mwau. I think that is just an argument and an opinion.

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, the point that I am trying to drive here is that I do not want my son or my daughter or any of the relatives or children of this Member to go for an interview with a set standard and when they go there, the interviewer or the panel start looking at whether that person is passionate and whether they have initiative. When I went to vie for a parliamentary seat like all the other people here, my people did not ask me whether I have passion in legislating because I do not have passion in legislating. Nobody shows any passion in legislation but we have been able to legislate. When you were vying for your parliamentary seat, you did not show initiative in legislation but you have been able to legislate. When you were vying for your parliamentary seat, you did not show interest in legislation but you were able to legislate. So, when we start changing goal posts because you do not like a person or you do not like the theme of a person, a person who has gone up to a level where he has a PhD which is not collected in the bush; a PhD is a serious determination of academic excellence. That person has serious passion in whatever they do. I have seen some of these candidates---

**Mr. Ogindo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. If the word "passion" is creating confusion, then what Mr. Mwau is exhibiting now is perfect passion. Could he be informed accordingly?

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Mwau, you do not have to respond to that. Just continue with your contribution.

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, I would hate to go to any interview and then I have to start sobbing for the interviewer to see that I have passion for the job that I am looking for. That should not be the situation that we should be able to follow.

Mr. Temporary Deputy Speaker, Sir, I have looked at the recommendations by the Committee. The recommendations are very simple. The Committee deliberated on the nominees to the Ethics and Anti-Corruption Commission (EACC) and noted that the nominees lacked the passion. That is not a legal requirement. Initiative is a personal imagination. Sufficient interest in fighting corruption, you never gave them the opportunity to show you whether they could do it. How did they test them to see whether they have sufficient interest or not? Just to look at somebody for 15 minutes and you are able to see inside? Only God can do that.

All nominees had excellent careers. If they have excellent careers, at what time did they lack career? They had excellent careers and now they are looking to continue with excellent careers. I plead with this House that we do not make a mistake of making standards that we shall cry thereafter.

I, therefore, seriously oppose this Motion.

**Mr. Muthama:** Mr. Temporary Deputy Speaker, Sir, first of all, I want to congratulate the Committee for its work but I am going to oppose its Report. The reason why I am doing that is that many things have been said here but I want to show the Chair the minutes that were drafted and signed by the Chair of the Committee. Page two of the minutes of the Committee, and I want the Chairman to listen to this, the Chairman and Members have given reasons why the two nominees have been rejected but for Mr. Matemu, there is no reason that has been given.

Mr. Temporary Deputy Speaker, Sir, did you look at the name of Irene Keino? The reasons for rejecting this report read:-

“The Committee considered and determined that her skills did not match the job to which she had been nominated.”

Mr. Temporary Deputy Speaker, Sir, for Jane Onsongo, the reasons have been given that the Committee considered and determined that her skills did not match the job to which she had been nominated.

But, Mr. Temporary Deputy Speaker, Sir, for Mr. Matemu, there is absolutely no reason why his name was rejected. The report on Matemu, reads:-

“The nominee informed the Committee of the extensive legal background--”

That is number one. Number two:-

“---especially his experience as a Commissioner of Support Services at Kenya Revenue Authority (KRA) and, most recently, as the Chair on the Task Force on citizenship and related provisions of the Constitution.”

Mr. Temporary Deputy Speaker, Sir, there is no reason whatsoever---

*(Loud consultations)*

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Muthama is making very serious contribution, but the consultations are a bit on the higher side and we cannot really hear what he is saying.

**Mr. Muthama:** Mr. Temporary Deputy Speaker, Sir, I am not worried about the noise being made; I am making my point. Mr. Chair, you did a shoddy job here; you signed minutes here without giving reasons why the name of Matemu was rejected. You just gave his credibility, you showed how able he is, and you found absolutely no reason to make a remark here to show that he has failed. You left it blank and then you brought this Report here with your minutes and you want us to accept it! This is wrong!

Mr. Temporary Deputy Speaker, Sir, if you go to page 7 of this Report, it gives the details or the requirements that they met. The requirements have been met. The requirements that are needed within the Constitution have been met. If you go to page 8 and 9, ten good points have been given by the Chair. These 10 good points qualify Mr. Matemu for the job. Not one has been challenged, and you want to say that the man does not qualify for the job! That is wrong. Somebody sits down with this Committee, puts down 10 points that clearly show qualifications of the candidate and yet the candidate does not qualify!

Mr. Temporary Deputy Speaker, Sir, if you go to page 10, the reasons given are what has been said here; passion, initiative and drive. If I go to the constituencies of some of these hon. Members, I will find that the people who elected them are complaining that they are not serving them, but they are still hon. Members of Parliament. We all have weaknesses. You cannot pick just three points and say that Matemu was involved in corruption. There is no corruption! There is no wrong doing! This man has never stolen anything. Some of those who wrote this Report were rejected by the electorate! They came here as nominated Members of Parliament because they were rejected in their constituencies, yet they are here writing such a report!

*(Several hon. Members stood up in their places)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Order, hon. Members! Hon. Muriithi, what is your point of order?

**The Assistant Minister for Industrialization** (Mr. Ndiritu): On a point of order, Mr., Mr. Temporary Deputy Speaker, Sir. Whereas I agree it is quite in order for hon. Muthama to be speaking in such passion in defense of a specific position, is it really in order for the hon. Muthama to disparage an hon. Member in this House? He is heaping insults on hon. Members and on the Chair of the Committee! Is it in order? Hon. Muthama should, in all fairness, withdraw, apologize and be contrite for his intransigency.

**Mr. Muthama:** Mr. Temporary Deputy speaker, Sir, I have nothing to apologize for.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Muthama! There is a remark that you made and you need to apologize to the House. It will be proper for you to apologize and then make your contribution.

**Mr. Muthama:** Mr. Temporary Deputy Speaker, Sir, for the sake of the debate on the Motion to continue, I apologize and withdraw the remark “rejected”.

The last point which is paragraph 20, the Chairman says that the Committee recommends that the Executive submits fresh names for consideration and approval to the EACC based on experience. No one in this country has ever served successfully in terms of containing corruption. So, there is one who commands experience at all from those who served and those to be nominated.

I beg to oppose this Report will all my strength.

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, from the onset, I want to oppose this Report. It is unfortunate that we will always see victimization of women being played around with tribal factional fights. We are fed up. I can tell you that this Committee that is made up of lawyers---

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear hon. Shebesh say that there are tribal fights in this House? Could she clarify those tribal fights? I am not aware of any tribal fight in this House. We have been debating the nominees to the EACC.

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, I can clarify what I am saying. On this Floor, just a few weeks ago, we saw the Luhya nation coming together for their candidate. That is true. That time again, women were victimized. Women lost out in this fight. Today, without fear of contradiction, I see a Kamba nation fighting. We will not allow regional, factional and political parties fighting to always victimize women. For once, two ladies were picked for nomination to a Commission against one man and then you tell us in three sentences, very casually, that they have no passion. A passion of a woman is never seen during the day.

*(Applause)*

If they have interest in seeing the passion of these women, give them this work and let them do the work. Then you will see the passion that they have. Let this Parliament stop victimizing women who are qualified. These women have worked before in other sectors. They have passed the vetting process, and are qualified. I do not see how

a Committee can say that they do not seem like they can do their work and are not passionate enough about this work. I do not think that is what this House is made of. This House is made of credibility. If you have any issue with these people, allow them to do the work. We allowed a very passionate man; namely, P.L.O Lumumba, to do the work; a very passionate man. We then removed him on the Floor of this House. The Constitution allowed us and we did it. He was so passionate. Is passion what we are looking for to fight corruption? We are looking for people who can work for the good of this country who have gone through the proper vetting process. These people have gone through it and I see no reason why they are being victimized.

So, I oppose this Report.

**The Assistant Minister for Tourism** (Ms. Mbarire): Mr. Temporary Deputy Speaker, Sir, I rise to oppose this Motion. Actions speak louder than words. It is not enough for somebody to come to an interview, speak so much, excite you and then you think they will do the job. The best workers that I know of in this country have very little words. Watch our President, hon. Kibaki, how much does he talk? But look at what he has done for this nation for ten years. You can easily say he does not have passion when he speaks to you, but look at his actions.

So, we cannot sit here and judge people on the basis of this new word called “passion”, which we cannot even measure. You cannot just look at people and conclude, from the looks on their faces and from the way they have spoken, that they lack passion. That is a very dangerous way of determining how well a person can do a job. What worries me more is what hon. Shebesh has said. Two women here are about to lose their chances to serve this nation because some people feel that they are not passionate enough. I want to repeat what hon. Shebesh has said. If you want to know how passionate a woman is, give her the job. You will see the passion in her. You cannot see the passion in her because of how well she speaks or how excited she becomes towards you. I believe that these two women can perform very well for this nation.

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Proceed, hon. Mbarire!

**The Assistant Minister for Tourism** (Ms. Mbarire): Thank you, Mr. Temporary Deputy Speaker, Sir.

I want to urge this House not to set standards that cannot be verified in any way. These people have the right academic credentials. They are actually very well educated. They have the experience. What more do you want out of these people to believe that they can perform? I have a feeling that there is something else behind all this, and I would want this Committee to lay all the cards on the Table because something tells me that something is happening that we are not being told about.

*(Mr. K. Kilonzo forwarded  
a document to the Chair)*

The Committee should not expect us to accept their Report just because they were mandated by this House to represent us in the vetting exercise. We must ask you questions. Please, define “passion”. Please, tell me how you measure passion, so that I can listen to you.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I strongly oppose this new way of vetting through passion.

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to plead with you. I have just seen something unusual in this Parliament. Even as we debate this Motion, I think it is wrong for hon. Members sitting in this House to do what hon. K. Kilonzo has just done – to pass to you messages when people are already complaining that they are standing but they are not being given a chance to speak. I would wish to know the content of that message.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order, hon. Midiwo! You are totally out of order!

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I am not out of order. What has been done is not procedural. You are the Chair. You know that.

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! You are completely out of order.

**Mr. Njuguna:** Thank you, Mr. Temporary Deputy Speaker, Sir. I will be very brief on this matter.

Let me start by saying that the President and the Prime Minister consulted for a long time on these personalities and concluded, in their wisdom, that the three personalities are qualified for the job. In my view, the three Kenyans are known. They are patriotic. They have served this country well for many years and their characters are unquestionable. I regret that the Committee that did this job and generated the recommendations was not passionate. It was somehow biased.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, before I speak, allow me to congratulate the three Kenyans for having caught the eyes of the President and the Prime Minister. Unfortunately, they should do more. They should also get the collective eye of Parliament.

**An hon. Member:** They have it!

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I stand to support the recommendations of the Committee. Before I do that, hon. Members have remind me to mention two Parliaments, namely Kenya's Ninth Parliament and the Parliament of the Republic of South Africa. In the Ninth Parliament, the matter that I am about to speak to was a subject in the House. I was a sitting Member of Parliament then.

Mr. Temporary Deputy Speaker, Sir, in the Republic of South Africa, the challenge of apartheid went before Parliament and Parliament failed to rise against that challenge.

This is when Steve Biko was reported killed in prison and some Members of Parliament said that he had died of starvation, yet there was no lack of food in South Africa. Today, the challenge before us is the fight against corruption, and we are about to make the most important decision that will enable this country to have every year a minimum of Kshs280 billion for development that is normally lost through corruption.

Mr. Temporary Deputy Speaker, Sir, in the Ninth Parliament – and this is in the HANSARD – a Member of Parliament brought up an issue that has now finally caught up with the proposed Chairman of this Commission. This was none other than hon. Julius Arunga. He said in the House that there were some companies in this country that were being aided in non-payment of Income Tax. Hon. Arunga was challenged and upon being challenged, he mentioned some of those companies. I wish to table the document.

*(Dr. Khalwale laid a document on the Table)*

Mr. Temporary Deputy Speaker, Sir, when the Committee was seized of this responsibility, they put up advertisements inviting Kenyans to come forward and give reasons for or against the nominees. I want to table a sworn affidavit by a Kenyan who offered to come and give evidence before this Committee. The sworn affidavit is witnessed by Onalo and Ogesa, Commissioners for Oaths. The owner of the affidavit is a Mr. Philip Jasper, who had the following to say, but he has been denied an opportunity to appear before Parliament. He said that he was commissioned by the Kenya Revenue Authority (KRA) to enforce a restrain order against a company that had refused to pay Income Tax amounting to Kshs2.4 billion. He was denied that opportunity, but his evidence has reached me, and I hear it also went to the Committee. His final submission was that five years down the line, Mr. Mumo Matemu had failed, was reluctant, ignored or refused to collect Kshs2.4 billion in outstanding taxes from Kingsway Tyres and Auto Mart Limited, even with the support of a judgment from the High Court of Kenya. I wish to table this document and the judgment---

**Mr. K. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am on a serious point of order!

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, the judgment this witness swore an affidavit in support of is here. I have tabled it.

*(Dr. Khalwale laid the document on the Table)*

Mr. Temporary Deputy Speaker, Sir, I know nothing about passion. I know nothing about the qualifications of a lawyer to be suitable or otherwise, but I am talking about the need for us to persistently challenge the monster of corruption. The High Court ruling that this witness spoke to is contained here. I have tabled the High Court ruling which states that Kingsway Tyres was supposed to pay Income Tax amounting to Kshs2.4 billion.

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): On a point of order, Mr. Temporary Deputy Speaker, Sir. If I hear hon. Khalwale correctly, he is saying that the Committee received some affidavits and submissions from members of the public. He is also suggesting that the Committee either ignored them or deliberately refused to include them in the Report. It now becomes difficult for me to understand how you can support a Report which has actually excluded very serious allegations of corruption, yet show us also that the same Committee ignored that information. We cannot allow this kind of argument. Otherwise he must declare his interest.

**Dr. Khalwale:** Thank you, Mr. Temporary Deputy Speaker, Sir. Even if I am in the minority---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Where are you getting that information? Is it in the Report? Is it contained in the Report before the House?

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, can I respond without being interrupted? Before I respond, may I remind Mr. Kajwang who is my senior in politics that this Committee which was sitting is a Committee of this House and it is inferior of

the entire House. So, if that Committee gives us a report and there is an hon. Member of Parliament who is prepared to bend backwards and work hard and bring more information to the House, the House should listen. I beg that you allow me to be listened to.

Mr. Temporary Deputy Speaker, Sir, I now want to table the following documents---

**The Temporary Deputy Speaker** (Prof. Kaloki): But Dr. Khalwale, what we can agree on is that the Report we have does not contain the information you are now referring to.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, may I respond. The truth is this, that the information I have I got it from my own sources, but also the Committee has it in its possession in Room 8 the same documents that were filed by this witness who wanted to appear before the Committee.

**Mr. K. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir!

**Dr. Khalwale:** The next point I have---

**The Assistant Minister for Industrialization** (Mr. Muriithi): On a point of order, Mr. Temporary Deputy Speaker, Sir. With all humility that I can find in my humble self, why should we try to gag Dr. Khalwale who has information that should be brought to the attention of this House? Kenya is bleeding because of corruption. People died because of corruption. Why should we attempt to gag Dr. Khalwale? History will judge us harshly.

*(Dr. Khalwale stood up in his place)*

**The Temporary Deputy Speaker** (Prof. Kaloki): Dr. Khalwale, could you resume your seat first?

Mr. Muriithi, you are completely bringing issues that are not relevant to what we are talking about. We are talking about the information that the hon. Member is talking about. We are not gagging him. He has the freedom to express himself. However, we need also to find out whether the information he has is contained in the Report. That is what we are talking about.

Proceed, Dr. Khalwale!

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, before I table my next set of documents, allow me to appeal to the women of this country that today the Committee has dropped two women. This is not in any way a demonstration that we do not appreciate or love them.

Corruption hurts women more than it hurts men. It hurts the children of women more than it hurts men. Therefore, if we are committed to supporting the women of this country, we must give them an authority that has gentlemen and ladies of impeccable character.

The next set of documents that I want to table, the first one is from Kingsway Group of Companies. In this document Kingsway in writing dated 28<sup>th</sup> September, 2004, made an undertaking to Kenya Revenue Authority and told Matemu that we want you to come and collect from us on a weekly basis Kshs1.5 million. The man we want to give the opportunity to fight corruption---

**Mr. K. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir.



**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. K. Kilonzo, order! Let us allow the hon. Member to make his contribution!

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, upon receipt of this document, the Kenya Revenue Authority (KRA) went ahead and commissioned an agent to collect, on their behalf, this Kshs1.5 million. This agent, when he failed to collect, locked up all the godowns belonging to Kingsway. Kingsway ran into a round table discussion and they re-opened them on the undertaking that he was going to be a gentleman so that he pays the money.

Mr. Matemu, upon receiving that gentlemanly agreement refused to collect that money. All the time, he refused to collect the money.

**Mr. K. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**A hon. Member:** There is no evidence!

**Dr. Khalwale:** This is evidence!

**The Assistant Minister for Sports and Youth Affairs** (Mr. Kabando wa Kabando): On a point of order, Mr. Temporary Deputy Speaker, Sir. I know this has been said but this must also be said loudly as a point of order. Is it in order for we, Members of Parliament, who are supposed to defend, promote and protect this Constitution to really shamelessly and blatantly withdraw to our cocoons, ethnic enclaves, show extreme passion even sycophantic passion so that when a person is audited; here is a diligent Member of Parliament from Ikolomani? Is it in order for some Members of Parliament here to try to disrupt contributions by Dr. Khalwale just because they want to protect, philistines, charlatans and quislings?

**The Temporary Deputy Speaker** (Prof. Kaloki): Dr. Khalwale, I think Mr. Kabando wa Kabando is just supporting you.

You can proceed to make your contributions.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I want to thank Mr. Kabando wa Kabando. We have a shared background.

When Kingsway Automobiles and Tyres Ltd. requested for this, the KRA immediately responded and acceded to its request and expected that Mr. Matemu would go ahead and collect the money. Mr. Matemu did not collect the money; not for one week, not for two weeks, not for three weeks, not at any week---

**Mr. K. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. K. Kilonzo, you had your chance!

**Mr. K. Kilonzo:** I have not had my chance, Mr. Temporary Deputy Speaker, Sir. Dr. Khalwale, complete your contribution. Proceed!

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I now want to give Mr. Muthama; Mr. Muthama, Kenya is not yours, it is not mine. It not for these Members of Parliament, Kenya is for the children of Kenya who want to grow and have a world of abundant opportunity. We are just as hungry for billions of dollars like anybody else but we are saying let us leave those dollars for the children of Kenya born today, tomorrow and later.

If it is evidence that this---

**The Minister for Nairobi Metropolitan Development** (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Dr. Khalwale to mislead this House by giving false information? He is not telling this House that KRA went to

court, obtained judgment against Kingsway Tyres, they were awarded cost. So where is the failure of Mr. Matemu? We should actually commend him that he was able to get a judgment against Kingsway Tyres including costs!

**Dr. Khalwale:** Allow me to respond to that point of order and say that if there will come a day when any of these mandarins at the KRA will require a lawyer, they better not come for your services. He will get them jailed because the court judgment he is talking about is the one I have tabled. It is there and it says this Income Tax must be collected by whom; by the KRA, Mr. Matemu.

Mr. Temporary Deputy Speaker, Sir, I further want to table a series of documents which are repetitive and authentic and the Committee has them. Those documents demonstrate that when this good Samaritan or great Kenyan who wanted to be a witness, when he was proceeding, he was doing so on the strength of actual court orders of bailiff. The final document I want to table is---

**Hon. Members:** On a point of order, Mr. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Prof. Kaloki): Dr. Khalwale, continue.

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I was fearing that probably the hon. Members who are being disorderly by rising on points of orders unfairly---

**The Temporary Deputy Speaker** (Prof. Kaloki): I have just protected you. Proceed!

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, the second last document that I want to table so that this House can be informed is the actual document which was the order of bailiff that was signed by Mr. R.S.K. Njoroge requiring that this money be paid. It is here and I table it. I have photocopied on the other side an order of a certified bailiff in accordance with Income Tax CAP 470 by the KRA which restrained Kingsway Tyres and Auto Company.

With these series of documents I want to appeal to my colleagues with all due respect that I have no interest in this matter whatsoever. I want to beg hon. Members that I have no interest in this matter. This matter was merely brought to me by a patriotic Kenyan who appreciates the role of Parliament.

*(Dr. Khalwale laid the documents on the Table)*

**Mr. Letimalo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Given the fact that we have received sufficient submissions from the hon. Members, could the Mover be called upon to respond?

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, can the Mover be called upon to respond?

**Hon. Members:** Yes! No!

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Dr. Khalwale, you have the Floor to continue making your contribution!

**Dr. Khalwale:** Thank you, Mr. Temporary Deputy Speaker, Sir, for the protection.

I was just clarifying that I have no personal interest in this matter and I am just discharging the responsibility of a Member of Parliament.

May I conclude by saying that this Parliament can force this Chairman on Kenyans. That is fine, because you will have the majority. May I conclude by saying that

as you force this man, that is what the Apartheid Parliament did in South Africa and killed Steve Biko but apartheid fell. One day, we shall kill corruption.

I support the Committee's Report.

*(Applause)*

**The Assistant Minister for Industrialization** (Mr. Muriithi): Mr. Temporary Deputy Speaker, Sir, from the very outset, I want to say that I support this Committee. I want to tell you that in this House, 30 per cent of Kenya's Budget in every single year is lost through corruption. That translates to over Kshs300 billion every single year. That is Kshs300 billion that could be buying medicine and be used to pay doctors who are underpaid. The Kshs300 billion could be providing free 14 years of basic education to the children of Kenya. The Kshs300 billion could be building roads and making this country a country that all of us, every single Kenyan, can live in prosperity. We know that corruption networks fight back. We know that corruption networks can find their way in this House. We know that this Committee acted with discretion and evidence. I urge this House to trust the Committee. The Committee did not come to this House---

**The Temporary Deputy Speaker** (Prof. Kaloki): Order! Order! Hon. Muriithi, you will have 18 minutes to complete your contribution.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, it is now time for interruption of business. The House, therefore, stands adjourned until next Tuesday, 20<sup>th</sup> December, 2011, at 2.30 p.m.

The House rose at 6.30 p.m.