

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 10th May, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

Mr. Speaker: Order, hon. Members! Order, hon. ole Ntimama! Can you sit at the nearest spot for the time being?

Hon. Members, I have the following Communications to make

LIFTING OF SANCTIONS ON THE MINISTER FOR EDUCATION

First, you will recall that yesterday, 9th May, 2012 during the afternoon sitting of the House, I suspended the Minister for Education, Hon. Mutula Kilonzo, MP, for two sitting days, pursuant to Standing Order No.97(2)(b) on account of failing to answer Question No.1370, which was listed on the Order Paper, and which act constituted a disorderly conduct on the part of the Minister pursuant to Standing Order 46, which *inter alia* states:

“It shall be disorderly conduct for a Member to fail to ask or for a Minister to fail to answer a question listed on the Order Paper without the leave of the Speaker.”

I wish to reaffirm the importance of Ministers answering Questions and responding to other issues in the House. In equal measure, Members of the Back Bench are required to attend to their duties in the House and to give adequate attention and priority to parliamentary business. It behooves all of us to observe and abide by our Rules of Procedure.

Hon. Members, following my ruling suspending the attendance to the House by the Minister for two Sitting days, I have received a letter dated today, 10th May, 2012 from the Minister for Education, Hon. Mutula Kilonzo, explaining the circumstances that led to his absence and that of his Assistant Ministers. The Minister has informed the Speaker that he was unable to be present in the House yesterday afternoon during Question Time as he had concluded appearing before the Departmental Committee on Education, Science and Technology on the examination of the 2012/2013 annual Estimates shortly after 2.15 p.m. and that the Committee had requested further written submissions, which the Minister proceeded to urgently attend to. By the time he was informed that he was required in the House and had to seek information in respect of the Question it was too late for him to arrive in the Chamber. The Minister has further informed me that his two Assistant Ministers are out of the country on official duties.

In the letter, the Minister has stated thus:

“I take this opportunity to inform you that the absence of my Ministry was neither deliberate nor careless and to convey my apologies to the House and hon. Members.”

In view of the respect that the Minister has, consistently and sustainably over the years, had for the institution of Parliament, and the seriousness and dedication he has shown in the past in marshalling legislation, particularly with respect to the implementation of the Constitution, the sanctions imposed on him yesterday are hereby lifted.

(Applause)

I thank you.

WELCOME TO PARLIAMENTARY DELEGATION
FROM UNITED KINGDOM HOUSE OF COMMONS

Hon. Members, I want to introduce to you and welcome a delegation of Members of Parliament from the United Kingdom who are seated at the Speaker's Row. They are as follows:

1. The Hon. Richard Ottaway, MP, Member of the Conservative Party and Chair of the Foreign Affairs Committee and Leader of the Delegation;
2. The Hon. John Baron, MP, Member of the Conservative Party;
3. The Hon. Sir. John Stanley, MP, Member of the Conservative Party.

They are accompanied by Mr. Elliot Baras, the Second Clerk of the Committee. They are Members of the Foreign Affairs Committee of the House of Commons, United Kingdom, and are on a study tour to Kenya to share experiences and exchange ideas with their counterparts in the Departmental Committee on Defence and Foreign Relations and Members of the Executive Committee of the Commonwealth Parliamentary Association (CPA), Kenya Branch, on the role and future of the Commonwealth, of which our country is an active member.

On behalf of the House and my own behalf I wish the delegation a fruitful and happy stay in Kenya.

(Applause)

Hon. Members, the third and final Communication is as follows.

WELCOME TO UGANDAN PARLIAMENTARY DELEGATION

Hon. Members, I wish to introduce to you and welcome this afternoon, a delegation from the Parliament of Uganda who are seated at the Speaker's Row. They are Members of the Parliamentary Committee on Government Assurances of the Parliament of Uganda. They are on an exchange visit to meet Members of the Committee on Implementation in efforts to enrich the Implementation of The Government Assurances Bill, 2008 that is before the Parliament of Uganda. They are:

1. Hon. Odonga Otto, MP and Chairperson;
2. Hon. Fred Badda, MP, Member;
3. Hon. Oromait Michael, MP, Member.

They are accompanied by two staff members: Mrs. Alice Nyamwenge Mukyasi, Principal Clerk Assistant, and Mrs. Justine Namubiru, Research Officer.

On behalf of the House and on my own behalf, I wish the delegation a fruitful and happy stay in Kenya.

Thank you.

NOTICE OF MOTION

CALL ON GOVERNMENT NOT TO SIGN EPAS IN CURRENT FORM

Dr. Laboso: Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT, aware that since the signing of the Cotonou Agreement in 2000 the Government has been negotiating the Economic Partnership Agreements (EPAs) with the European Union (EU) together with other member States of the Eastern African region; taking cognizance that the Government has since initialed the interim EPAs; aware of the imminent amendment of the European Union Market Access Regulations, whose effect is that 18 countries, most of which are from the Sub-Saharan Africa which have not signed or ratified the full EPAs, Kenya included, will henceforth be removed from the duty free access to the European market, this House urges the Government not to sign the full EPAs in their current form until all the contentious issues raised by the Eastern African region and Kenya in particular are addressed, and that the Government continues to explore and negotiate alternative trading arrangements with the EU and other trading partners.

ORAL ANSWERS TO QUESTIONS

Question No.1179

PROVISION OF PROGRESS REPORT OF BRAND KENYA INITIATIVE

Mr. Speaker: Member for Kisumu Town East. Hon. Members, I have information now that the Member for Kisumu Town East is away on official parliamentary business. So, this Question will be deferred until such time that the hon. Member will be back in the country.

(Question deferred)

Question No.1405

LACK OF SPEECH THERAPISTS IN KENYA

Mrs. Shebesh asked the Minister for Medical Services:-

(a) If he is aware that there is no trained speech therapist in Kenya, yet speech therapy is an integral need for most children with special needs;

(b) if he is also aware that there are only 5 non-Kenyan speech therapists serving more than 400,000 children in Nairobi alone, hence making their service unaffordable for a majority of parents; and

(c) what plans the Government has to ensure that institutions of higher learning are supported to develop curricula for training professional speech therapists.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that Kenya does not have trained speech therapists. As a country we have three who are engaged in training those who require this service.

(b) We have four non-Kenyan speech therapists in addition to the three Kenyan speech therapists. The three Kenyan speech therapists are serving at the following institutions:

1. Kenya Institute of Special Education (KISE), Ms. Grace Macharia;
2. Gertrudes Garden Children Hospital, Ms. Lorna Muthoni;
3. A private practitioner operating a private school with special needs, of which speech therapy is one; this is Ms. Pauline.

The services of these seven speech therapists are supplemented occasionally by others who come from the USA through the Voluntary Service Organisation (VSO) Programme.

Mr. Speaker, Sir, going by the 2009 census statistics, the total number of people in the whole country with speech problems, who require the services of speech therapists, are 161,803. This figure highly contradicts the one brought by the hon. Member.

(c) As of now, we are challenged by speech therapists, but we have plans of developing of a curriculum involving all stakeholders.

Mrs. Shebesh: Mr. Speaker, Sir, I want to thank the Minister for his answer. However, I would like him to clarify the most important aspect of this Question which is about the Kenyan-trained or any facility in Kenya that is training speech therapist as opposed to those who were trained abroad and are working in private institutions. Could he tell us which Government establishments, starting with Kenyatta National Hospital (KNH) to all district hospitals, have speech therapists who are able to provide treatment?

Prof. Anyang'- Nyong'o: Mr. Speaker, Sir, the hon. Member is quite right. The Kenya Government does not have any tertiary institution that trains speech therapists. That is why I said that we have a major challenge in speech therapy. It is regrettable. Out of the seven speech therapists in this country, four are from abroad and only three are from here. We have to rely on neighbouring countries like Uganda or South Africa to offer specialized training for our people. The estimated cost of training one speech therapist in both countries is about Kshs4 million. So, without proper outlay of resources to the Ministry of Medical Services for this kind of training, we shall keep on having a shortage of speech therapists as well as other professions. As you realize, I did report to the House that during the current financial Budget, the Ministry was not allocated enough money for training. So, speech therapy is one of the areas that suffered seriously.

Mr. K. Kilonzo: Mr. Speaker, Sir, it is rather unfortunate that the Government is always caught napping on issues which are touching on Kenyans. These speech therapists charge Kshs4,000 per hour and yet a child is supposed to have 12 hours of therapy in a week. Looking at the big hospitals in Kenya like KNH and Moi Teaching and Referral Hospital, what is the Government doing to ensure that it advertises and subsidizes this service for the Kenyan children who are really suffering?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the hon. Member is very right that the cost of consulting speech therapists is very expensive in this country because it is mainly in the private sector. I have said before and I will repeat here, that the cost of healthcare in this country is

pretty high. Therefore, when ordinary Kenyans suffer from costly diseases which either require treatment or palliative care, we are really in the doldrums. In our current Budget and in our submission to the Government regarding long terms improvement in healthcare, I have always said in this House that we need about Kshs85 billion in the next three or five years to respond to this tremendous shortages which have not been taken into account for the last 25 years. So, we are talking about a deficit in financing healthcare that has accumulated for 25 years. This is a reality. Unless we, as a Government, invest seriously in the health sector and universal healthcare insurance, we shall continue to have these problems for a long time. This House itself is held in jeopardy by the people of Kenya because it is expected to respond to these problems. The House can raise the issues that the hon. Members are raising, but it is, indeed, our responsibility to look for resources to do this. So, I do share the concerns of the two hon. Members, but that is the explanation that I can give.

Mr. Njuguna: Mr. Speaker, Sir, with 40 million Kenyans, the number given by the Minister is very negligible. What remedial measures is the Government taking to make sure that Kenyans get this basic medical attention?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the only remedial action that we have taken and we shall continue to take is to depend on Non-Governmental Organizations (NGOs) and volunteers like the Voluntary Services Organization (VSO) which offer this service. The next thing that we can do is to work together with universities, whether public or private, to mount this course. That is why I have said that Kenya needs, not the eight medical schools that we have today, but 35 medical schools in the public and private sectors to respond to the tremendous shortage of medical professionals in this country; from ordinary physicians and surgeons to specialized healthcare that is given by professionals like speech therapists.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, Article 43(1)(a) and Article 53 of the Constitution provide for the right to health, and to the highest attainable standards of healthcare, especially for children. Is the Minister aware that he is in violation of the rights of the child? What steps is he taking to ensure that he actually provides for the training of at least such specialist per year instead of giving us a general policy overview without very concrete action?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I am definitely guilty of not observing Article 43 of the Constitution. Indeed, the Constitution challenges the health system to do a lot of things to ensure that Kenyans have a right to affordable and quality healthcare. That requires financing and institutional building. That is one of the reasons that I said that we must begin to walk today by noting the shortages and deficits, realizing the job that is involved and not only react spontaneously to problems as they arise. I have said that we are factoring in now resources for training. We did not have it last year although we had it in our Budget. We have drawn the attention of the Budget system to the fact that these trainings are necessary. As the hon. Member rightly said, if we can start with one speech therapist at a time which is a very inadequate response to the problem, to me, that will be at least something. It is better than nothing. I agree with the hon. Member completely.

Prof. Kaloki: Mr. Speaker, Sir, the Minister is telling Parliament and the whole country that this particular area has been neglected. That is what he is confirming to this House. Will he consider establishing at least a speech therapy institution in every county so that we can devolve medical attention and institutions in every county? That way, he will be able to give a report that several therapists have been trained in this country because 11 therapists cannot meet the demands of this country. How much is he planning to put in the next Budget for training?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, what we are doing is to develop curricula for training speech therapists. If you hire people to come and train without telling them what to do, we shall, perhaps, be paying money and not getting results back. So, the first thing and this is in our strategic plan, is to ensure that curricula for speech therapists is there so that whether you are using volunteers or foreign personnel, they will use it. Secondly, to engage institutions that can train the speech therapists. Some of these institutions may be universities in the public and private sectors. The only institution we have at the moment which trains speech therapists at a very low level, is the Kenya Institute of Special Education (KISE). This is because lack of proper speech requires special education just as much as deafness also requires special education. The Kenya Institute of Special Education has been mandated by the Government and given the responsibility of responding to this. But even that institution must be funded adequately to train professionals in speech therapy.

Mrs. Leshoomo: Asante, Bw. Spika. Je, ni njia gani mwafaka atakazotumia kuwasaidia watoto vigugumizi kutoka jamii maskini?

Prof. Anyang'-Nyong'o: Bw. Spika, Serikali ya Kenya ina uhaba wa pesa. Kwa hivyo, sisi kama Wizara tunapendekeza Serikali ya Kenya itenge pesa za kutosha katika Bajeti ijayo ili tuweze kuwasomesha maafisa wengi ambao watakuwa na ujuzi mwingi wa kuwasaidia watoto vigugumizi hapa nchini, hasa kutoka jamii maskini.

Mrs. Shebesh: Mr. Speaker, Sir, I just want to ask a final question. The numbers that the Minister is quoting and what I am quoting are different because of what I call stigmatization of children with special needs. Certainly the census exercise did not cover all the children because most of them are hidden in their homes due to stigmatization. What is the Ministry going to do about that very critical issue of children born with special needs like those who need speech therapy and other kinds of treatments so that the parents can bring them out for treatment? I believe this must be included in the wider policy of the Government.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, by coincidence, yesterday when I was in Aga Khan Hospital I met a parent with a two year old boy who could not speak or respond to his name. So, I asked the father what he is doing. He told me that he was taking him to the Aga Khan Hospital, so that the boy can be given specialized treatment over time. The father was convinced that eventually the boy would speak. The problem, as the hon. Member says, is that we do not know how many such young children are there in the countryside because the people there are not as privileged as this person I met at Aga Khan Hospital yesterday. They may not know even the necessity to report this to social welfare officials. So, the hon. Member of Parliament is right. The figures we have are from the census exercise. As you know, the census is as good as the data or the questions they ask. So, if the census asked the kind of questions that could not solicit responses from people to give this kind of data, obviously, there would be under-reporting in the number of people who have speech problems. I know this since I was the Minister for Planning and National Development. When you are developing census questionnaires, you must decide what kind of data you want. What kind of data people can respond to accurately. The data we have is based on 2009 Census, but of course, the hon. Member may have better information than us. That information can be verified by the Kenya Statistical Authority in the Ministry of Planning, National Development and Vision 2030.

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. If you listened to the Minister, he has continued to tell the House that there is an issue of availability of funding. But he has not told the House what he has done to convince the Minister for Finance to factor it in the Budget. Is he in order?

Prof. Anyang'- Nyong'o: Mr. Speaker, Sir, we have to realize that the Budget is as good as the wealth of the country. If we present our demands, which we do, there is always a Budget circle which involves all Ministries to discuss and present their demands. However, in the final analysis, Treasury must allocate resources according to the wealth of this country or the money we get from taxpayers. So, if the Ministry of Finance turns around says that they cannot give so much money, there is very little that the Ministry of Health can do. The point is that it is for this House to lay down certain priorities. If the House so decides when the Budget comes that we want so much money to be allocated to the Ministry of Health, then the House will have the power to do so. This is the House that decides in the final analysis. I said so earlier. I have said so several times in this House that, that is something we have done in our five year plan and it is in this answer. So, what we can do is to present our needs, but what we get back is from Treasury. How Treasury responds depends on the wealth of this country. So, it is a three way thing: Let us create wealth, let Treasury get a bigger pie from which to tax people and then the Treasury will respond more to the needs of the Kenyan people than it is doing now.

Question No.1409

IRREGULAR PLACING OF MUKSERO SUB-LOCATION
IN KISII CENTRAL DISTRICT

Mr. Magwanga asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that the administrative boundaries of Muksero Sub-location are currently in Kisii Central District; and,

(b) what urgent steps the Government is putting in place to ensure that the sub-location is administratively controlled by the Rachuonyo District offices.

Mr. Magwanga: Mr. Speaker, Sir, I have not received a written answer. Thank you.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I beg the indulgence of the Chair. My colleague, Mr. Lesrima, asked me to stand in for him and request the Chair to defer this Question. He did mention to me also that he has already spoken to the Questioner that this Question be deferred to Tuesday next week when he will be available.

Mr. Speaker: Tuesday next week, Member for Kasipul Kabondo, do I have your concurrence?

Mr. Magwanga: Mr. Speaker, Sir, most obliged.

Mr. Speaker: Very well. So directed.

(Question deferred)

Next Question by the Member for Mwala.

Question No.1424

REHABILITATION OF MAKUTANO-KITHIMANI ROAD

Mr. D. Muoki asked the Minister for Roads:-

(a) whether he is aware that tenders for the upgrading of Makutano–Kithimani Road (C100) to bitumen standard were invited in 2007, and if so, who won the tender and what the cost was; and,

(b) when the works on the road will commence.

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that in the year 2007, tenders were advertised for the upgrading of Makutano–Kithimani Road (C100). However, these were later cancelled due to non-availability of funds.

(b) My Ministry is sourcing for funds for upgrading the road to bitumen standard. Meanwhile, my Ministry, through the Kenya National Highways Authority (KENHA), has awarded a contract for maintenance of the road in order to keep it motorable. Thank you.

Mr. D. Muoki: Mr. Speaker, Sir, listening to the answer the Assistant Minister is giving, one, he fails to answer the Question as is asked and he has not substantially answered the Question. We are aware that when the contracts were advertised there were funds and these funds were transferred to other projects. Is it Government practice to advertise for tenders and call for contractors to come over to do roads when there is no budgetary provision?

Dr. Machage: Mr. Speaker, Sir, I am as concerned as the Member on what happened. This is not standard Government practice. Indeed, I am aware that a contractor had gone to the site and even started recruiting workers. I am still investigating the details of what really happened for the contractor to be pulled out.

Mr. Bahari: On a point of order, Mr. Speaker, Sir. You have heard the Assistant Minister say that he is still investigating under what circumstances the funds were withdrawn from that road. Will I be in order to request the Chair that the Assistant Minister goes back to investigate and comes back with an adequate response to this Question?

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

Mr. Speaker: Order! That was a point of order, let the Assistant Minister respond first. Assistant Minister, please, proceed.

(Applause as Mr. M. Kilonzo entered the chamber)

Dr. Machage: Mr. Speaker, Sir, I will be more than happy to be given that time do dig into this issue.

Mr. Speaker: How long do you need?

Dr. Machage: Two months will be adequate.

Mr. Speaker: Two months; Mr. D. Muoki, do I have your concurrence for two months?

Mr. D. Muoki: Mr. Speaker, Sir, the people of Mwala and Yatta, who are served by this road, have been waiting for five years. Indeed, we cannot wait for two months. The Assistant Minister should get a response in two weeks at most.

Mr. Speaker: Member for Mutito, you are rising on a point of order on this matter?

Mr. K. Kilonzo: Yes, Mr. Speaker, Sir.

Mr. Speaker, Sir, this is not the first time that this Ministry has gone to advertise roads or bridges, put money aside and then after the advertisement they transfer the same amounts to different projects. In Kitui, a similar project, Nzeu Bridge, was advertised and two years later that bridge has not been done. Is it in order for the Assistant Minister to keep asking for time yet we know this is not a Government procedure? Would I be in order to request that the Assistant Minister comes to this House and gives us a tabulation of similar projects which have been

advertised but have never been done? There are quite a number other projects in addition to the Makutano-Kithimani Road.

Mr. C. Kilonzo: On a point of information to the Assistant Minister, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Yatta!

Next Question!

Question No.1436

BOUNDARIES OF AREA GAZETTED AS
MWEA IRRIGATION SCHEME

Mr. Gitau asked the Minister for Lands:-

(a) whether he could indicate the entire land gazetted as Mwea Irrigation Schemes under the management of the National Irrigation Board (NIB) and table the relevant gazette notices;

(b) whether he could also indicate which part of the land under the NIB has been allocated to private developers and title deeds issued; and,

(c) whether due process was followed during the issuance of those title deeds and whether he could also table the relevant documents.

Mr. Speaker: Minister for Lands! I am made to understand that the Minister for Lands is within the precincts of Parliament. I am directing that he finds his way to the chamber in the fastest way possible! The duty of all Members is first to the House and Committees come second. That has to be clear. It must be understood. It is actually obvious. It follows like day follows night. Therefore, the Minister must find the fastest way possible to the House.

Next Question by the Member for Nyatike!

Question No.1457

ILLEGAL ENTRY OF TANZANIAN VEHICLES
INTO NYATIKE DISTRICT

Mr. Anyanga asked the Minister of State for Immigration and Registration of Persons:-

(a) whether he is aware that motor vehicles from Tanzania are using illegal routes into Nyatike District;

(b) whether he could provide details and tracking movements of the vehicles using the illegal entries; and,

(c) what measures the Government is taking to ensure that immigration rules are not flouted at border points, particularly in Nyatike District, and also ensure that revenue collected benefits the local community.

The Assistant Minister, Ministry of State for Immigration and Registration of Persons (Mr. Baya): Mr. Speaker, Sir, the bigger part of this Question concerns the Ministry of Finance. I have consulted with the Questioner, Mr. Anyanga, and we have agreed that the same be redirected.

Mr. Speaker: Assistant Minister, is it your position that some part of this Question concerns your Ministry, but there is a large portion that concerns the Minister for Finance?

The Assistant Minister, Ministry of State for Immigration and Registration of Persons (Mr. Baya): Yes, that is my position.

Mr. Speaker: If that is your position then I am afraid you have the capacity, as I know, judging from your experience at the highest level in provincial administration, to collect whatever information you need from the Ministry of Finance and respond to this matter and I so direct. How long do you want?

Mr. Baya: One week, Mr. Speaker, Sir.

Mr. Speaker: Very well! This Question will come on the Order Paper on Tuesday after next week. Please come with the answer! Kindly, no excuses! You are a man that is highly rated in Kenya unless you want the House to believe otherwise.

(Question deferred)

Question No.1526

NON-PAYMENT OF RETIREMENT BENEFITS TO ALICE WAMBUI KABUGI

Mr. Kabogo asked the Minister for Education:-

(a) whether he is aware that Ms. Alice Wambui Kabugi, a retired primary school teacher (TSC No. 73615) has been following up on her benefits since June 2007, without any success; and,

(b) when she will be paid.

The Minister for Education (Mr. M. Kilonzo): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am very well aware that Ms. Alice Wambui Kabugi, a teacher who retired on 1st September, 2008 has been following up on her benefits since June 2007 without any success.

(b) My Ministry forwarded Madam Kabugi's personal file, TSC No.73615, to the Treasury, specifically to the Director of Pensions on 4th March, 2010 for payment of the benefits. Allow me, before I conclude, to apologize to the hon. Member because I was only able to give this information to him early this morning but I have given him a copy of the letter from the Teachers Service Commission (TSC) forwarding this file of this Kenyan.

Mr. Kabogo: Mr. Speaker, Sir, I am not sure whether the Minister is satisfied with this answer and more so part "b" where it says: When will she be paid? All he has done in that part is to tell the House that the documents were passed over two years ago. Is he satisfied with this answer? This is a poor lady who is suffering. What has the Minister done to make sure she is paid and many others like her?

Mr. M. Kilonzo: Mr. Speaker, Sir, yes, I am not satisfied because I am well aware of the rights of these citizens but this information and the Question came only recently and I have not had an opportunity to check with the Pensions Department in the Treasury to find out the cause of this delay. If the hon. Member prefers, I am prepared to ask for a little more time so that I can discuss with the Pensions Department of the Treasury the reason why a file forwarded on 4th March, 2010 - it was not the only one but with several others - why the benefits of this teacher have not been paid. If I got enough time I would be able to check and confirm.

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. The Minister is seeking the indulgence of the Chair for more time to deal with this matter and I would have no problem with that.

Mr. Speaker: Fair enough, except that if there are other hon. Members who are interested, we would rather take their supplementary questions and then we will perhaps defer it for your purposes.

Mr. Pesa: Mr. Speaker, Sir, the question of retirees suffering because of delay in their payments of benefits is a common phenomenon in Kenya. Now that we have one Coalition Government whereby the Minister for Finance and the Minister for Education work together, could he work on a policy and programme where teachers who retire are paid their benefits within a certain given time?

Mr. M. Kilonzo: Mr. Speaker, Sir, that is a legitimate request and it is important that the House knows that over the last five weeks, I have been working on policies for reform in this particular sector. Very soon I will be presenting a Sessional Paper on the Floor of this House and it will include this aspect of the treatment of teachers so that Kenyan teachers know that they are citizens and get the respect that they deserve.

I would prefer if you could allow me a little more time on that particular aspect to finish polishing up the policies that I will be presenting to the country on this particular aspect. But it is very disappointing to find the number of demands and requests of persons who have offered their services to the country going home and they do not get their benefits for many years. However, I want to assure the hon. Member and the House that my Ministry is working day and night to finalize a policy that we will present to the House to drive the future.

Mrs. Shebesh: Mr. Speaker, Sir, I am glad that the Minister is concerned about the reforms because the TSC, like any other Commission, needs to be re-advertised and new members put in place to ensure that the reform process takes off. But let me just ask the Minister what his concerns are because of the number of the people who do not get their pensions in time. Where this money sits, what it is doing, the kind of interest it is accruing in banks, who benefits from those interests and is he worried about the kind of money that sits there, that has been contributed by people who are not getting it for years until hon. Members come to the Floor to ask about that kind of money?

Mr. M. Kilonzo: Mr. Speaker, Sir, again, that is a very good question. It is very relevant and luckily for me, only one space removed from me is the Attorney-General. The Cabinet has already approved the TSC Bill. It is now awaiting final polishing by the Attorney-General and publication. He has assured me that he will publish that Bill in the course of this week and in it, you will find that we are already opening up this debate for the country so that it be understood why it takes so long for pensions to be issued. You are aware that this is a matter I have taken a deep interest in over some time, not just on teachers but on other aspects too.

Mr. Speaker: Order, hon. Members! We will rest the Question there as answered except for the part that Mr. Kabogo is interested in. For that purpose, I will defer the Question to two weeks hereafter so that, Mr. Minister, you have time to come up with the requisite information. We will deal just with that part. Only Mr. Kabogo will ask a supplementary question!

(Question deferred)

Question No.1552

LACK OF ELECTRICITY IN BURA CONSTITUENCY

Mr. Speaker: Dr. Nuh is not here! The Question is dropped!

(Question dropped)

Mr. Kabogo: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: On which matter? After I dropped the Question?

Mr. kabogo: No, Mr. Speaker, Sir.

Mr. Speaker: Then hold your horse! Hold your horse, Mr. Kabogo! We have to re-visit the Question that relates to Mr. Gitau.

Question No.1436

BOUNDARIES OF AREA GAZETTED AS
MWEA IRRIGATION SCHEME

Mr. Gitau asked the Minister for Lands:-

(a) whether he could indicate the entire land gazetted as Mwea Irrigation Scheme under the management of the National Irrigation Board (NIB) and table the relevant gazette notices.

(b) whether he could also indicate which part of the land under the National Irrigation Board (NIB) has been allocated to private developers and title deeds issued; and,

(c) whether the due process was followed during the issuance of those title deeds and whether he could also table the relevant documents.

Mr. Gitau: Mr. Speaker, Sir, I am asking this Question for the second time.

Mr. Speaker: Hon. Members, I have information that the Minister for Lands has found himself in a catch-22 situation. He cannot get out of it; he is literally under siege and I think I understand the circumstances. So I will defer this Question until two weeks hereafter.

Hon. Ministers: How? We are worried!

Mr. Speaker: Order, hon. Members! It is not a security situation! It is something to do with money.

(Question deferred)

POINT OF ORDER

FAILURE TO SUPPLY WRITTEN REPLY TO A QUESTION

Mr. Kabogo: Mr. Speaker, Sir, I rise on a point of order. A fortnight ago, I rose on a point of order regarding a Question that I had asked that required a written answer. The Chair then who is the Speaker gave an assurance that this matter will be attended to. The Question was asked in November and under Standing Order No.45, it is required to be answered within ten days. This Question has not yet been answered and I seek the indulgence of the Chair; you had indicated that I will see action, but I have not seen any action.

Mr. Speaker: Yes, indeed. Can you just remind us what the number of the Question was, and the subject matter, so that it re-appears on the Order Paper?

Mr. Kabogo: Mr. Speaker, Sir, the subject was the matter of how many titles deeds have been issued in Thika and Ruiru municipalities in the last two years. I will not remember the number of the Question off-head, but the Clerk is aware.

Mr. Speaker: Fair enough, if you will kindly liaise with the Clerk's office. Member for Juja, I am now assured that this Question will appear on the Order Paper on Tuesday afternoon.

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. The Minister—

Mr. Speaker: Order, Member for Juja! As directed now, it will appear on the Order Paper on Tuesday, whether or not the Minister has an answer, that is a different matter. We will want to hear him on the Floor on Tuesday.

That brings us to the end of Order No.6.

MINISTERIAL STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 15TH MAY, 2012

The Vice-President and Minister for Foreign Affairs (Mr. Musyoka): Mr. Speaker, Sir, may I take this opportunity to make the following Statement with regard to the business of the House for next week.

Firstly, arising from Members' concerns over pending Ministerial Statements, let me, at the onset, start by re-assuring the House that in the coming days, I have prioritized the clearance of these Ministerial Statements, some of which have been pending since last year. I have also send written reminders to all affected Ministers and my office is doing a daily telephone follow up on this matter. However, going through the requests, I notice that some of the substantive issues raised have either been overtaken by events or have been addressed adequately. Maybe we could put some of these to rest. Moreover, it is my view that whenever possible, we could channel some of those issues to Ordinary Questions or Questions by Private Notice. This will ensure proper scheduling and immediate follow up.

Concerning the business for next week, we have scheduled debate on the following Bills currently at the Second Reading Stage:- The Statute Law (Miscellaneous Amendments) Bill, Bill No.14 of 2012; the Judicature (Amendment) Bill, Bill No.60 of 2012 and The Kenya School of Law Bill, Bill No.61 of 2011. This is in addition to other Private Members' Motion and Committee reports. Finally, the House Business Committee will, as usual, meet next Tuesday, 15th May, 2012, at the rise of the House to consider business for the rest of the week.

Mr. Mbadi: Mr. Speaker, Sir, from the information supplied by the Leader of Government Business, I was very curious and expecting to hear what the Government plans to do with the security Bills, especially those setting up various organs like the NSIS. Remember, we are going for another election and we cannot go to election before carrying out reforms in the security sector. So, I think the Government needs to be serious and tell us the exact timeframe within which we expect to deal with the security Bills.

The Vice-President and Minister for Foreign Affairs (Mr. Musyoka): Mr. Speaker, Sir, in fact, I had two Statements. The second one I am sure will cover what the Member for Gwassi has referred to, namely, the status of the implementation of our Constitution. This was following the request by the Member for Chepalungu who is now in the House. If you allow me, perhaps, I could just go ahead and make that Statement.

Mr. Speaker: Proceed and deliver the Statement!

Mr. Ruto: Mr. Speaker, Sir, even before the Vice-President moves to the next Ministerial Statement, he has just given us a schedule of what we intend to do and I did not hear anything about the two constitutional Bills that are still pending. I do not know whether that is the one that requires extension of time. I do not seem to recall.

Mr. Speaker: Order! Member for Chepalungu, your point is made. The Leader of Government Business, what are you doing about those two Bills?

The Vice-President and Minister for Foreign Affairs (Mr. Musyoka): Mr. Speaker, Sir, the normal practice is that the Leader of Government Business gives the proposed business for the following week and that is precisely what I have done. I have no doubt in my mind that the other issues that both the Members have referred to will be covered under my next Statement. So, if I have your permission, I could perhaps continue.

Mr. Speaker: Yes, you may continue.

STATUS OF IMPLEMENTATION OF THE CONSTITUTION

The Vice-President and Minister for Foreign Affairs (Mr. Musyoka): Mr. Speaker, Sir, the new Constitution of the Republic was promulgated on 27th August, 2010, and thereafter, all of us embarked on the jovial process of implementing this Constitution through enactment of different pieces of enabling legislation and within the timelines stipulated in the Fifth Schedule of the Constitution.

(Loud consultations)

Mr. Speaker, Sir, I could have your intervention at this stage, so that Members can consult in a little bit low tones.

Mr. Speaker: Order, Members! Will you kindly lower the level of your consultations, so that we can hear the Leader of Government Business?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I want to thank you because what I am saying here is of immense interest and benefit to this country. I am happy to inform the Members that the process has remained on course and on schedule. Indeed, all the timelines have been met and for this reason, I would like to thank and congratulate the Members for their demonstrated dedication to making the new Constitution work.

It is my pleasure to present the details of the enactment of the new laws in the table that is appended to my Statement. If I can go into some detail, within the one year period, we had to do the following:-

(i) Legislation on citizenship: The due date was 26th August, 2011. The status with regard to the Kenya Citizenship and Immigration Act, 2011 is that the same was enacted. The Ministry of State for Immigration and Registration of Persons has formed a taskforce on citizenship and the related provisions of our Constitution, which is developing regulations for implementation of these two Acts. The same goes for the Kenya Citizens and Foreign Nationals Management Service Act, 2011, which was enacted on 1st November, 2011.

(ii) Under the Kenya National Human Rights and Equality Commission, we have already enacted The Commission on Administrative Justice Act, 2011, and the chairperson and the commissioners duly appointed. The Kenya National Commission on Human Rights Act, 2011, was also enacted and the commissioners are serving the remainder of their unexpired terms. We

have also enacted the National Gender and Equality Commission Act, 2011. The chairperson and commissioners have also been appointed. With regard to the Ethics and Anti-Corruption Act, the same was also enacted and we beat the deadline of 26th August, 2011. The appointment of three commissioners of the Commission is still pending in Parliament. The Speaker ruled that the Leader of Government Business should bring a Motion to retable the names in the House. I think that is already business before this House for this afternoon.

With regard to legislation on elections, we were able to enact the Elections Act, 2011. Amendments have been proposed to the Act to ensure its alignment and consistency with the Constitution, and to ensure a smooth transition from the previous Acts.

Mr. Speaker, Sir, with regard to County Governments Bill, 2011, all of us will remember that the Bill has been referred back to Parliament by the President and I think there is legislative action that is pending. Had it not been for the fact that the Minister for Finance is out of the country, perhaps, he will be dealing with the matter of the necessary extension which has now become mandatory.

Mr. Speaker, Sir, on urban areas and cities, we all remember that we enacted the Urban Areas and Cities Act, 2011 within time. With regard to the Contingencies Fund, we enacted the Contingencies Fund Act, 2011 and its status is that it is proposed to be repealed by the public--- I beg your pardon. The Contingencies Fund Act is supposed to be repealed by the Public Finance Management Bill, 2012. That Bill is currently before the House.

Mr. Speaker, Sir, with regard to loan guarantees, the National Governments Loans Guarantee Act, 2011 has been enacted. It is proposed to be repealed by the Public Finance Management Bill, 2011, which is also currently before the House. Within 18 months - and I think this important - there are things that we know we have to do. The Land Registration Bill, 2012, as well as the National Land Commission Bill--- All the land Bills have actually been enacted. So, Parliament, as per Article 261 of the Constitution, extended the time required for the passage of that legislation by 60 days. The Bills are, therefore, to be enacted by 26th April, 2012. I am happy to say that, that has since taken place.

Mr. Speaker, Sir, we also have to deal with the removal of the county governor. That matter was actually referred back to Parliament by the President. That is a specific matter under the County Governments Bill. With regard to the Assumption of Office of the President Bill, 2012 - and this is a very important matter--- On this particular Bill, the Attorney General will actually confirm some of the matters that I am referring to when he takes the Floor. This is awaiting publication. It is so important that we prepare for smooth transition of Government upon the retirement of His Excellency the President. We will actually make this matter very plain before the House and the country. The Bill has been reviewed by the Commission on the Implementation of the Constitution (CIC) and has been forwarded to the Attorney General for Cabinet consideration and publication. Thereafter, it will come before this House.

Mr. Speaker, Sir, on the Judiciary Fund, this was also enacted. We did enact the legislation regarding this. This is supposed to be before August this year, but we have actually enacted the same and the matter has been addressed in the Judicial Service Act of 2011. That is because this Judiciary Fund is actually covered under that. The Chief Justice has prepared for gazette of the regulations of the operation of the Fund. Basically, because there was specific mention of the Judiciary Fund --- All I am saying is that it has been covered under the Judicial Service Act of 2011.

With regard to financial control, this matter is also before Parliament. The matters are addressed in the Public Finance Management Bill, 2011, which is currently before the House.

Mr. Speaker, Sir, with regard to national security organs - and this where my hon. colleagues were referring to - and, more specifically, the National Security Council Bill, 2012, the same is actually before the CIC. I can say the same about the National Intelligence Service Bill, 2012. Those Bills are now with the Kenya Law Reform Commission, as well as the Attorney General and the CIC. They are actually seized of that very important legislation.

Mr. Speaker, Sir, with regard to the command of the National Police Service, the due date of which is 26th of August this year, the National Police Service Act of 2011, which has already been enacted--- I can say that a select panel to advertise, receive and shortlist persons for the position of the chairman and members of the Police Service Commission has been constituted. The Selection Panel has shortlisted six nominees and forwarded their names to the Speaker of the National Assembly. They are now being considered by the Departmental Committee on Administration and National Security.

Mr. Speaker, Sir, with regard to the Independent Policing Oversight Authority Act, 2011, members will recall that, that has already been enacted. The Select Committee has forwarded the names of persons shortlisted for the position of the chairperson and members of the Authority to the Principals for nomination. I think that has already happened.

Mr. Speaker, Sir, on other legislation, the Salaries and Remuneration Commission Act, 2011, we all remember that it has happily been enacted. Commissioners have been nominated and appointed. The Commission has recently issued draft salaries and remuneration regulations for public comments. I think they went the extra mile and made other pronouncements.

Mr. Speaker, Sir, this, in a nutshell, is where we are. Of course, Members will remember the Commission on Revenue Allocation, which has proceeded to make quite an announcement and, therefore, ensuring that there is a huge conversation around this subject, which is very healthy for the country. I thank you.

(Several hon. Members stood up in their places)

Mr. Speaker: Are you looking for clarifications? Well, we will restrict those to a maximum of five. Leader of Government Business, will you, please take notes so that we can take all of them in one go? Hon. Millie Odhiambo!

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I do not know whether the Leader of Government Business is aware that, effectively, as a Parliament, we have roughly about three months to do proper business. That is if you take into account the periods that we will be going on Recess; and if you take into account the fact that the country is already getting into an election mood and very soon, it will be almost impossible to get quorum, especially for the Bills that will require two-thirds majority.

Mr. Speaker, Sir, with that in mind, what is the Government doing to hasten bringing the Bills, especially those with the two-year deadlines, because we are always rushed. But you will find Parliamentarians--- Very soon, there will be nobody to engage in issues of constitutional implementation.

Mr. Ruto: Mr. Speaker, Sir, much as I thank the Vice-President and Minister for Home Affairs for making a few clarifications, when I requested for the Statement, I also requested that he should also come with a matrix to show us, for example, when does the Government expect to be the last day it will publish Bills, taking into account the process of enacting that legislation.

I would prefer a situation where the Government walks backwards from 27th of August. For example, you need to subtract three weeks to allow the President time to do his 14 days

referral if he so wishes. You have to give Parliament, at least, four weeks, from the time it is tabled, Committee Stage and various deliberations. Then, you need two weeks for the publication so that you do not keep on telling us that you want extension of time. That reduces that time from August up to June. I expect the Vice-President and Minister for Home Affairs to be familiar with Article 261 and, indeed, I had read it earlier. I would like to quote the Article with the indulgence of the Chair.

“ For the purposes of Clause(1), the Attorney General - and he is seated here - in consultation with the Commission for the Implementation of the Constitution, shall prepare the relevant Bills for tabling before Parliament, as soon reasonably practicable, to enable Parliament to enact the legislation within the period specified.”

We do now expect the Attorney-General to be prepared. He should be tracking every legislation that is supposed to be discussed here in Parliament. Therefore, we expect the publication of all these Bills listed by the end of this month. There are certain legislations that you have also not indicated where they are. For example, he mentioned legislation on leadership. Where exactly is it right now? Will it be published in the next one week or two weeks? The other one is on rights of recall, which must all be done. There is also the Bill on the determination of the question of membership. I did not hear him mention anything about those particular Bills. Where are these Bills?

An hon. Member: That is enough!

Mr. Ruto: I am sorry, Mr. Speaker, Sir, but I had that indulgence because I asked the Statement.

Mr. Speaker: Very well. Hon. Shebesh?

Mrs. Shebesh: Mr. Speaker, Sir, could the Leader of Government Business tell us what happened after the withdrawal of the constitutional amendment that was to deal with the election date? It was to address the two-thirds gender rule. It had been approved by the Cabinet Sub Committee that deals with Bills. It was to be brought here as a Constitutional (amendment) Bill. When the issue of the election date was negotiated away by the Executive, what did he do with the two-thirds gender rule?

Also, there is the issue of the Commissioners whose terms have currently expired and have not been renewed. I am specifically talking about the Commissioner who sits on behalf of the Public Service Commission (PSC) in the Judicial Service Commission (JSC), who was the Chair and whose term expired. But he continues to sit in the JSC representing the PSC. Why has he not been replaced by whoever is currently holding that position in an acting capacity?

Mr. Mbadi: Mr. Speaker, Sir, I am particularly concerned with the implementation of Article 80, Leadership and Integrity. This particular legislation is required to be in place in good time. We want Kenyans to internalize it and understand the calibre of leaders they are supposed to elect before the next general elections. So, the Leader of Government Business needs to come out and tell us exactly when this piece of legislation will be brought to this House.

Finally, Mr. Speaker, Sir, last time when the extension of time for the two Bills (the County Governments Bill and the Public Finance Management Bill) was sought, this House was almost empty. What is the Government going to do to mobilize hon. Members to be present here, so that we can approve the extension of time for the enactment of these two pieces of legislation? Remember that these two pieces of legislation will be the only ones to ensure that devolution takes place. Otherwise, if we do not pass these two Bills, then devolution will not be realized in this country.

Thank you, Mr. Speaker, Sir.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, although you had given five slots, I am happy that the four have done very well. In fact, two of them, namely Mrs. Odhiambo-Mabona and hon. Isaac Ruto are concerned about the timelines. I agree with them that we have to make sure that these pieces of legislation are brought before this House, not in August, but, say, by June. I think that is where the issue is.

Mr. Speaker, Sir, in the Statement that I have issued, I gave some kind of a matrix, which I will be able to happily give to the Clerk. However, these two observations are valid. The Attorney-General is here. In fact, he came to support and enrich this position--- He is the person with the “hands on” information regarding the position.

Mr. Speaker, Sir, maybe at some stage, immediately after what I say, the Attorney-General would like to help me with regard to the issue of the two-thirds gender rule because the Cabinet had approved that the date of election was supposed to be the 17th of December, 2012. This, as Rachel Shebesh says, was also supposed to cover the two-thirds gender rule. I have personally even been lobbied by women leaders who are very concerned by this matter. It is like literally throwing the baby together with the bath water. Therefore, this is a matter that all of us have to deal with. I do not see how we can escape acting on this matter and making sure that we do justice to this two-thirds gender rule, which is a strict requirement under the Constitution.

The reason I thought the Attorney-General will need to help me is because the matter of the Commissioner representing the PSC serving within the JSC is a matter, I am sure, the Attorney-General might want to address. This is because I am not fully in the picture on that particular matter.

Mr. Speaker: Order, Leader of Government Business! You have said something about the date of elections. It is a matter that needs to be handled a bit carefully. So, what are you saying?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I actually said nothing in real terms.

(Laughter)

We know that this is a matter that, again, is engaging Kenyans in a very healthy conversation. We know that the courts of justice have pronounced themselves over this matter. We have heard of the date of 4th of March. The Prime Minister was here when he said that he personally prefers December. I actually concur with him. Like him, I would want elections this year. Some of us went out to print materials written 2012. I think it was hon. Milly Odhiambo who said that the country is in an election mood. This is actually truthfully the case. So, I know that governors, senator and presidential candidates have actually gone out there to prepare election materials. So, I think the sooner we get clarity on this matter, the better for all of us.

(Applause)

Unfortunately, Mr. Speaker, Sir, I cannot pretend that the matter is clear in my own mind. I would be very surprised if it is clear in yours, Mr. Speaker.

(Laughter)

(Mr. Ruto stood up in his place)

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

Mr. Ruto: Mr. Speaker, Sir, just yesterday, we heard the Prime Minister who was also not clear on the election date, although he told us that the Cabinet had decided it is 4th March. Today, we have his Excellency the Vice-President also saying that he does not quite support 4th March, 2013. We are getting more confused. Is it in order for the Leader of Government Business to continue to confuse Kenyans on the election date? If, indeed, they are not sure, could they table a Bill and then we debate on whether it will be held in December or March? They are unable to decide. Would I be in order to request that the Vice-President actually brings this Bill to the House to decide on the election date?

Mr. Speaker: Order! Mr. Vice-President, that does not quite qualify to be a point of order. But may be because of the area that it is speaking to, you may want to respond.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Yes, indeed, Mr. Speaker, Sir. I sincerely wish that I could speak with clarity on this matter. As I stand before the House, the Independent Electoral and Boundaries Commission (IEBC) pronounced a date following the determination by the courts. As I said, we had brought a Bill here which talked about 17th December, but it was withdrawn. We know that the matters are still before the courts of justice. This is why nobody can pretend at this stage to know about the election date other than going by what the IEBC have actually pronounced, which is 4th of March, 2013.

Mr. Speaker, Sir, I just gave my personal preference which has nothing to do with the date as enunciated by the IEBC. Therefore, I think it is good we separate the matters.

Mr. Speaker: What is it, hon. Ogindo?

Mr. Ogindo: On a point of order, Mr. Speaker, Sir. You have heard the Leader of Government Business saying that he thinks that the Constitution (Amendment) Bill was withdrawn. Is it in order for the Leader of Government Business in this House to “think” when we are also thinking that it was withdrawn? Could he come out clear? Is he in order to think?

(Laughter)

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I think I am allowed to think. This reminds me of a joke that we used to hear a long time ago, that in a secondary school boardroom where teachers met for discussion, the colonial teachers asked one of the Kenyan teachers, black as you and I: “Who allowed you think?” That is, of course, on a lighter note.

Mr. Speaker, Sir, the reality of the matter is that we did not prosecute that business before this House, because of the events that took place. So, that is the actual position. As I said, I will ask the Attorney General to further clarify. But, the matter Under Article 80 on Leadership and Integrity is what the Member for Gwasi actually tried to deal with.

Mr. Namwamba: On a point of Order, Mr. Speaker, Sir. We do know the legislative process in this House and understand that once the Government has tabled business in this House, that business either has to be processed and prosecuted to conclusion or be formally withdrawn through the established procedure. The Constitution of Kenya (Amendment) Bill, 2011 was formally tabled in this House. It went through the First Reading and was then referred to the Committee. You are aware that the Constitution Implementation Oversight Committee (CIOC) held 23 hearings across the country, in fulfillment of the Constitutional requirement for public participation. The Committee would then be expected to table a report in this House, as

part of the process of concluding that business. Is the Government, therefore, in order to prevaricate on a matter that is so clear and direct? Should the Vice-President and Leader of Government Business not just go ahead and tell the House whether the Government intends to take this Bill to its logical conclusion or the Government will be formally withdrawing that Bill from the business of the House? I think this is important so that the House can lay this matter to rest conclusively.

Mr. Speaker: Order! Order! Member for Budalang'i, as prosecuted, I am afraid it does not pass the test for a point of order. You have just asked questions and, indeed, as the hon. Odhiambo-Mabona is pointing out to you informally, without having the leave of the Floor, you have not prosecuted it properly.

Mr. Namwamba: Mr. Speaker, Sir, can I give it a shot?

Mr. Speaker: Order! Order, Member for Budalang'i! Maybe you will try again another time.

Leader of Government Business, you need not respond to that as a point of order.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, the remarks by my learned friend, the Member for Budalang'i, have actually enriched all of us. This is because that was just giving the historical perspective and I think it is harmless. But the reality is that this matter is not being prosecuted before the House. But that does not mean that we cannot continue. We are a listening Government and we are also listening to comments. Even as we listen, we also take cognizance of the fact of judicial decisions have been made on some of these matters. Article 80 on Leadership and Integrity is part of what we are supposed to do before 26th August, and I sincerely hope that you could give the Attorney General the Floor, so that he can make further clarification, particularly with regard to making sure that the work before the Commission on Implementation of the Constitution, the Kenya Law Reform Commission and his own office is seriously undertaken to make sure that we beat the deadline. This is because, as I have repeatedly said, this House has a date with destiny with regard to the implementation of the Constitution. This House has done its best, sometimes burning, literary, the midnight oil in order to beat these deadlines. As the Leader of Government Business, I want to really congratulate and thank all hon. Members. I am sure that the remaining enabling pieces of legislation are similarly going to be treated. The Member for Gwassii was wondering whether we will have the numbers. Since all of us know that we will require a two-thirds majority sometime next week, whenever that happens, I would want to ask that all of us be here, because the consequences of failure to meet that threshold could be devastating to this House.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Fair enough! Leader of Government Business, you have requested that we hear the Attorney-General, but I am afraid that I have no indication from him that he wants to be heard! So, we will not hear the Attorney-General!

Member for Ikolomani, what is it?

Dr. Khalwale: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Planning---

Mr. Speaker: Order! Order, Member for Ikolomani! Before we get there, perhaps, we have one or two Statements that can be delivered. We can do two more, if they last less than ten minutes.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I have four Statements to make, but I wonder

whether we have hon. Yusuf Hassan Abdi, the Member for Kamukunji. He is not here! The second one was requested by hon. Ekwee Ethuro.

Mr. Speaker: Order! He is also not in the House.

Next!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, the next one is for hon. Mbadi, but I would request that I deliver it on Tuesday because I was waiting for some information.

Mr. Speaker: You do not have full information. Fair enough! Next!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, those are the ones that I have as at now. I can deliver the rest later.

Mr. Speaker: Order! Order! Hon. Ojode, you said that you had four Statements ready. Now as it turns out, you have only talked about two which are ready.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I had four but there is one which I had marked "X". That means that I am waiting for documents. I thought that I would get the documents after reading the two Statements which were ready.

Mr. Speaker: So, the correct position is that, in fact, you had two Statements which are ready?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): That is right, Mr. Speaker, Sir. For the other two, I am waiting for documents.

Mr. Speaker: It is good to go on record accurately. So, we will take none of them because the hon. Members who requested for the ones which are ready are not here, and we would want them to here to lead any interrogation by the House.

Any other Statement that is ready today?

Mr. Attorney General, I know that you have a Statement which has been pending for sometime or have you cleared your Statements?

The Attorney General (Prof. Muigai): Mr. Speaker, Sir, I am happy to say that all Statements from me have been delivered, except one which relates to a request by hon. Imanyara. I indicated the day before yesterday that I was ready with it, and I am still ready with it. But I think the hon. Member is not here.

Mr. Speaker: He is away on official business.

Fair enough, Attorney-General! You deserve commendation.

We will now take the Member for Ikolomani!

POINTS OF ORDER

AUTHENTICITY OF REPORT ON PERFORMANCE RATING OF MPs BY NATIONAL TAXPAYERS ASSOCIATION

Dr. Khalwale: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Planning, National Development and Vision 2030 on the recently released report on performance ratings of Members of Parliament vis-à-vis the implementation of projects under the Constituencies Development Fund (CDF) Programme in all the constituencies by a body called National Taxpayers Association.

(1) Mr. Speaker, Sir, in the Statement I would like the Minister to address the issue of the records released by the association regarding the performance ratings of Members of Parliament and their CDF committees in the management of funds and implementation of projects under the CDF Programme in those Members' constituencies.

(2) I would like the Minister to tell us the official Government position on this association and indicate whether the association is discharging a delegated responsibility for the Government.

(3) The Minister should clarify whether the association makes any reference whatsoever to the audited accounts by the Auditor-General.

(4) Lastly, we would like the Minister to clarify what he will do to protect the reputations of those Members of Parliament who sit in this House and who have been adversely mentioned in these reports by this association which, in my view, seems to be amateurish.

Mr. Speaker: Order! Where is the Minister for Planning, National Development and Vision 2030? I thought I saw the Minister sometime this afternoon. The Leader of Government Business, when will your Minister deliver this statement?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, could he do this on Thursday, next week?

Mr. Speaker: Fair enough! Thursday, next week, it is so directed.

Mr. Ogindo: Mr. Speaker, Sir, with your permission, if you allow, I just wanted to add on to what hon. Boni Khalwale has said so that it goes to the same Minister for Planning, National Development and Vision 2030.

(Loud consultations)

Mr. Speaker: Order! The Leader for Government Business, could you please, pay attention to this?

Mr. Ogindo: Mr. Speaker, Sir, in addition to what hon. Khalwale has said, could the Minister also provide to this House in his statement the profile of the technical auditors that the association is relying on and their qualifications so that we can appreciate the work they are doing because of the damage they have caused?

Mr. Speaker: Fair enough! The Leader of Government Business, please include that in your brief to the Minister for Planning, National Development and Vision 2030.

Mr. Mbadi: Mr. Speaker, Sir, I have two points of order. The first one is with regard to the directive that the Chair gave.

An hon. Member: Endelea!

PLEA TO POSTPONE PUBLIC HEARINGS
BY BUDGET COMMITTEE

Mr. Mbadi: Mr. Speaker, Sir, I want your attention because you are the one I am addressing myself to. I am addressing myself to the directive of the Chair where I had sought a Ministerial Statement from the Minister for Finance with regard to revenue accounts.

Mr. Speaker, Sir, you promised to make a ruling if the Minister does not bring the statement today. So, that is my first point of order.

My second point of order is with regard to Article 221 of the Constitution, Section 5 which talks about the process of the Budget. This particular provision says that in discussing and

reviewing the Estimates, the Committee of the House - that is the Budget Committee - needs to seek representations from the public, and the recommendations shall be taken into account when the Committee makes its recommendations to the National Assembly.

I want to draw your attention to the fact that the Budget Committee has already announced and has even advertised in the newspapers that we are supposed to conduct public hearings tomorrow. This was put in the papers today. However, I remember when we sat as a Budget Committee, we agreed and instructed the Clerk's Office to make sure that ----

(Technical hitch)

Mr. Speaker, Sir, it was agreed that when we are putting up this advert, we would put a summary of the Budget Estimates and indicate to the members of the public how they are supposed to make their representation because the members of the public do not have the budget documents. This particular process, having been put in the Constitution, was for a purpose. We expected the members of the public to bring informed proposals to the Budget Committee. When we just indicate to the members of the public that they are meeting at designated areas tomorrow, what will they discuss with the Budget Committee? Therefore, I would request that this particular activity of tomorrow be postponed to Monday so that the information we had instructed the Clerk's Office to put in the media is put so that the members of the public can make informed proposals to the Budget Committee. Otherwise, this will just be a public relations exercise which I do not think was the intention of the Constitution.

Mr. Lessonet: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Eldama Ravine!

Mr. Lessonet: On a point of Order on the same, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Eldama Ravine. You do not just grab a microphone and start addressing the House merely because you are the "neighbour" of the Member for Gwasssi. What is it?

Mr. Lessonet: On a point of order, Mr. Speaker, Sir. I am rising on a point of order on the same issue that hon. Mbadi has raised. I want to request that you pay attention to the attributes of this advert. The advert is dated today, 10th May. It invites members of the public for a public hearing tomorrow. If you look at this advert, you will realise, for example, that in North Eastern Province members are being invited to Wajir and Garissa. The members of the public are being invited today for an event that will take place tomorrow. Help us so that this does not become a public relations exercise towards the fulfillment of a constitutional requirement. We agreed in the Committee that this publication should have come as early as Monday. We further agreed that a summary of the Estimates in terms of the Development Budget and the Recurrent Expenditure for each Ministry must be published so that the members of the public can come and adequately respond to the proposed Budget as tabled by the Minister for Finance.

Mr. Speaker, Sir, we invite your ruling that this exercise be deferred to another day.

Mr. Speaker: Order! The Member for Gwasssi and the Member for Eldama Ravine, I am actually very disturbed and, indeed, uncomfortable that Members of the Budget Committee have carried the business of the Committee which ought to have been transacted in the Committee to the Floor of the House.

(Applause)

I want to direct that the two Members, both of whom belong to the Budget Committee go back to the Budget Committee and express those views in the Committee for the Budget Committee to review its decisions as it may have made.

Secondly, I direct that the public meetings that have been convened for tomorrow should proceed and that efforts be made to ensure that the requisite documents, including the Budgetary Estimates or any other documents are circulated at the beginning of the meeting so that even as members of the public interact with the Committee, they have access to the Estimates so that we do not lose valuable time on this exercise. If the Committee feels that it has not gathered adequate response from the public, they can go back to the Committee and programme further sessions with the public. I think that is the most practical way to proceed and I so direct.

I will not make any other ruling.

Mr. Mbadi: On a point of Order, Mr. Speaker, Sir.

Mr. Speaker: Order, the Member for Gwassi! That matter must rest there!

Mr. Mbadi: It is on the other issue, Mr. Speaker, Sir.

Mr. Speaker: On the issue for the Minister for Finance, I would like to give directions on that matter but I have intimation from this sitting this afternoon that, in fact, the Minister for Finance is out of the country on official both Parliamentary/Legislative and Executive business. He is actually away on Government business. Therefore, it will not be right for me to impose any sanctions on the Minister when, in fact, he is away on official Government business. In fact, it would be in breach of the rules of natural justice.

I have heard hon. Mbadi and I am happy with the Minister not being here but I would really want to hear the Minister before I make any ruling. So, hon. Mbadi, we will keep your complaints, concerns and requests for a ruling on record and I would want to hear the Minister for Finance before I make a ruling on the matter.

In the meantime, I would direct the Leader of Government Business to impress upon the Minister for Finance the urgency, gravity and significance of this matter so that as much as possible, the Minister can take some measures that will mitigate the situation as it stands now. If he could possibly appear in the House on Tuesday, armed with the statement, it may make some difference. If he does not, then I am afraid we will have to be a bit drastic.

That brings us to the end of Order No.7 and we want to move to the next order.

Next Order!

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD OF STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

*(Microphones at the Dispatch Box
and Government Front Bench went off)*

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to the provisions of Standing Order 107, the House orders that the Publication Period---

Mr. Ruto: On a point of order, Mr. Speaker, Sir. I was wondering why the Attorney-General was moving the Motion from the back but I now understand.

(Laughter)

Mr. Speaker: Proceed, Attorney-General!

The Attorney-General (Prof. Muigai): Mr. Speaker, Sir, all is well that ends well.

Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to the provisions of Standing Order 107, the House orders that the Publication Period of the Statute Law (Miscellaneous Amendments) Bill (Bill No. 14 of 2012) be reduced from 14 to 8 days.

Mr. Speaker, Sir, the reason for this is obvious. From a perusal of the Amendment Bill, Hon. Members will note that despite very good efforts made by the House to ensure that we enacted legislation that was in line with the Constitution, there were several anomalies that occurred due to the time that was available. We have brought this Bill to streamline several pieces of legislation that are already in existence to ensure that they are updated; that we remove anomalies and we ensure that all the statutes are in conformity with the Constitution.

Hon. Members will note, for example, that in the Constitution as enacted, the Office of the Attorney-General has been divested of the powers to prosecute but we have not yet taken any steps to vest those powers directly in the Office of the Director of Public Prosecutions (DPP) and, therefore, the Office of the DPP remains quite hamstrung in its operations. Hon. Members will also note that we have some policy decisions that have been made that we wish to ensure are in line with the law. For example, hon. Members will note that the Truth, Justice and Reconciliation Commission (TJRC) which is a very important commission – one of the Agenda Four commissions – has had its life expire in terms of the statute within the last week or so and it is proposed that a reasonable time be added to the life of this commission to enable it to be able to present its report and wind up its operations.

Mr. Speaker, Sir, even equally important is the decision to increase the number of judges by the Judicature Act (Amendment) that is proposed. The number of judges that we require is a matter of great urgency and again hon. Members will appreciate that the Judiciary is making giant strides and we as Parliament want to be able to support the Chief Justice and his team in this regard.

Mr. Speaker, Sir, further, there are a number of anomalies in our Elections Act in particular and I want to emphasize that particularly the lack of consensus as to whether as presently worded in our law, we are enabled to hold a by-election before the next election. We want to remove all these anomalies since there are several of them, to bring certainty to the laws and to ensure that the Constitution is enforced in a manner that we have committed ourselves to.

For those reasons and other reasons, I beg to move.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): seconded.

(Question proposed)

The Assistant Minister for Roads (Dr. Machage): Bw. Spika, nakushukuru kwa nafasi hii ili niunge mkono Mswada uliopendekezwa kwetu na Mkuu wa Sheria; Mswada wa marekebisho ya sheria za ziada kutoka siku 14 hadi siku 8. Mapendekezo ambayo ameyatoa kuunga huu Mswada ni kama vile kurekebisha sheria ambazo zina dosari kama vile sheria ambazo zinaangalia kazi yake ofisini, kutoa mamlaka kwa kazi yake na ile ya Mkuu wa

Mashtaka. Sheria kama zile za kupendekeza kuongeza mahakimu kwa korti zetu na hata sheria za uchaguzi.

Naona ni jambo la maana kwamba tukubali, kusudi zile sheria za ziada zipitishwe na kufanya Serikali iendeshwe vizuri. Hakuna sababu ya kukataa kuunga huu Mswada. Naomba wenzangu kwamba tuunge huu Mswada kwa dhati, kusudi Mkuu wa Sheria atekeleze kazi yake vilivyo.

Asante.

Mr. Ruto: Mr. Speaker, Sir, I rise to support the Motion, although the Attorney-General has really taken long to bring this particular Bill to the House, considering that it is supposed to help streamline a number of laws that are contradictory to one another.

I expect the Attorney-General to avoid any further contradictions in law. He should allow Parliament enough time to debate and scrutinize these Bills. The mistake he is trying to correct through this Bill were made because of the same rush that the Government keeps coming to Parliament with.

Mr. Speaker, Sir, the Government keeps shortening the publication period of Bills through Parliament. We are unable to scrutinize their Bills. We end up making mistakes. Even in this particular Bill, I have found a few mistakes. So, I hope that the Attorney-General will give us a week to streamline it. So, please, Attorney-General, avail enough time to Parliament to give you quality work.

With those remarks, I beg to support.

Mr. Njuguna: Mr. Speaker, Sir, as I support this Motion, I want to direct my mind to one issue that has been raised by the Attorney-General, namely; the increase of judges in our courts.

You note that there have been many cases hanging in our courts of law. They are currently totaling a million cases. These are cases which have been pending for between 10 years and 30 years. Even some parties to these cases have already passed on.

It is, therefore, important that we give justice to the people of this country. This is all about what the new Constitution entails. Therefore, it is important that we pass this Motion, so that some of the injustices that Kenyans have experienced for quite some time are corrected.

With those few remarks, I beg to support.

(Question put and agreed to)

BILL

First Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

(Order for First Reading read – Read the First Time and ordered to be referred to the relevant Departmental Committee)

MOTIONS

APPROVAL OF APPOINTMENT OF CHAIR/COMMISSION OF KACC

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to Article 250(2) of the Constitution of Kenya and Section 6 (7) of the Ethics and Anti-Corruption Commission Act, 2011, this House approves the appointment of Mr. Mumo Matemu as Chairperson; and Jane Onsongo and Irene Keino as Members of the Ethics and Anti-Corruption Commission.

Mr. Speaker, Sir, all of us are aware of the process that these nominations has taken. This is one of those processes with the requirement that the two principals do consult and make their presentation to you. All of us know that this matter has taken so long. The Departmental Committee on Justice and Legal Affairs made a recommendation and that recommendation was not approved by this House. In your own ruling, you felt that the Leader of Government Business would need to present another Motion.

I want to make it very clear to all the hon. Members of this House that full and complete consultations have taken place. The two principals have adequately consulted, as a result of which we were given the mandate to bring the names again to this House, in accordance with your ruling. Therefore, the Government is unanimous on this matter.

Mr. Speaker, Sir, those who have been following the happenings and goings on at the Ethics and Anti-Corruption Commission (EACC), commonly referred to as “Integrity House”, know that even employees with ordinary contracts that needed renewal now feel threatened. Their own basic rights are undermined because there is nobody to make decisions with regard to the renewal or otherwise of their contracts.

More importantly, as a country, the signal we have been sending out is that we are not serious about fighting corruption. How is it that we can take so long to approve nominees to serve in this Commission? We know that people in this country, and also all our development partners, have been waiting to hear that we have taken a decision in order for them to appreciate that this country is committed to the fight against graft.

Mr. Speaker, Sir, therefore, I want to suggest that this afternoon, all of us in this House support and pass this Motion. I know that there are those of us who have some misgivings but we are not dealing with angels here. We have heard arguments in the past to the effect that the proposed persons do not have adequate passion to fight corruption. As I said, the proof of the pudding is in the eating. How do we say that they lack passion without us giving them the opportunity to actually deal with this challenge?

All the nominees are professionals and they would not want to be seen like they have let down this country. The fight against corruption is a delicate matter which requires dedication. Time has come for this House to stand together and give these three Kenyan professionals a chance to prove whether they indeed have the passion to fight corruption or they lack the same.

Mr. Speaker, Sir, of course this House is not short of options. If they prove that they do not have the passion to do the job, those names can always be brought back here. We can invoke the provision of the Act itself, which deals with the issue of making it impossible for them to proceed with their work, even if it will involve the appointment of a tribunal to investigate them. I know that there is nobody who can be seen to be above the law. If they perform, we will all applaud. If they do not perform, we can operationalize the requirements of the Act that govern their appointment.

Since we have in the past exhaustively discussed this matter, I want to urge my honourable colleagues to support this Motion. Even those with a little doubt, because we had a

lot of interesting discussion when this matter was brought to the House, we give them the benefit of the doubt. As I said, everybody in this country now knows that this is a country that is governed by the rule of law. Of course, first and foremost, the country is under God but it is also a country that is seriously governed by the rule of law.

Mr. Speaker, Sir, it is important that we are not seen to be prevaricating, as a House, in trying to approve the nomination of these names because Kenyans countrywide have always been watching.

With those remarks, I want to call upon the Minister for Justice, National Cohesion and Constitutional Affairs to second the Motion.

Thank you.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, I wish to second the Motion.

Mr. Speaker, Sir, mine being the line Ministry, I want to say that the EACC is one of the most important Commissions under my Ministry. We did, as a House, debate the Report of the Departmental Committee on Justice and Legal Affairs. We did vote on that Report and we need not go back to debate on what we had already debated.

The purpose of this Motion is just to approve the names that we have put before this House so that we ensure that this country has a Commission that can fight corruption. We need not overemphasize the need for this Commission. As a nation, we cannot afford to give up on the war against corruption because we come from a painful past of rampant corruption and impunity; corruption that has bled this country white, and which dates back to the 1970s, when we had the KenRen Chemical and Fertilizers Factory that was proposed to be constructed in Changamwe, Mombasa at that time.

Mr. Speaker, Sir, our need as a country in the 1980s was only about 150,000 metric tons of fertilizers per year. Currently, as a country, our need is about 500,000 metric tons of fertilizers per year. The cost of importing fertilizers alone is over Kshs30 billion whereas what we owe as a nation for construction of the fertilizers factory was only Kshs4.3 billion. We are paying for a fertilizer factory that was never constructed. Farmers still suffer in this country due to lack of fertilizers. Every year, we must import fertilizers. This is just one example to show what corruption has done to this country not to mention Anglo Leasing, Goldenberg and all the scandals that have unfolded and that are still unfolding in our country today, especially around the election time when mega scandals explode in this country. We cannot afford not to have an Ethics and Anti-Corruption Commission especially at this time when we are going into a general election.

Mr. Speaker, Sir, it is therefore, our hope that the imperative - and I believe the fight against corruption is an imperative of our time - should exceed any other considerations. We urge this House to pass this Motion so that we can have an Anti-Corruption Commission in place immediately.

Speaking for the Ministry, we know that all those contracts of senior officers at Integrity House have come to an end. We need a commission in place that will take the steering wheel and move the vehicle of anti-corruption forward. Without a proper Commission and dedicated officers in place even the cases that were pending and the evidence that had already been prepared are at risk. Therefore, we need this Commission in place as urgently as possible. We urge the House to approve the names before it today and ensure that we have an Anti-Corruption Commission in place so that we can jump start the fight against corruption.

With those few remarks, I beg to second the Motion.

(Question proposed)

Mr. Ruto: Thank you, Mr. Speaker, Sir. I must congratulate the Minister for Justice, National Cohesion and Constitutional Affairs who has been my colleague in one of the committees. I rise to support in camaraderie with my colleagues.

This Commission has to be in place. Kenya cannot afford to continue prevaricating on matters to do with anti-corruption issues. We cannot continue to waste a lot of time. There has been a lot of instability in these institutions which we keep establishing to sort out some of these very important integrity questions that have continued to afflict the Kenyan public.

Mr. Speaker, Sir, as of now that institution has been without leadership for quite a period of time. We are now moving towards ensuring that institutions devolve. We will also devolve and disburse millions of shillings. This particular institution which is a watchdog institution cannot possibly be leading itself to watch over all the counties and the Kenya Government. Without leadership at the helm that is stable, we will be failing.

A few minutes ago we were discussing about implementation of issues to do with Chapter Six which must be done before August. Unless this particular institution that is supposed to drive that particular aspect and ensure that Chapter Six is operationalized is in place, I think there will be confusion all over the place and we may not even be facing the election in a manner envisaged by the new Constitution.

For this and several other reasons, because I know very many hon. Members want to contribute, I want to say I support.

Thank you, Mr. Speaker, Sir.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I beg to support this Motion. In supporting I want to say the following: A proper reading of Article 79 of the Constitution would demonstrate that this Commission is very important in terms of the new leadership that is to be created under the new constitutional dispensation.

Many times when we make reference to this Commission, there is the assumption that its work will be confined to issues of corruption in its narrow sense or issues of ethics. However, the responsibility and mandate of this Commission is, indeed, very wide. These constitutional provisions were necessary because this Commission is driven by the fact that in order to have a new Kenya, we have to have a new kind of leadership. Without a new kind of leadership in this country however many laws or commissions we create, we will not be able to create the kind of leadership that is spelt out under Cap.6 of the Constitution.

I just want to point out one or two things that probably would seem very trivial but the standards that have been set in this Constitution requires of us, for this Commission to do its work the way it is supposed to do it, to live by the standards, requirements and values of this Constitution. If you allow me, it states as follows:-

“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”

This is important. This chapter has some provisions which all of us, as Members of Parliament, are violating every weekend when we are invited to *harambee* and we are given a gift and we take it away to our houses. If it is a goat, you slaughter it and revel after a *harambee* or a party.

On the provisions that are dealing with financial probity of State officers, the following provisions are found in Article 76 of the Constitution.

“A gift or donation to a State officer on a public or official occasion is a gift or donation to the Republic and shall be delivered to the State unless exempted under an Act of Parliament.”

So, this weekend if you go for a *harambee* or public function, whether it is a State function and you are given a gift, if it is a goat or a watch, you should immediately surrender that gift to the Republic of Kenya so that you can be judged by the high standards of this Constitution.

(Applause)

If you read this Chapter clause by clause, then you will know what this Chapter that is dealing with integrity and leadership requires of us to be transparent in everything that we do; we should not be compromised at any stage, hence these many provisions. I did not want to read many of them. I am just saying that as we debate this Commission, all of us, I included, I want to confess that we are not yet living by the standards set by the Chapter on Leadership and Integrity.

Mr. Speaker, Sir, one of the obvious things which I am not afraid to say, and this is for the hon. Member for Chepalungu, is that the rule of law and constitutionalism requires that as an hon. Member of this House, you cannot be a Member of two political parties at the same time, or you cannot be seen to campaign for two political parties at the same time. That is a question of integrity and leadership because of the type of principled leadership that we want to provide in this country.

There are some people who think that this Commission is about witch-hunting, and that the megaphone activity of this Commission is what will make it effective. Particularly on the issue of the chairman of the Commission, having consulted my people in Ugenya and having seen and read of the character of the chairman, I fully trust that he is well placed to try to give full effect, without fear or favour, the import of Chapter Six of the Constitution. However, we will judge him once he occupies that position.

I remember of an incident which created a lot of problems in the United States of America (USA) when former President Nixon went on a State visit to Egypt. The First Lady was given a gift which, if I remember, was some jewellery. He did not disclose it until State officials came and reminded him that the gift had to be surrendered to the State. At the end of the day she asked the USA Government to allow her to use that jewellery for some time. Therefore, Dr. Khalwale, the next time you go for a bull fight and you are given a bull or ram, you will only use it for a while but you will not take it home.

An hon. Member: He can climb it!

The Minister for Lands (Mr. Orendo): Or climb it as I am being told, although bulls are very difficult to climb.

Mrs. Shebesh: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it Mrs. Shebesh?

Mrs. Shebesh: Mr. Speaker, Sir, I am sure this House does not practise any form of discrimination. Would it be in order for me to ask that we are also given a microphone, so that we are able to execute from the front Back Bench? We also have our luminaries who want to speak.

Mr. Speaker: Yes, I direct that some action be taken; if a microphone is available it should be put on a stand to my left as well.

Proceed, Member for Ugenya.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I would say that this Commission should be in place in good time to start this work, now that we have not even completed appointing commissions; some of them are pending; and example is the National Land Commission (NLC). I think that process is ongoing. I am not anticipating debate, but land being what it is, I hope that when the names come there will be a full rigor in interrogation of the character and qualifications of those who will want to be commissioners in the NLC. As soon as this is done, let us open a new chapter in these remaining days. Kenya deserves better; the beautiful ones may not yet be born but you are the leadership that Kenya has today. Let us live by the provisions of this very important Chapter of the Constitution.

I beg to support.

Mr. Speaker: Member for Githunguri, please proceed. We are attempting to source an additional microphone.

Mr. Baiya: Mr. Speaker, Sir, I beg to oppose this Motion.

(Applause)

Mr. Keter: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Member for Belgut?

Mr. Keter: Mr. Speaker, Sir, I want to seek your guidance in terms of this Motion. I remember your ruling last time that we had debated all the pros and cons of it. It was only a question of approval of names. Can we put it to vote and finish?

(Applause)

The Chair of the Departmental Committee on Justice and Legal Affairs had given his views. I think he is going to repeat himself. Why do we not speed up and go to the other Motions?

Mr. Speaker: Member for Belgut, I have heard you. However, the Motion which was before the House that time was different from the Motion before the House now. If you will recollect it was to the effect that this House adopted the Report of the Committee on Justice and Legal Affairs. The Motion before the House now is that this House “approves”. Therefore, it is different.

Mr. Keter: Mr. Speaker, Sir, will I be in order then to move that the Mover be now called upon to reply?

Mr. Speaker: Hon. Members, with the kind of interest that is apparent in the matter up to where we are, I am afraid not at this point.

Proceed, Member for Githuguri.

Mr. Baiya: Thank you, Mr. Speaker, Sir, for defending the rights of those with contrary views, more so on a matter as important as this one, which relates to the leadership of Ethics and Anti-Corruption Commission.

I only wish to state quite clearly that the Committee on Justice and Legal Affairs appointed by this House did deliberate on this matter and filed a report. At that time the Report

was unanimous; we are still of the view that the candidates who are the subject of the approval Motion today are---

Mr. Koech: On a point of order, Mr. Speaker, Sir. You have heard the Chair of the Committee on Justice and Legal Affairs say that the Report tabled here was unanimous. Before he spoke one Member of the Committee actually contributed in support of the Motion. Would I be in order to suggest that the Member is out of order?

Mr. Baiya: Mr. Speaker, Sir, I can take on board that correction, and at the same time simply point out that there was a majority decision.

This is a very important Commission as far as the fight against corruption is concerned.

The Minister for Trade (Mr. Wetangula): On a point of order, Mr. Speaker, Sir. I know you have made a comment on the Motion and the Motion that was here before. However, truly speaking your distinction is on form and not substance. The substance of this Motion is not any different from the Motion that we debated and voted on last time. Seeing the mood in the House, it is quite clear that we dispose of this Motion in the manner you had earlier directed that it is coming for vote. I urge you to accede to the popular mood in the House and put the Motion to a vote, so that we can decide one way or the other and move on to the next business.

Mr. Speaker: Order, Mr. Wetangula! I am not satisfied that, that is a valid point of order. You have made an attempt to revisit my directions which I have given taking all the matters you have just spoken to into account. I am afraid; I reiterate my directions as given!

Proceed, Mr. Baiya!

Mr. Baiya: Mr. Speaker, Sir, what I am saying is that the Ethics and Anti-Corruption Commission is a very important institution as far as implementation of Chapter Six of the Constitution is concerned, on leadership, integrity and ethics. The persons seized of leadership of this Commission require to also demonstrate by their past careers that they will rise to those standards. The person who is sought to be approved as the chairperson has had an illustrious career in the past as it was presented. Evidence has been presented before this House. There are issues that touch on his performance that also raise issues of integrity.

Mr. Keter: On a point of order, Mr. Speaker, Sir. With due respect, I am hearing my colleague talk about evidence which was tabled here. Can we be given evidence so that we do not damage reputations of people only because with the evidence we can agree with him? Is it in order to say that evidence was tabled here?

Mr. Speaker: Mr. Baiya, you are challenged to substantiate your claim!

Mr. Baiya: Mr. Speaker, Sir, that is evidence that was adduced during the Motion that was in support of the Report of the Committee of the House and it is already part of the records of this House.

Mr. Speaker: Order, Mr. Baiya! Will you please be more specific? What evidence, which document and on what date!

Mr. Baiya: Mr. Speaker, Sir, there was a report that was tabled in this House supporting the Departmental Committee on Justice and Legal Affairs Report and accompanying the same day there was an affidavit that was tabled before this House by Dr. Khalwale who is right here. That evidence had also been received in the Committee and---

(Mr. Keter stood up in his place)

Mr. Speaker: Proceed then, Mr. Baiya! Order, Mr. Keter! That is not the way we will conduct business!

Mr. Keter: I just want to clarify---

Mr. Speaker: Order, Mr. Keter! That altercation between you and Mr. Baiya will not be allowed! Please note!

Proceed, Mr. Baiya!

Mr. Baiya: Mr. Speaker, Sir, I am saying that I would urge my colleagues that whereas the majority may have their day, it is also important to allow the minority to have their say. That is the way to carry this country forward. There is already evidence on record touching on the integrity of the first nominee who is sought to be vetted and this will not augur well at all as far as the responsibilities he is about to undertake are concerned.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): On a point of order, Mr. Speaker, Sir. I am standing on a point order. The Chair of the Committee is referring to a report that was brought to this House and was rejected.

(Applause)

Is the hon. Member in order to refer to a report by his Committee that was brought to the House, debated and rejected? Is he in order?

Mr. Speaker: Mr. Baiya, let me hear you on that challenge!

Mr. Baiya: Mr. Speaker, Sir, I am not referring to the report as such. I am only referring to the record. I am only seeking to rely on the record that was exhibited here. It was not expunged! There was only a vote against the recommendations the Committee was making. To that extent, that evidence remains part of the record. But basically what we are literally trying to say is that the Committee has spoken. This is a very unusual situation where Parliament has assigned a Committee or Departmental Committee a responsibility and then makes a decision that cuts across the recommendations of the Committee.

Nevertheless, I beg to oppose.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): On a point of order, Mr. Speaker, Sir. Nonetheless, if you allow, I will just raise this point of order because it might go as if a report was brought, it dealt with matters of integrity and this House still rejected the report. When I saw the recommendations, they were about passion. I looked for any recommendation on integrity and we did not see and now the Chairman is bringing some idea that, that report was about integrity. It is now almost making us look very bad that we are about to accept that integrity was an issue and we voted for it. It really hurts us! I did not see it. In fact, if you looked at the record and those recommendations, I did not see where the issue of integrity was mentioned.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! That point of order will stay on the record but Mr. Baiya has completed his contribution.

Mr. Musila!

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, thank you for giving me this opportunity to contribute to this important Motion and I want to say on the outset that I support the Motion.

This country has gone without a commission on ethics and anti-corruption for a very long time and there is no doubt that the whole country is looking at this House to provide leadership

and appoint suitable Kenyans to undertake the very important task of checking on ethics and corruption issues of this country. It is a long time and hon. Members will recall that, as everyone else has said, we had an opportunity to deal with this matter and the Committee's decision of rejection of these names was rejected by this House. As Mr. Wetangula has said, it obviously meant that the House supported the nominees. Therefore, I want to urge the House that we do what is right and that is to approve these names as proposed.

The issue of performance of the commissioners of the EACC has been raised here and there is no doubt that past commissions have failed this country. I would like to urge that these three Kenyans who have been proposed, if this House approves their names, go to work immediately. There are very many issues of ethics and corruption that are within this country, they need to work quickly and avoid playing to the theater. They should avoid doing their work before the Press so that Kenyans can see the fruits of their work.

Therefore, with these remarks, I support and urge hon. Members to support these nominations.

Mr. Koech: Thank you, Mr. Speaker, Sir, for giving me this opportunity to stand and support this Motion. While supporting the Motion, it is important for us in this House and Kenya at large, to seriously address the issues of corruption. This House enacted the Ethics and Anti-Corruption Commission Act, 2011. We unanimously passed it because we believed that, as a nation, we must put in place a body that should help this country fight corruption. It is up to us and upon us to ensure that this Commission functions, so that we can make progress. Having listened to the previous debate on the same, one major issue that was raised on the three persons was that they do not have passion. One issue that comes out aloud is: What a coincidence that three applicants, all of them do not have passion? It is important for all of us to know that these slots were advertised, Kenyans applied and you only apply for what you think you can do.

Secondly, I tried to read between the lines to understand what instruments we have in place to measure passion. Is it a thermometer or a barometer? What is it exactly that we can use to say that so and so has no passion for the job? Very fundamentally and importantly, I would like to plead with the House that we put this Commission in place. This is the first time that this House has got a chance to vet these Commissioners. I believe the three nominees, once given a chance, they know what they have gone through and, therefore, we expect them to even do much more than what we expected initially. Therefore, as I support, I also want to remind them that this nation expects a lot from them and we want to see them performing the duties.

With those remarks, I support.

Mr. Speaker: The Minister for Energy, your constituency has gone out of the minds for a long time.

An hon. Member: Meru!

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir, there is no constituency called Meru. My constituency is Imenti South. I want to thank you for giving me this opportunity to support the Motion.

They say that corruption in Africa is now like weather that everybody wants to talk about, but want to do nothing about it. For many years, in fact, since President Moi came to power in 1978, he came on a ticket of fighting corruption. If you analyze what has happened, you realize that the strategy has been talk, talk and do nothing about corruption. I tried to do something about corruption. When I was the Minister for Energy, I am the one who set up the Anti-Corruption Commission after it had been disbanded by the previous regime. We set up the Anti-Corruption Commission, appointed the directorate and passed the legal institutional framework

and gave it a lot of money, so that we could fight corruption. Since then, the institution has been very controversial. Any director who goes to the Anti-Corruption Commission, even the one we are going to appoint, is going to be at the centre of the storm. We have to work with individuals that we find in this world. We cannot invent human beings and there is no individual, including the Members of Parliament, who is an angel. Every individual will have strong points and some weak points. There are institutions to check the weaknesses of the individuals.

There are many ways of refusing to fight corruption and one of the ways is what we called counter reform, namely, endless reform, but whose real intention is to make sure that nothing happens. In this particular case, there are those who do not want to fight corruption and they are the ones who want to make sure that this process is repeated. It is not that they are against Mr. Matemu and the group, but it is because they do not want an effective institution. There are serious issues like the issue of the National Hospital Insurance Fund which requires to be investigated.

An hon. Member: Triton!

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir, Triton was investigated and the people were in court.

(Laughter)

Yes, that was investigated and Kiraitu Murungi was in court giving evidence. We are talking about taking action. There are those colleagues who just like to shout and shout, but shouting out there is not going to sort out corruption in this country. You have to do something about it. When I carried out the radical surgery in the Judiciary, I took action, but there are those who came saying “it was wrong, it was that”, but we took action. So, the Members should not hide---

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that his so-called radical surgery was a success when the country knows that he removed some of the judges unfairly, Justice Waki being one of them?

Mr. Speaker: Order! Order! Member for Ikolomani, I followed the Minister’s contribution very closely and he did say that he took action. He did not say that it was a success. He said he took action and to that he is entitled! Proceed, Minister!

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. Judging by the mood of the House and Members are now repeating themselves, would I be in order to request that the Mover be called upon to reply?

Mr. Speaker: Order! Like I have just said not very long ago in response to the point of order by the Member for Ikolomani, I am following these proceedings very attentively, deliberately so, because this is an important matter and I am afraid, I do not share your opinion that Members are being repetitive. So far, they are not. So, I am not satisfied that this is a suitable point at which to put the Question that let the Mover be called upon to reply. Revisit the Standing Order No.86 and you will see that I am exercising that discretion correctly.

Proceed, Member for Imenti South!

The Minister for Energy (Mr. Murungi): Thank you, Mr. Speaker, Sir. I was in the Opposition for many years. We were the architect of the anti-corruption law. Do you remember the Kombo Report and the list of shame? It was prepared by us.

Mr. Speaker, Sir, this is what we set to implement when we got into the Government. I will explain why it was not possible. The fight against corruption is not easy. You heard me say

one time that the hunter became the hunted. If you analyze the forces of corruption in the society, they are also there. It is just like Jesus and Satan. The forces of evil and forces of good compete in society. Sometimes, the forces of evil win. They come in different forms. Some will come speaking very good legal language. Some will come speaking very good English. It is the forces of evil. Some will come pretending that they are carrying out reforms.

(Ms. Ndeti stood up in her place)

Mr. Speaker: Order, Minister! Point of order!

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): On a point of order, Mr. Speaker, Sir. As a Christian, forces of evil will never win. They can only be there for some time, but at the end of the day, they will be defeated. Is he in order?

Mr. Speaker: Order! Just citing the word “order” does not make it a point of order. What you did actually stage is an argument against the Minister’s opinion and position. So, I am afraid, I rule it out. It does not pass for a point of order.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. Is the hon. Minister in order to pre-empt what is likely to happen because he is suggesting that forces of evil are going to win? Is he predicting something? Is he in order to predict that forces of evil will win? Is he suggesting, therefore, that what he is doing is part of the forces of evil?

Mr. Speaker: Order! I find that a bit doubtful but because I find it doubtful, Minister you may respond.

(Laughter)

The Minister for Energy (Mr. Murungi): Mr. Speaker, Sir, of course, Members are giving their own interpretations. What I said is that in a society, there are both forces of good, forces of evil, forces of light and forces of darkness. This is a reality. Indeed, if there are no forces of evil in society, there will be no bishops. What will they be fighting against?

Mr. Speaker, Sir, what there is, is a struggle between those forces. I am not saying that the forces of evil are going to win because I believe I am going to heaven. I do say that it is a struggle. Sometimes, projects are started with very good intentions, but they are captured, distorted and, sometimes, even powerful institutions like the media are made to make the guilty innocent and the innocent guilty.

Mr. Speaker, Sir, I am telling Parliament: Let us take action. Let us not talk, talk and talk. Let us approve these names. Let us have the directors in place so that, that institution works. Let those who are in the wrong be caught. Let those who are in wrong be punished. We might be helping to assist the forces of corruption in our society by having no effective anti-corruption authority.

With those few remarks, I beg to support.

Mr. Duale: Mr. Speaker, Sir, I stand to support not because the two principals have agreed on these three names, as the Leader of Government business has put it, but I am supporting these three names on the basis of my conviction and as a Member of Parliament for Dujis Constituency.

Mr. Speaker, Sir, I want history to judge me. When the former Director of the Kenya Anti-Corruption Commission, my good friend, PLO Lumumba’s name was brought here, I was among the three Members who opposed it. Mr. PLO Lumumba had passion. He has very good

oratory skills and was very eloquent. When I stand here today, maybe, Mr. Matemu, Irene Keino and Jane Osongo might not have the oratory skills and the passion that PLO Lumumba had. It is this same House that passed the verdict that PLO Lumumba failed in his duties. So, that technically removes----

(Mr. Ruto stood up in his place)

Wacha nimalize wewe!

Mr. Speaker: There is a point of order, Member for Dujis!

Mr. Ruto: On a point of order, Mr. Speaker, Sir. I have been in this House and I cannot recall a day in which this House passed a resolution that there was a problem with PLO Lumumba.

Mr. Speaker, Sir, PLO left office because of an operation of a law. That just made their presence there untenable. Is the hon. Member in order to cast aspersions on a Kenyan who is not here to defend himself, instead of pushing his agenda?

Mr. Duale: Mr. Speaker, Sir, I want hon. Issac Ruto to read between the lines, go back to the HANSARD and read what Members raised when we were passing this law.

Mr. Speaker, Sir, this country created very important fundamental institutions among them was the Independent Electoral and Boundaries Commission (IEBC), Director of Public Prosecutions (DPP) and a reformed Judiciary. The only thing that is remaining is the Ethics and Anti-Corruption Commission. Corruption has permeated in every sector of this nation. It has even gone to the Kenya National Examinations Council. That was why I brought a petition. Today, I cannot write to that Commission because there is no leadership. This nation and Parliament must give direction to the appointment and operationalization of that institution.

Mr. Speaker, Sir, I want to quote Mahatma Gandhi. He said: "I will not allow anyone to walk through my mind with their dirty feet".

That means that, as we prepare this nation for the budgetary process; as we set up new devolved systems of Government; as we have formed an independent DPP; as we have a reformed Judiciary, the most critical institution that is remaining is that of anti-corruption. Nobody has raised anything on the integrity and qualification of the three said names. Nobody is telling us: "These are the issues we are having against Matemu." Nobody is telling us: These are the issues of integrity that make this House not approve the names of Irene Keino or Jane Osongo."

Today, I am very happy that the Minister for Justice, National Cohesion and Constitutional Affairs who, a few months ago was in the Committee that came up with the issue of passion has seen the light and has joined those of us who could not understand what passion meant.

Mr. Speaker, Sir, with those many remarks, I want this House to approve these names and have an institution in place by tomorrow.

Mr. Midiwo: Mr. Speaker, Sir, I rise to support this Motion. In so doing, I want to say a few things. If it was not for me, these names could have passed in December last year. But if you revisit the HANSARD for record, I questioned the procedure. I believe this House must proceed procedurally.

Mr. Speaker, Sir, I am happy that your directions have been followed. I am also happy that the Leader of Government Business assured us that consultations have taken place.

Consultations are a big part of this Coalition Government, even though a few of us do not want to accept it, but we shall force it down your throat.

Mr. Speaker, Sir, having said that, corruption is a cancer in our country. I know that there are hon. Members of this House who hope that Matemu will shield them from going to jail. Just as the Minister for Energy said, nobody is an angel. Truly, nobody is. But we have a duty to save this country from the cancer of corruption.

Mr. Speaker, Sir, we are going to devolve this Government; let us hope that Matemu and others will not help us devolve corruption. There are a few people, even a few hon. Members of Parliament, who have told me personally that they want to be governors because money is going to the counties.

An hon. Member: They will be arrested!

Mr. Midiwo: I hope Matemu hears you and picks you. Because what we do not want is to see what we see in this Government spreading across this country as a cancer.

Mr. Speaker, Sir, I want to disagree that what we saw happening in Grand Regency, Triton and all these other things, are investigations about corruption. This is because we have not seen anybody being jailed. All we have seen are colossal amounts of money leaving our country and filling pockets of a few.

(Applause)

We want---

(Mr. Kimunya consults loudly)

Mr. Speaker, Sir, save me from hon. Kimunya!

Mr. Speaker: Order! Order! Let us hear the hon. Member for Gem!

Mr. Midiwo: Mr. Speaker, Sir, we would like a scenario where people fear attraction of money because it is public funds.

Mr. Speaker, Sir, it is horrible that we, as a House, have accusations against us, unproved though, but we should come out and condemn acts which are of corruption.

Mr. Speaker, Sir, I was so saddened two weeks ago when I was out of the country and the Finance Bill came here. Why were interest rates not controlled? The Chair has asked for evidence to be brought to you and I hope somebody brings that evidence about those accusations. But if it is true, anybody who was compromised to make sure that banks keep fleecing Kenyans should be ashamed. I say to you: Shame on you!

(Applause)

Mr. Kutuny: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to start lamenting and accusing hon. Members that they rejected a Motion brought here on interest rates? Where was he? I think he was running away from the police.

(Laughter)

Mr. Speaker: Order, hon. Members! Hon. Member for Gem, you need not respond to that because it does not pass the test for a point of order.

Mr. Midiwo: Yeah, I cannot respond to that, Mr. Speaker, Sir. But on a light note, when the hon. Member was arrested, he was crying for his mother. As for me, I cannot run away from them. When I say the truth, I am strong!

Mr. Speaker, Sir, it is said that the hon. Member cried all night---

(Laughter)

Mr. Speaker: Order! The hon. Member for Gem, will you restrict yourself to what is relevant to this Motion?

Mr. Midiwo: I thank you, Mr. Speaker, Sir. It was on a light note.

We are now forming the Ethics and Anti-Corruption Commission. The law which we passed here will guide this Commission. It says all the staff must be vetted. So many Kenyans are suffering and have suffered in the hands of the so-called anti-corruption policemen. They all have to be vetted!

Mr. Speaker, Sir, just to tell you a story of the late hon. Archbishop Ondiek, when the anti-corruption officers went to apprehend his wife over the issue of education funds, the Archbishop Ondiek and his wife were found in bed. They were not even allowed to put on pajamas.

Mr. Speaker, Sir, I am happy that today it is happening in my lifetime; I am seeing the Judiciary reform. We want the Director of Public Prosecutions' Office also to reform and not to be political. We want the police to follow suit. It is very important that when we see anti-corruption police go and break the window of hon. Dr. Gesami at midnight--- Hon. Members of Parliament can be criminals, but they cannot refuse to adhere to the law. So, it is a daunting task for this Commission which we are forming. This should be an elite group to fight corruption, but not a group of thugs who climb on top of somebody's house to apprehend him.

Mr. Speaker, Sir, hon. Dr. Gesami, if you called him, he would present himself to court. We cannot form a Commission which will be high-handed; which politicians will use to fight other politicians. We cannot allow that. Let me say this to the Commission which we are approving; that this House will do the same thing which we have done to the other one if they will not do their job correctly. We will do it to protect Kenyans, not only hon. Members of Parliament, because it is time to change this country. It is time to change and all institutions will have to change. Anybody who thinks he is going into a Commission to serve politicians or a political group, we will not accept that. I am sure Kenyans will not accept that too.

Mr. Speaker, Sir, with those very many remarks, I beg to support.

Mr. M.M. Ali: Thank you, Mr. Speaker, Sir. I stand to support this Motion. The fact that this Commission has not been filled to date actually puts us in an awkward position. We should have moved with speed, cleared all obstacles and made sure that, that is the first institution which should have been established.

Why am I saying this? Over and over again, people have been talking about corruption bringing Kenya down. We have heard of millions of shillings going to waste just because of officers who have occupied those institutions; people who are not competent; people who are not giving service to the nation as expected.

Mr. Speaker, Sir, we have heard of the Ministry of Education losing millions of shillings for the needy children of this country. In the past, we have heard of roads which were tarmacked on paper, but in reality, we do not see those roads, especially during the KANU days. Thanks to

hon. Kibaki and his regime, we have got infrastructure improved. But we need a strong EACC to be in place urgently so that Kenya, with the speed it is going, we achieve Vision 2030.

Mr. Speaker, Sir, it is unfortunate that some of the hon. Members of this House have cast aspersions on Kenyans whose integrity has been tested. Why am I saying this? We have heard people saying that some of these nominees lack passion. These are Kenyans who were given an open competitive chance; the advertisement was all over the newspapers and those who thought they were competent applied and the selection panel zeroed in on three Kenyans.

These are people who the selection panel felt were honourable enough to face or be in charge of that institution. I think that the House should not waste a lot of time. It should pass the names of these three nominees urgently, so that this institution serves Kenyans as expected. To them, I say: To whom much has been given, much is expected. From the Matemu group, we expect a lot.

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

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang):
Mr. Speaker, Sir, when dealing with the Report that was here before, I think I talked to the extent which I could be understood to be supporting these names, and so, I support. But I want to say something else about this Commission.

Mr. Speaker, Sir, when this Commission was proposed sometimes back to be part of our Constitution and have powers to prosecute, I remember I was one of the people who refused and opposed. This is because I said that the powers of prosecution must be given to only one office, which at the time was that of the Attorney General. I said that if we were unsatisfied or thought that the Attorney General did not know or want to do his job, then we could as well have relieved him of his duties and appointed somebody else. I thought that two competing authorities, competing for the sun or to be seen to be prosecuting was not good for this country. I still believe that, that is the correct position. I did not, in fact, support the view that we should have put this Anti-Corruption Authority in our Constitution. This is because I do not think that corruption is a virtue in this country. It is not one of the things that we should constitutionalize. I said so with a lot of passion, but I was in the minority.

Mr. Speaker, Sir, now that it has actually been put in our Constitution and we must now operationalize it, I suggest that we do so swiftly. But the Anti-Corruption Authority must do the work for which it has been designed. We did not design the Anti-Corruption Authority to run around on rumours, unsigned letters by “concerned citizens” and say that so-and-so is becoming a millionaire. The Anti-Corruption Authority would be hanging on corridors of very poor people in this country supposedly looking and “smelling” for corruption. That is not why we designed this institution. This institution was to deal with what we call grand corruption. Grand corruption is grand. Grand corruption is designed and executed. Look at a situation in which a Ministry or department is procuring something. The procurement authority is just beginning to do its work and the tenders have not even been floated, but you hear the Anti-Corruption Authority asking questions. When the tenders have been floated and people have not even been shortlisted, the Anti-Corruption Authority is concerned. When short-listing is done the Anti-Corruption is concerned. There are bodies that do a lot of work in this country. The Kenya Revenue Authority (KRA) looks at whether or not you have paid your taxes. The Efficiency Monitoring Unit (EMU) checks whether or not the Government or a department is functioning well or delivering on targets. There is the Procurement Appeals Board which deals with whether or not the procurement was done properly. You cannot get a job which is not well defined. You waste our money running around the whole country; scaring everybody and doing nothing.

Mrs. Shebesh: On a point of order, Mr. Speaker, Sir. I am sure that you are listening, as you said, very keenly. Is it in order for the Minister who, of course, is entitled to his opinion, to make it sound like his opinion is that of the House, when he says, “we did not pass this for this?” I do not agree with all the sentiments that he has said in terms of the role of the anti-corruption body. Is he in order to suggest that this House has passed that kind of thinking on the role of the anti-corruption body, when we know that corruption is big and small, and must be dealt with at all levels?

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Speaker, Sir, I will not respond.

Mr. Speaker, Sir, we did not set up the Anti-Corruption Authority to chase traffic officers who have received Kshs50 on the streets, because there are many other institutions that can do that. We did not put so much money---

Mrs. Shebesh: On a point of order, Mr. Speaker, Sir. I really want you to give guidance on this because I did pass the act of chasing traffic policemen who take bribes. That is why I am asking: Could hon. Kajwang use this opportunity, which is his right, to give his views, but not make it look like these are the views of the House by saying “we did not pass?” This is because when he is speaking from that level, as a Cabinet Minister, it can be misconstrued to mean that we do not take corruption seriously at all levels, and that we are only dealing with grand corruption. I really would like you to---

Mr. Speaker: Order! Order! Order! Hon. Shebesh, you have made a very determined attempt at raising a point of order, but I am afraid you have fallen short, and I will tell you why, so that you are better guided. The Member for Mbita has asserted that in his opinion, the purpose for which the House passed a certain given legislation was something or other, and your opinion is different. So, at best, it becomes a matter of argument between you and the Member for Mbita. You can carry this argument even beyond this House. I do not think that the Speaker will give directions that will settle the matter. In fact, this can go on until the cows come home, and you will still not have an answer. So, let us leave it where it is.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Thank you, Mr. Speaker, Sir, for protecting me. I am entitled to my opinion, sister. Allow me to give my opinion with a lot of passion.

Mr. Speaker, Sir, the Anti-Corruption Authority must itself have another body to check corruption. This is because the Anti-Corruption Authority cannot be a law unto itself. There are people who use the Anti-Corruption Authority - a big name, constitutional name and a good office – for purposes of harassment and bribe-taking. I hope that this gentleman and ladies that we are passing this evening will not use this good office, constitutional office and illustrious office to run around saying: “We have heard this about you. Can you talk?” We will not use the Anti-Corruption Authority to settle political scores. Sometimes I laugh when I hear that the Anti-Corruption Authority is looking for a Minister because a department in that Ministry carried out some project, which supposedly is incomplete and so, the Minister must be corrupt. Sometimes we need to teach the Anti-Corruption Authority what corruption is. This country will not have an institution that does not even know what its job really is. In fact, if I were the Director of Anti-Corruption Authority, I would first satisfy myself - and I saw that there was a professor of Law as a Director – that actually the person whose name I am publishing and threatening with arrest, has actually committed the crime. Why do I rush to say; “there will be thunderbolt and high voltage cases?” I hope those are not the oratory skills that we were referring to. They are not

necessary. In fact, in my view, anti-corruption should be taught in schools, so that our children, from Standard One to Standard Seven, know that this thing is bad for the country.

In fact, we will reduce it that way. Threatening people with arrests over nothing, eventually when they are tried; they will not even reach the trial. I have said many things which were burning in my heart because this was my opportunity to say them. However, I support the names. Thank you and God bless you.

Dr. Khalwale: Mr. Speaker, Sir, I rise to support this Motion but with an amendment. I would like to utilize my time in moving my amendment. I wish to amend the Motion so that the words; “Mr. Mumo Matemu as Chairperson; and” be deleted.

This, in effect, means that this Motion when amended will read as follows:-

“THAT, pursuant to Article 250(2) of the Constitution of Kenya and Section 6(7) of the Ethics and Anti-Corruption Commission Act, 2011, this House approves the appointment of Jane Onsongo and Irene Keino as Members of the Ethics and Anti-Corruption Commission.”

In moving this amended Motion, I am persuaded by what took place when this matter was brought to this House by the relevant Committee. A lot of evidence was adduced. In all the evidence that was adduced, apart from the issue of passion, there was nothing that was tabled in this House to counter the names of Jane Onsongo and Irene Keino. Everything including what I tabled was aimed at Mr. Mumo Matemu.

Seeing the contributions in the House, I have no doubt that my Motion might not find favour.

Hon. Members: Why?

Dr. Khalwale: However, Mr. Speaker, Sir, I want to use this opportunity to beg hon. Members of this House that we are all men and women of this country and that we are not the only people who have the right, monopoly or potential to be Members of Parliament.

When hon. Martin Shikuku was in this House, he once said: “A child will be born in this country who will die for the country so that the country can have its wealth being the common wealth of all Kenyans.”

Because I am aware that we might be in the minority, I want to beg Members that there is a little easy reader written by a writer called “Henrik Ibsen” called; “*The Enemy of the People*”. He says that the strongest man is the one who remains standing alone.

An hon. Member: Bonny Khalwale!

Dr. Khalwale: Mr. Speaker, Sir, I want to beg Members of Parliament that in the history of this country, because of the power of the Executive, an Ambassador of a friendly foreign nation, because of the issue of corruption, was handcuffed, driven to the airport and had his passport stamped PNG or *persona non grata*. The Executive was enjoying its might. That might, maybe, is the one that will express itself but I do not know. I beg hon. Members that we endeavour to be a mirror of what is going on in the society outside this Parliament. The society out of this Parliament has been brave. If I am begging this House that we drop Mr. Matemu’s name, I am not doing something out of this world. You have witnessed brave members of the society of Kenya using a legal process like the one we want to use today. They have dropped Justice Riaga Omollo. Why not Matemu? They have dropped Justice O’ Kubasu. Why not Mumo Matemu? Justice Nyamu has been dropped. Why do we not be brave and apply the same standards to Mumo Matemu? Finally, they have dropped Justice Bosire, and yet these are hon. Kenyans, maybe, even more patriotic than all of us. I beg that we apply that standard, which is currently prevailing in the whole country and find that this Motion must pass without the name

of Mumo Matemu. If the President and the Prime Minister would like to bring back the name, they might as well do it after they have responded to all the issues that I tabled in this House.

I want to use this opportunity to address myself to the challenge my evidence was subjected to in this House. The challenge was that Mumo Matemu was not in charge of collection of taxes but was in charge of the Legal Department. That is true. Therefore, if I do not put this nexus and define it clearly, I would have failed, misled the country or personalized the issue.

Mr. Mumo Matemu was the Commissioner for Support Services while Mr. John Njiraini was the Commissioner of the large Tax Office. Mr. Michael Waweru was the Commissioner-General. These three officers jointly and severally were aware and are still aware that Kingsway Tyres and Auto Mart Limited, Income Tax No.PIN/5---

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): On a point of order, Mr. Speaker, Sir. That specific issue was brought here, debated and rejected. Is the hon. Member in order to bring something here that was rejected by Parliament?

Mr. Speaker: Hon. Member for Ikolomani, do you want to respond to that?

Dr. Khalwale: Mr. Speaker, Sir, if I was sure that the Chair was directing me to respond to it, I would. But if it is a question of whether I want, then I do not want to respond to it. I would rather I continue moving the Motion.

(Applause)

Mr. Speaker: Order! You may proceed and the reason I say you should proceed is this. Even in my recollection, I do not remember that, that particular matter, as hon. Wavinya Ndeti has put it, was brought here and rejected. It is not so. That will not be true.

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): Mr. Speaker, Sir---

Mr. Speaker: Order, hon. Wavinya! Just go and look at the HANSARD again. See what you have said against what transpired last time and you will find that you are not right.

Proceed, Dr. Khalwale!

Dr. Khalwale: Thank you, Mr. Speaker, Sir. The Income Tax Number is PIN/File No.P000609825C. This particular file was having an outstanding tax liability of over Kshs2.4 billion. They are aware, jointly, that this file has now changed its name and PIN number to Kingsway Tyres Limited No.PI/File No.P051116728X.

Messrs. Mumo Matemu, John Njiraini and Michael Waweru have jointly and severally ignored, refused and failed to investigate the relationship between the two companies since the new company at that office is today certified as having a clean tax compliant status. It is important that I go further and show how Mumo Matemu failed. When this matter first came to the attention of the Kenya Revenue Authority (KRA), that the company was having a tax bill of Kshs2.4 billion, the KRA moved on and hired the services of a company called "Speedway Commercial Services" to go and recover that money.

Mr. Speaker, Sir, this gentleman had an agreement with the Kenya Revenue Authority and this agreement is part of the documents that are already in this House. After he was given those orders, he went and closed down all the godowns. On 27th September 2004, the owners of this company then went to KRA and negotiated and successfully had their godowns opened after they had made an undertaking that they would make a tax remittance of Kshs1.5 million per week. Two days later, the same company then went to court and claimed that they did not owe any tax and the people they were suing were the KRA and they enjoined Speedways Commercial

Services. Mr. Mumo Matemu refused to go and enter an appearance in court. Why? Because they had worked out an arrangement whereby they said they would pay Kshs1.5 million and then he would go to court and because there would be no defense from Mumo Matemu, the court would then throw away the case and the tax would go under the waters.

Mr. Speaker, Sir, Since Speedways Commercial Services had been enjoined, they then rushed to court. They defended---

Mr. Kabogo: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member, hon. Khalwale, to keep dropping names of institutions, companies and people's names without dropping information to substantiate those claims? Those companies do not have an opportunity to speak here and defend themselves. Is it in order?

Mr. Speaker: Order, hon. Kabogo! What area do you want hon. Khalwale to substantiate?

Mr. Kabogo: Mr. Speaker, Sir, for example, he says that Kingsway Tyres and Speedway Commercial Services have got issues of evading taxes. Could he substantiate by bringing that information to the House so that we can all benefit from it?

Dr. Khalwale: Mr. Speaker, Sir, that is indeed what I did the first time this matter came to the House when hon. Kabogo was out of the House. I tabled documents and I do not want to be repetitive. The documents are here in a bundle and they are in the House.

Mr. Speaker, Sir, I want to conclude this nexus by saying as follows: When Speedways then went and entered a response, the matter was heard in court and it was determined and the orders prayed for by Kingsway were quashed and the ruling which is on the record of the HANSARD and the copy is already here was that the taxes should be collected. To date, those taxes have not been collected.

Mr. Speaker, Sir, so that I do not take too long, I want to tell Members of Parliament that this matter is not over. Matemu and Waweru have left KRA, however, the matter is still alive. There is a letter here which I now want to table because it was not part of those documents. This letter is from none other than the KRA. The letter is headed and it is signed by Mrs. J.J. Kamande, Senior Deputy Commissioner of Legal Services. She is telling Speedways that they give them time since they are trying to sort out the process using the courts. This means that this man called Speedways who is demanding millions of shillings for services rendered to the Government of Kenya (GOK) will end up in the fullness of time being paid from the taxpayers' money the way we have seen people of Ken Ren being paid. The way we have seen the National Social Security Fund money being paid to people and this country will run to lose.

Mr. Speaker, Sir, I table this letter.

Mr. Muthama: On a point of order, Mr. Speaker, Sir. Would I be in order to ask hon. Khalwale truly to declare his interest in Speedways? Speedways Company has a case with KRA and they are demanding to be paid billions of shillings for purportedly collecting taxes on behalf of KRA. If it is true that, that company wants to be paid that money, which taxes did they collect on behalf of KRA? The documents being laid there by Dr. Khalwale have been authored by certain institutions. It is the same company that is demanding to be paid billions of shillings by KRA.

Mr. Speaker: Order! Dr. Khalwale, you are asked to declare your interest. That is the bottom line.

Dr. Khalwale: Mr. Speaker, Sir, I would like the hon. Member to spare me just a modicum of respect. I cannot come and bring here documents which are not authentic. I have no interest in matters of this type because I am a disciplined---

(Mr. Muthama stood up in his place)

Mr. Speaker: Order, hon. Muthama! You made your point and I have asked hon. Khalwale to declare his interest. That is what your point of order was about.

Dr. Khalwale: Thank you, Mr. Speaker, Sir. I was begging hon. Muthama just like you are a very good businessman; I am also a disciplined doctor of medicine. I have no idea about these things called connections and stuff, but I have the capacity to read and understand and in the process articulate that which can protect the general good of the Republic of Kenya.

Mr. Speaker: Order, Dr. Khalwale! Do you have any personal interest in this matter?

Dr. Khalwale: Mr. Speaker, Sir, I have no personal interest. The only interest that I have is that these facts must be clear before these people assume office.

Mr. Speaker: Proceed!

Dr. Khalwale: Mr. Speaker, Sir, I, therefore, table this letter so that it comes to you for you to appreciate the weight of these things, that it is just a matter of time before we lose tens of millions of shillings to people who even refuse to go and allow a court process to take place. Instead, they ask lawyers to go for out of court settlement.

(Dr. Khalwale laid the document on the Table)

With those many remarks, I move my Motion and request, the hon. C. Onyancha, MP for Bonchari to second my amendment Motion.

Mr. C. Onyancha: Thank you, Mr. Speaker, Sir. I rise to second this Motion of amendment and the reason I am doing this is because I have great respect for the Justice and Legal Affairs Committee and I know that it came up with a unanimous opinion and that opinion was put to the vote and was voted for by hon. Members of Parliament including myself who had not had the opportunity to personally vet, question and interrogate the people who are subject of this Motion.

Mr. Speaker, Sir, when a House votes 49 to 50, it is an indication that the Division is half-half. The Ethics and Anti-Corruption Commission is an institution which must be given full and total confidence by all Kenyans. To me, the indication of this vote is that half of the population is not in favour of the commission being approved in its original form that it was presented.

Mr. Speaker, Sir, I have listened to many hon. Members contribute to this Motion. Many of them may have good reasons for supporting the nominees, one of which is time, but is the fact that we are getting late to establish the Ethics and Anti-Corruption Commission a good reason for us to overlook very serious accusations and just role through and rum down the throats of Kenyans names, some of which are not acceptable by a half of the membership of this House? I know that we have had a very poor record when it comes to dealing with issues of grand corruption. This is because of the influence that corrupt people have in the Government.

Grand corruption cannot be instituted by an ordinary person. It is instituted by very senior members of the Government, who operate either as a conspiracy or singly. I am sure that some of them are in this House, standing here and telling us that this is the best Commission we can master, and that there are no other Kenyans---

Mr. Speaker: Order, hon. Onyancha! Are you saying that some Members of Parliament are among senior citizens of this country that engage in corruption?

Mr. C. Onyancha: Yes, Mr. Speaker, Sir.

Mr. Speaker: That one, you cannot say. It will be in breach of the Standing Orders. So, you must withdraw that part.

Mr. C. Onyancha: Mr. Speaker, Sir, I withdraw and apologise but let me call upon Kenyans to judge---

Mr. Muthama: On a point of order, Mr. Speaker, Sir. You have noticed that the hon. Member is actually reading the notes on the booklet that he is holding.

Mr. Speaker: Order, Member for Kangundo! Let us use our time optimally. The hon. Member may have talking notes. Our Standing Orders allow an hon. Member to refer to notes but not to read.

Proceed, hon. Onyancha!

Mr. C. Onyancha: Mr. Speaker, Sir, I have not been reading any notes at all.

Mr. Speaker: Proceed! I have already dealt with that point of order. Use your time.

Mr. C. Onyancha: Thank you very much, Mr. Speaker, Sir.

Mr. Speaker, Sir, Kenyans are aware, from the media and public knowledge, that a lot of other Kenyans are corrupt, and some of them are supporting this Motion.

Mr. Speaker: Order! Order! Hon. Onyancha, you cannot say that. You will be confirming the breach, for which you have apologised not very long ago. Withdraw and apologise.

Mr. C. Onyancha: Mr. Speaker, Sir, I withdraw and apologise again.

(Laughter)

Mr. Speaker, Sir, in conclusion, I want to support this amendment because people with a lot of conscience cannot allow this to go unchallenged.

*(Question, that the words to be left out
be left out, proposed)*

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I rise to oppose the amendment.

Mr. Speaker, Sir, I am opposing the amendment because I have listened to every word that both the Mover and the Seconder have said and I have not heard anything that justifies the deletion of the name of a gentleman called "Mumo Matemu". I have not heard any justification, except innuendos being brought in, and confusion between the functions of the Kenya Revenue Authority and an individual.

Allegations have been raised here about collection of taxes but there is nothing that has been brought here to show that Mumo Matemu was charged with that responsibility, and that because he was compromised he failed to do his work. I was in a function the other day where we honoured four gentlemen who were retiring from the KRA. The function was presided over by none other than the Head of State of this country, who honoured those gentlemen and said that they did a splendid job.

Mr. Speaker, Sir, Dr. Khalwale was not there to tell us "please, do not honour him because he did "A", "B", "C" and "D". Dr. Khalwale may be making himself the epitome of fighting corruption in this country, but he owes us an explanation in terms of the allegations he makes in this House.

Dr. Khalwale:---(Inaudible)

Mr. Speaker: Order, Member for Ikolomani!

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

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, he cannot be when the whole of this House---

Mr. Speaker: Order! Order! Hon. Kimunya, there is a point of order by the Member for Ikolomani.

Dr. Khalwale: Mr. Speaker, Sir, I do not want to interrupt the Minister but is he in order to mislead the House by implying that to receive a medal is a measure of integrity when we know that the same Minister, who was censored in this House, has several medals that he has received? If that is indeed the case, why have you not left those medals, given that this House censored you? The Cocker Commission also found that you are not fit to hold public office. I challenge you.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I need not respond to such innuendos from hon. Khalwale, who, as history will judge him, wasted the time of this House. He misled this House and used the Motions of this House on other matters and he has been regretting that day, apologising to me since then. He has been coming and saying: "I made a mistake." The HANSARD will bear me witness. You can look at all those allegations that he made against me. He knows that he was totally misleading the House. I do not want to use the other word.

Be it as it may, the point is that when we make allegations in this House, we must remember that the Kenyans we are making the allegations against are not here to defend themselves. They have families and, therefore, their integrity and reputation need to be protected. We cannot use the privilege that we have in this House to tarnish the names and images of people and companies operating out there. That is one of the responsibilities that we have as Members of Parliament.

Mr. Speaker, Sir, on that account, I beg to oppose the amendment vehemently and urge this House to join me in throwing it out.

Mr. Farah: Mr. Speaker, Sir, indeed, as Members of this august House, we have a responsibility to protect the dignity of this country as well as the interests of Kenyans. Since we have a scourge called "corruption", which is essentially a demon and dragon, it has become fashionable for anybody who does not like another person to brand that person "corrupt" without the ability to substantiate the allegation, and with the knowledge that one cannot be taken to court because one enjoys parliamentary immunity against civil proceedings on utterances made on the Floor of this House.

Mr. Speaker, Sir, we have listened. We know that corruption is there. It is big. It has to be dealt with. It has to be slain. It is a dragon that we need to deal with but we do not go far by looking at those poor innocent Kenyans just because we do not like them, or because we have other considerations, and say awful things about them. I want to oppose this amendment but I also want to tell you one other thing. The hon. Member who was moving this amendment was very economical with the truth in the sense that the letter that he has tabled here is on a matter of proceedings in court between the KRA and a company called Speedways Commercial Agencies Limited. It does not mention, in any way, either Matemu or the matter of Kingsway, which was associated with Matemu, in respect of which the Mover said he failed to collect taxes.

An hon. Member: Can you read the letter for us?

Mr. Farah: Mr. Speaker, Sir, the letter, which makes reference to High Court Miscellaneous No.302 of 2005, between Speedways Commercial Agencies versus Kenya Revenue Authority, was written in March, 2012. It partly reads as follows:-

“The above matter and your letter dated 7th February, 2012 refer.

We take this opportunity to apologise for the delay in responding to your said letter due to other official commitments outside the office.

As you are already aware, there are five pending assessments over restraint charges filed in court by your company---”

This has something to do with the charges filed by Speedways Commercial Agencies against the Kenya Revenue Authority. It does not mention in any way either Matemu himself or the matter that concerned him. It is like any other collector.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. Is the hon. Member or the Deputy Speaker in order to mislead the House that I have not cited the reason why those matters are in court when, in fact, the matters why Speedways is in court are the same matters that are in the document that is in this House? That is the matter arising from the Kshs2.4 billion that went uncollected and for which Speedways Commercial Agencies is demanding for payment because he had already moved in, closed the godowns and was ordered to reopen them after the KRA went into an out-of-court settlement with these people. Is he in order to mislead this House?

Mr. Farah: Mr. Speaker, Sir, the letter goes ahead and says,

“We are seeking for more time to make such consultations and thereafter substantially respond. However, this should not be construed as admitting liability since as you know, the cases are still pending in court.”

This is a matter between these collectors. When you are a collector for the KRA you collect not just from one client but from many. This is a profession or a business and we do not even have that information.

Mr. Speaker: Order, Member for Lagdera! The point of order canvassed by the Member for Ikolomani is actually valid. He has challenged your interpretation of that letter. He has given the nexus between that letter and tax that is supposed to have, otherwise, been paid and in respect of which Speedways, who are mentioned in that letter, are demanding to be paid.

Mr. Farah: Mr. Speaker, Sir, I want to correct one matter here. There is no Speedways mentioned in here. There are also no taxes mentioned in here. This is a civil matter between two people who entered into an agreement for the delivery of services. That is the only thing I want to mention.

Mr. Speaker: Order, Member for Lagdera! Take your time to understand that letter and the contribution by the Member for Ikolomani and then you will find that you are giving it very superficial treatment unfortunately. But proceed, away from that interpretation because that will take time.

Mr. Farah: Mr. Speaker, Sir, as I had said and which I want to repeat, this is a letter that we have to be convinced that it is based on that particular matter. We can only be convinced if there is documentary evidence to it.

I oppose, Mr. Speaker, Sir.

Mr. Speaker: Hon. Members, I am satisfied that this matter has been adequately ventilated.

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

Dr. Khalwale: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Dr. Khalwale, you do not have the numbers!

Mr. Keter: Mr. Speaker, Sir, once again would I be in order to call upon the Mover to reply?

(Applause)

Mr. Speaker: Order! The Member for Belgut, you may raise that point of order but you cannot prefix it by saying “once again”. So, if you wish to do it withdraw those words.

Mr. Keter: Mr. Speaker, Sir, would I be in order to call upon the Mover to reply?

Mr. Speaker: Hon. Members, I am satisfied that, that point of order by the Member for Belgut at this point is valid.

(Question, that the Mover be now called upon to reply, put and agreed to)

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I wish to thank hon. Members, including my good friend, the Member for Ikolomani for the contributions made. This is the standard we expect in this country where matters are adequately dealt with and with great patience. I have no doubt that these three Commissioners now do meet the standard of being probed adequately. I do not want to vouch for an individual’s integrity but I started by saying that there are no angels in this country. We have to give these three Kenyan professionals an opportunity to serve.

I have no doubt in my mind that they will do their very best. In the unlikely event that they are found to be wanting, this House definitely does know what to do. We do not want to be negative or pessimistic about this. The fight against corruption must be undertaken with vigour.

Mr. Speaker, Sir, I beg to move.

(Question put and agreed to)

Mr. Speaker: Hon. Members, that brings us to the end of Order No.10.
Next Order!

APPOINTMENT OF MEMBERS TO COMMITTEES

THAT, pursuant to the provisions of Standing Order No.159 and 176 the following Members be appointed to serve in the Select Committees stated here below:-

(i) **Defence and Foreign Relations**

Hon. Yusuf Hassan Abdi, MP, - to replace Hon. Eugene Wamalwa, MP, who has since been appointed a Cabinet Minister.

(ii) **Justice and Legal Affairs Committee**

Hon. Najib Balala, MP, - to replace Hon. Eugene Wamalwa, MP, who has since been appointed a Cabinet Minister.

(iii) **Labour and Social Welfare Committee**

(a) Hon. Najib Balala, MP, - to replace Hon. Adan Keynan, MP, who has since resigned from the Committee.

(b) Hon. Charles Nyamai, MP, - to replace Hon. Gideon Konchela, MP, who has since resigned from the Committee.

(iv) **Local Authorities and Funds Accounts Committee**

Hon. Harun Mwau, MP, - to replace Hon. Jamleck Kamau, MP, who has since been appointed a Cabinet Minister.

(v) **Speaker's Committee**

(a) Hon. Robinson Githae, MP, - to replace Hon. Uhuru Kenyatta, MP.

(b) Hon. Charles Nyamai, MP, - to replace Hon. Peter Kenneth, MP.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to withdraw the Motion appearing under Order No.11 the reason being that I have intimation from the joint whips---

(Loud consultations)

Mr. Speaker, Sir, if you could protect me from these loud ladies I would appreciate.

Mr. Speaker: Order!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Thank you, Mr. Speaker, Sir. I have information that the whips would like to consult a little further on Order No.11.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Therefore, I want to seek the indulgence of the Chair and the House to withdraw the business under Order, No.11.

Mr. Deputy Speaker: Leader of Government Business, could you repeat yourself? I was consulting.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Yes, indeed, Mr. Deputy Speaker, Sir. I have just sought permission from the Chair to withdraw business appearing under Order No.11 because the joint whips would like to consult a little further.

Thank you.

Mr. Deputy Speaker: Fair enough! It is so directed!

(Motion deferred)

Next Order!

ADOPTION OF REPORT ON BUDGET POLICY STATEMENT

THAT, this House adopts the Budget Committee Report on the Budget Policy Statement for 2012/13 laid on the Table of the House on Wednesday, 25th April, 2012.

(Mr. Mbau on 26.4.2012)

(Resumption of Debate interrupted on 9.4.2012)

Mr. Deputy Speaker: This is a resumption of debate that was interrupted on 9th May, that is yesterday. Mrs. Millie Odhiambo had 18 minutes left. Please, proceed.

Mrs. Odhiambo-Mabona: Mr. Deputy Speaker, Sir, when I was contributing last I had indicated that we should encourage the Minister for Finance, now that we are on the path to reforms; we should not backtrack on reforms. Last year, the Ministry of Finance did well in bringing the policy statement on time. This year we are backtracking; really there is no good reason or excuse. If you want the country to move forward, we should keep to the legal time lines. We should keep to the provisions of the Fiscal Management Act, which are very positive. I am glad that they have been put forward in a new legislation, so that even when we come up with a new structure of devolved Government we still will be ensuring that the same standards of fiscal management are maintained.

I had indicated that even though the policy statement acknowledges poverty as affecting growth, we need the Ministry of Finance to ensure that we mainstream the aspects of gender, because the category of persons affected more significantly by poverty is women. Women are the ones who bear the brunt of poverty; the face of poverty in this country is women. Therefore, where it is indicated that incidences of poverty had risen from 45.9 per cent in 2006 to 52.3 per cent in 1997 it would be good to disaggregate that further by gender, so that we know how many women are affected as opposed to men. It would also be good for it to disaggregate it further by age, so that we can tell how many young people are affected by poverty. Many young Kenyans also bear the brunt of poverty.

Mr. Deputy Speaker, Sir, I am also happy that there is an acknowledgment that one of the factors that affect growth is infrastructure; this includes roads, energy, railways and ICT. It is also important that we take the issue of governance as affecting growth. We have just talked right now about the issue of corruption. I want to say that I was actually dismayed. I stood by my Committee. I do not change. One of the things I want to say is that I am dismayed when we want to classify corruption. Corruption is corruption whether it involves Kshs5, Kshs100 or Kshs100 million. Therefore, if you want to sustain economic growth in this country we must slay corruption in all its forms.

I am one of the people who were not very happy with the lack of passion in the women whom we presented here for the Commission. I want to say that, indeed, what Bonny said was that there were no corruption issues alleged against these women, but they must have sufficient

interest. I have packaged what lack of passion is in the women. They must have sufficient interest in the subject matter. You cannot be like a passerby in an issue you are supposed to be an authority in. They should have information and knowledge that is way above that of the ordinary Kenyan on the issues of corruption.

Mr. Deputy Speaker, Sir, one of the things that I have noted that is of concern is that you notice that of the many Government Ministries that have come before the Committees, there is only one body that has not requested an increase in budgetary allocation.

Mr. Deputy Speaker, Sir, if you look at the statement, it indicates that the expenditure execution fell behind. If I can actually read on page 11, it indicates that “while Kshs89.3 billion was in respect of Development Expenditure and net lending---” and then they go in terms of the monies that were not expended. One of the reasons that are given is because of poor procurement planning for Government funded projects, low absorption of development project funds due to delays in processing and securing no objections from donors. We cannot be asking for money if our absorption capacities are low and if we have not initiated fiscal reforms in those respective Ministries so that they are able to absorb the monies that we are seeking. It is actually dismaying that you find that there are many areas in this country that have been marginalized over the years and, therefore, if these Ministries cannot absorb, then these monies should go to the Ministries that especially work with marginalized areas of this country that need it.

I know, for instance that the Ministry dealing with northern Kenya is always complaining of being underfunded and if there are Ministries that cannot absorb, then that money should go to such Ministries to ensure that areas that have been marginalized over the years receive sufficient allocation.

Mr. Deputy Speaker, Sir, I would also want to indicate that I am happy that the Report is cognizant of the fiscal responsibility as entrenched in the Constitution and especially the principle of sharing the burdens and benefits of the use of resources and public borrowing between the present and future generations. I am happy about this. Even though it is constitutional, many people tend to forget our children and I am happy that we notice that our spending now must be responsible for the sake of our children and great grandchildren. That is why I am happy that even the current Constitution obligates Parliament to even look at where we are borrowing so that if we are borrowing beyond our capacities and if we are borrowing for things that we really do not need as a country, then Parliament must have a say because we should not mortgage our children and the future of our children.

I would also want to indicate that one of the things that I would have hoped that the Committee spoke a lot about is the issue of diversification. I know that it is in the Budget Policy Statement (BPS) but I want to note, for instance, that if I come from a predominantly fishing community and when the Government puts in money for creating fish ponds, the focus was not in fishing communities and yet the lake is not accessible to everybody contrary to what everybody might believe. It is only accessible predominantly to middle men. Many of the ordinary poor Kenyans are no longer able to fish because the people with superior fishing gadgets have gone into the lake and are dominating it and the people with poorer and lower quality gadgets are excluded. Indeed, the poorer fishermen are always harassed because they have fishing nets where the Government does not allow and so the only people who can afford are the persons who can buy the more superior fishing gadgets. I would have loved, therefore, that in diversification, we do not just look at diversifying fishing into none fishing communities when we are not bringing, for instance, irrigation into the predominantly fishing communities.

Mr. Deputy Speaker, Sir, what is the equity that we are working around? If we are taking fishing to Meru, Embu and to other areas that ordinarily do not fish what are we concurrently doing to those fishing communities to improve their lot? This is because as we know, Lake Victoria is currently choked with hyacinth and a whole lot of other things so that fishing again, as I have said, really the local people are not in charge of it. It is the middlemen who are in charge and so the fish ponds should equally be put in fishing areas. Moreover, we should not rely on rain fed agriculture especially in areas where we come from which are almost semi-desert and we should, therefore, focus and put a lot of emphasis on irrigation.

Finally, I want to speak on the issue of the Equalization Fund. On this issue, I want to indicate that I regret--

Mr. Deputy Speaker: Order, Mrs. Odhiambo-Mabona! Should you wish to continue when this debate resumes next, you still have eight minutes left.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time to interrupt the Business of the House. Therefore, the House is adjourned until Tuesday, 15th May, 2012, at 2.30 p.m.

The House rose at 6.30 p.m.