

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 22nd August, 2012

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PAPER LAID

The following Paper was laid on the Table:-

Report of the Departmental Committee on Administration and National Security on the consideration of the National Security Bill, 2012.

(By Mr. Kiilu, on behalf of Mr. Kapondi)

QUESTION BY PRIVATE NOTICE

REPAIR OF COOLING MACHINES AT CITY MORTUARY

Mrs. Shebesh: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that the cooling machines at the City Mortuary have not been working since 9th June, causing great discomfort to the mortuary staff, bereaved family members and surrounding neighbourhoods?

(b) Is the Minister further aware that pathologists seconded to the facility withdrew their services due to the stench from the decomposing bodies?

(c) What measures will the Minister take to ensure that all cooling machines at the facility are repaired immediately?

The Assistant Minister for Local Government (Mr. Nguyai): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the cooling machines at the City Mortuary have not been working since 9th June, 2012. The facility was constructed in 1956 with a capacity of six bodies to cater for destitute cases. Over the years, the City Council has expanded the facility to the current capacity of 160 bodies.

(b) There are seven pathologists seconded from the Ministry of Medical Services. They have a daily roster.

(c) The Council has awarded a tender to DNS Limited to install seven new cooling units at a cost of Ksh10.5 million with a capacity of 200 bodies. One machine has been installed and is working. For the remaining six machines, DNS Limited is requesting for a price variation due to the fluctuation of the Shilling against the hard currency and the matter is under consideration.

Mrs. Shebesh: Mr. Deputy Speaker, Sir, you will appreciate that this Question came when there was a crisis at the City Mortuary and is, obviously, maybe, overtaken by events. But

be that as it may, it is still a crisis waiting to happen because the Assistant Minister is aware that the mortuary cannot accommodate the number of bodies that are taken there. Therefore, the intention of the Ministry to acquire the new cooling machines has not been achieved. We have heard that for a long time. We would like to know from the Assistant Minister whether the machines that have been procured have been installed at the mortuary. Are they in use or are they in a storage facility waiting to be installed? What is the status of those cooling machines?

Mr. Nguyai: Mr. Deputy Speaker, Sir, we tendered for a contract to install seven machines with a capacity of 200 bodies, and one of them has been installed. For the rest, the contractor requested for price variations due to fluctuations. The council is yet to meet to deliberate on that. So, at present, the machines have not been installed or purchased.

Dr. Otichilo: Mr. Deputy Speaker, Sir, I wish to know from the Assistant Minister when the Ministry will build a modern large mortuary in Nairobi to accommodate the high demand. This mortuary was built in 1956. How does he expect it to meet high demand in the 21st Century?

Mr. Nguyai: Mr. Deputy Speaker, Sir, according to research, if we increased the capacity to 200 bodies on the same premises, it will be able to cater for the present needs. The venue is not the issue, but its capacity and the functionality. It can be expanded in accordance with the needs of our population.

Mr. Kioni: Mr. Deputy Speaker, Sir, the state of mortuaries in the country is as outlined in part "a" of the Question, for example, in Ol Kalou and Nyahururu general hospitals. Could the Assistant Minister tell us whether the Ministry has any policy to rehabilitate mortuaries across the country?

Mr. Nguyai: Mr. Deputy Speaker, Sir, it is the responsibility of the individual councils to ensure the safe disposal of bodies through the mortuary facilities throughout the country. We all know that this responsibility has not been taken care of very well. However, as we transcend to county governments, it will be given maximum attention throughout the country. Our long-term policy is to ensure that every single county government will be able to cater for the needs in terms of body disposal.

Mr. Bahari: Mr. Deputy Speaker, Sir, there has not been serious currency fluctuation as the Assistant Minister indicates. I am not quite convinced. However, be that as it may, could he indicate when the Nairobi City Council will meet to finalize whatever he had said that they were going to do?

Mr. Nguyai: Mr. Deputy Speaker, Sir, this House appointed a select Committee that addressed the issue of currency fluctuation in this country. I am sure the hon. Member can remember that very vividly.

But, on a more serious note, now that we are in the Financial Year 2012/2013, the Council will be meeting within the next one week or two to ensure that these long-term measures are implemented.

Mr. Deputy Speaker: Hon. Shebesh, the last supplementary question on the same!

Mrs. Shebesh: Mr. Deputy Speaker, Sir, it is a bit unfortunate because the Ministry does not realize that the City Mortuary is carrying the bulk of those unaccounted for bodies collected by the police in Nairobi and its environs. The Assistant Minister says they have not bought the seven cooling machines because of currency fluctuation. I am the Vice-Chair of the Committee that dealt with currency fluctuation. Therefore, I know currency fluctuation did not affect buying or procurement of cooling machines. That fluctuation was dealing with banks. It was a cartel of banks that was making huge profits through the Central Bank of Kenya discount window.

Therefore, I do not believe what he is telling has anything to do with currency fluctuation. He should be more candid and say it is because of corruption, as usual, in procurement that always happens within the City Council and this Ministry that they were unable to buy these cooling machines. When will these seven new cooling machines be available? It is a simple issue of bringing them to the mortuary.

Mr. Nguyai: Mr. Deputy Speaker, Sir, first and foremost, the hon. Member is correct in stating that there is a huge number of police cases in the City Mortuary. By the time this Question came to us, there were 102 bodies brought by the police, 34 were private and there were still 20 cases of Sinai issue. There were a total of 156 bodies.

Mr. Deputy Speaker, Sir, if we are able to ensure that the mortuary has a capacity of 200, you can see we can hold 156 bodies. The hon. Member is also correct in stating that there was a cartel of banks. As such it was not really the Ministry that affected the fluctuation of the shilling. The shilling has now stabilized. As I said, the contractor asked for a price variation and there is a committee looking into it. As I said, within the next two weeks, we will be able to complete and commission it. You realize that each of the machines is very expensive. This is meant to go on until the end 2013/2014. Each compartment will be having 24 bodies. Therefore, we will do it in phases of 24 bodies until we get to the level of 200 bodies.

Mr. Deputy Speaker: Next Question, Mr. Nelson Gaichuhie!

ORAL ANSWERS TO QUESTIONS

Question No.1711

DISCREPANCIES IN KCPE RESULTS FOR MR. GEORGE G. NJOROGÉ

Mr. Gaichuhie asked the Minister for Education:-

(a) whether he is aware that Mr. George Githanja Njoroge (Index No. 511407/39) sat for his KCSE in 2007 and was awarded a different grade in his result slip from that in the academic certificate, and if so, why,

(b) whether he could indicate the correct grade scored by the candidate, and,

(c) what measures he will take to ensure that the discrepancy in the grades is addressed and that he be allowed to sit for the Kenya National Examinations Council (KNEC) exam on a catering course he has enrolled for at the Coast Institute of Technology on the strength of the higher grade that was on the result slip.

Mr. Deputy Speaker: Where is the Minister? Minister for Education!

Leader of Government business or any other Minister who is in the House here could hold brief for him. Where is the Minister for Education, Mr. Githae or you have not paid him?

The Minister for Finance (Mr. Githae): Mr. Deputy Speaker, Sir, the Minister has been paid so he should be here. I seek the indulgence of this House maybe, it could be delayed for a few minutes.

Mr. Deputy Speaker: The Chair directs that this Question be listed on the Order Paper tomorrow afternoon. The Minister had better be there. If he is not there, the Chair will take sanctions against him.

Hon. Gaichuhie, are you comfortable with that?

Mr. Gaichuhie: Yes, Mr. Deputy Speaker, Sir.

(Question deferred)

Mr. Deputy Speaker: Fair enough!

Next Question by Mr. John Harun Mwau. Since I have let the Minister off the hook, I will also follow suit on this one. This Question will be listed on the Order Paper tomorrow afternoon. There will be only three Questions on the Order Paper tomorrow afternoon. So, hon. Members, there are two of them now.

Question No.1599

ACCESSING OF CONFIDENTIAL INFORMATION
OF CORPORATE BANK ACCOUNTS BY CBK

(Question deferred)

Mr. Deputy Speaker: Next Question, hon. John Pesa.

Question No.1639

ESTABLISHMENT OF MORE MIDDLE
LEVEL COLLEGES TO OFFER SCIENCE/TECHNOLOGICAL/
VOCATIONAL COURSES

Mr. Pesa asked the Minister for Higher Education, Science and Technology:-

(a) When the Government will establish more middle colleges such as the former Kenya Science Teachers College (KSTC) to offer science, technological and vocational courses in view of the fact that science, technological and vocational training are critical in the realization of Vision 2030, and,

(b) whether she could consider aligning both KSTC and Kenya Polytechnic University College to offer courses both at diploma and degree levels in technical and vocational courses in view of the planned elevation of Kenya Polytechnic University College to a fully fledged university.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government is currently establishing technical training institutes across the country as follows:-

Eight new technical training institutes are being constructed in collaboration with the African Development Bank. These are:- Siala in Migori, Aldai in Nandi County, Bureti in Kericho County, Mukurweini in Nyeri County, Wajir Technical Training Institute in Wajir County, Tseikuru in Kitui County, Dodoma Technical Institute in Kilifi County and Butere Technical Training Institute in Kakamega.

We also have five new technical training institutes (TTIs) which are fully funded by the Government as follows:-

- (i) Ekerubo-Gaitai TTI in Nyamira County;
- (ii) Bondo TTI in Siaya County;
- (iii) Karumo TTI in Meru;
- (iv) Mitunguu TTI in Meru; and,
- (v) North Rift TTI in Baringo East Pokot.

Mr. Deputy Speaker, Sir, we also have eight campuses of existing institutions which have been established. They are:-

- (i) Mandera, under the Kenya Polytechnic College
- (ii) Kwale, under the Mombasa Polytechnic University College;
- (iii) Marsabit, under the Kenya Technical Training College (KTTC);
- (iv) Narok, under the KTTC;
- (v) Ziwa, under the Eldoret Polytechnic;
- (vi) Bomet, under the Eldoret Polytechnic; and,
- (vii) Turkana, under the Kisumu Polytechnic;

Mr. Deputy Speaker, Sir, it is also expected that in this financial year, the remaining nine counties without technical training institutes will be taken care of. They are Isiolo County, Tharaka-Nithi County, West Pokot County, Samburu County, Elgeyo Marakwet County, Laikipia County, Laikipia County, Tana River County and Lamu County. For these nine, I have written to the Members of Parliament and I really expect them to expedite the allocation of land. This is because once you have completed those, then all counties in this country will have been allocated, at least, one technical training institute. Then, we will consider other applications for round two.

(b) The Ministry's policy on upgrading institutions under his purview to offer degree programmes requires that these institutions retain their original mandate. This is the case with the Kenya Polytechnic University College, which continues to offer diploma programmes alongside degree programmes. The same applies to Rongo which was upgraded recently. It will continue to offer diploma training programmes and so will Kirinyaga and Murang'a which were also upgraded in the last few months. The Kenya Polytechnic College is already aligned to offer degree and diploma programmes. I would also like to mention that in the case of Kenya Science Teachers Training College being aligned to the Kenya Polytechnic University College, the two of them are actually under the same university, that is, the University of Nairobi. What the University of Nairobi did in Kenya Science Teachers College is that they had gone into training of degree programmes under the same system that Kenya Science Teachers College was utilizing. We have since discussed with the university and if the Teachers Service Commission (TSC) still requires the diploma courses, they will consider that.

Mr. Koech: Mr. Deputy Speaker, Sir, I want to thank you for this opportunity, although I know that the Questioner had actually not asked the first supplementary question.

Mr. Deputy Speaker: Proceed! Ordinarily, you need to put a request.

Mr. Koech: Mr. Deputy Speaker, Sir, I want to thank the Minister for the elaborate answer, especially on the expansion of the TTIs. But I want the hon. Minister to indicate to this House the status of Ziwa and Bomet. Why have they not taken off as of today?

Prof. Kamar: Mr. Deputy Speaker, Sir, actually the groundbreaking of Ziwa was done. The tenders were put out and they are ready for commencement. Both of them are under the Eldoret Polytechnic. There was slow processing. I want to accept that they were slower than

the others, because most of the others have spent almost 50 per cent of their funding. These two were slowed down for reasons that we have been made to believe had to do with tenders. Currently, they are underway. So, we are actually now on course.

Mr. Deputy Speaker: Hon. Pesa, I had not seen Delegate 5. I only saw Delegate 1 and knew that you were Delegate 5.

Proceed!

Mr. Pesa: Mr. Deputy Speaker, Sir, I want to thank the Minister for the work well done. Actually, this Minister seems to be doing very well in the Ministry of Higher Education, Science and Technology and we need to commend her. In fact, I want to commend her for upgrading Moi Institute of Technology in Migori to university status. But while that was done, we had certificate courses offered in this institution. Since it was upgraded, we have students who are still doing certificate courses and their fate is not definite. I am told that the Principal and the deputy have been transferred. Could the Minister consider, as a matter of helping the community and county, to upgrade one of the old youth polytechnics, like Macalder, Osingo and Uriri which were there at the time Moi Institute was actually established? These are old institutions and if you took one of them and upgraded it to offer certificate course, you would help those communities living in Migori County.

Prof. Kamar: Mr. Deputy Speaker, Sir, we have no intention of closing the certificate and diploma courses in Rongo. We now have a policy that we will not close anything. Whenever we upgrade an institution that has had technical courses, we do realize that we need more technical courses, in fact, right now than the universities. So, we have no intention of closing them down. Rongo will continue to offer certificate and diploma courses. What was done, and this resulted in the request for transfer by the Principal and Deputy Principal, was that the transition was not initiated properly. If it was initiated properly, like it was in Kenya Polytechnic, actually the Principal has the opportunity to be a director in charge of those programmes, because we are going to retain our different programmes whenever we upgrade any of these institutions to university status. So, there is still that vacancy and during the inauguration, which I attended personally, I did assure the Principal that she has a job cut out for her under the new University College of Rongo.

We are establishing a task force between the TSC and my Ministry to ensure that the transitions are smooth. This is because we have about three colleges where the TSC has been in charge of the teaching staff. That is going to be a thing of the past.

Mr. Twaha: Mr. Deputy Speaker, Sir, only this year the Government issued a statement to the effect that a technical college would be built in Lamu very soon in order to impart the skills necessary for the people of Lamu County to enjoy the employment opportunities the new port will be offering. Earlier this week, the National Youth Service (NYS) recruited a few of our young people for the purpose of training them for the same jobs. Has this exercise of the NYS been undertaken instead of the technical college or is it complementing your efforts? When is the college going to be built?

Prof. Kamar: Mr. Deputy Speaker, Sir, it is possible that the hon. Member was talking when I mentioned the eight counties that do not have TTIs. I said that Lamu is one of them. I am really waiting for the hon. Member and his colleagues from Lamu to give us a suitable place. We need land documents that we can use. This financial year we have the money ready. This year is very short and I am appealing to the hon. Members from the eight counties please, sit with your joint District Development Committees (DDCs) and give us documentation on any land that you

have identified. We are anxious that we finish within this short time before the Tenth Parliament is over.

Mr. Pesa: Mr. Deputy Speaker, Sir, while I appreciate the answer given by the Minister, I want to point out there that vocational and technical training in our institutions is actually the life of future Kenya in realizing the Vision 2030. When Kenya Polytechnic University becomes a fully fledged university, I would want the Minister to assure this House and the country that the Kenya Science Teachers College will be aligned to the Kenya Polytechnic University so that they conduct those courses effectively as opposed to now where they are aligned to University of Nairobi where so many courses are done and yet there is no specialization.

Prof. Kamar: Mr. Deputy Speaker, Sir, I appreciate the concern from the hon. Member. It is true that Kenya Polytechnic and Mombasa Polytechnic will be universities very soon. They will, in fact, be technical universities. We are trying to align some of the specialized courses towards those technical universities. Kenya Science Teachers College is one institution that we are going to discuss because they are still under the same mother institution, that is, University of Nairobi. I believe that any suggestions towards ensuring that we retain the quality of the science teacher will be acceptable.

As I mentioned earlier, the University of Nairobi has just produced one part of graduates from that institution and they are asking us to test on the ground. However, we would like to negotiate with the TSC to see whether they are still interested in a diploma holder or a degree graduate for their teaching. If the quality of the graduate teacher coming out of Kenya Science Teachers College is still going to be a semblance of the old Kenya Science Teachers College diploma holder however upgraded the candidates would be, we will be happy to synchronize our strategies with those of the TSC so that we answer to the Vision 2030 as the hon. Member has said.

Question No.1718

CRITERIA FOR DISBURSEMENT OF MONEY
TO WATER SERVICE BOARDS

Mr. Deputy Speaker: With regard to Question 1718, I have communication from both hon. Duale and the Minister for Water and Irrigation. I, therefore, direct that this Question be listed on the Order Paper exactly two weeks from today.

(Question deferred)

Question No.1696

ESTABLISHMENT OF SPORTS FACILITIES IN 47 COUNTIES

Mr. Anyanga asked the Minister for Youth Affairs and Sports:-

(a) what measures the Government has put in place to tap talents among the youth in various sporting activities throughout the country, particularly in remote areas such as Nyatike Constituency; and

(b) if the Government has a programme of establishing sports facilities in all the 47 counties and if so, what the total cost of establishing such facilities will be.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, I have just consulted the hon. Member having looked at some of the details in the answers that I have. I request for extra time so that some of the information I have can be corrected so that I can give the House the correct answer.

Mr. Deputy Speaker: Fair enough! I direct that--- Which date is okay with you? Is Wednesday afternoon next week okay?

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Mr. Deputy Speaker, Sir, Wednesday is okay.

Mr. Deputy Speaker: Is that okay with you, hon. Omondi Anyanga?

Mr. Anyanga: Mr. Deputy Speaker, Sir, it is true because some of the centres have not been indicated---

Mr. Deputy Speaker: Is it okay with you?

Mr. Anyanga: It is very okay. We have talked.

Mr. Deputy Speaker: The Chair directs that this Question be listed on the Order Paper on Wednesday afternoon next week.

(Question deferred)

Question No.1715

OPERATIONALIZATION OF GARBATULLA HOSPITAL OPERATION THEATRE

Mr. Bahari asked the Minister for Medical Services:-

(a) if he is aware that the newly constructed Garbatulla operation theatre was completed and handed over to the Ministry on 17th October, 2011;

(b) why the theatre is not equipped and operationalised to date; and

(c) what urgent measures the Minister will take to operationalize the theatre.

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Deputy Speaker, Sir, I beg the indulgence of the House. This Question needs a comprehensive answer. This morning my officers were really working on this Question. I urge you that I answer this Question most probably by tomorrow.

Mr. Deputy Speaker: You are seeking a deferment to tomorrow?

The Assistant Minister for Medical Services (Mr. Kambi): Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Tomorrow we have constitutional Bills. We have only three Questions listed on the Order Paper. After that, we have constitutional Bills which have to be disposed of before the end of this week. That is why the House is likely to sit longer. The Chair directs that this Question be listed on the Order Paper next week on Wednesday. Is that okay with the Questioner also?

Mr. Bahari: Mr. Deputy Speaker, Sir, given that this Assistant Minister has been good at answering Questions, and, indeed, he deserves a promotion, be that as it may, I will be away on parliamentary business next week.

Mr. Deputy Speaker: So, you want it to be the week after?

Mr. Bahari: Yes, Mr. Deputy Speaker.

Mr. Deputy Speaker: The Chair directs that this Question be listed on the Order Paper two weeks from today on Wednesday morning.

(Question deferred)

Question No.1634

BENEFICIARIES OF SCHOLARSHIPS OFFERED
BY FOREIGN GOVERNMENTS

Mr. M.H. Ali asked the Minister for Higher Education, Science and Technology:-

(a) if he could provide details of all scholarships from all countries that Kenya received in the last five years; and

(b) if he could also provide names of the students who were awarded the scholarships.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Deputy Speaker, Sir, I beg to answer.

(a) In the last five years, Kenya received 585 scholarship offers from 19 different countries. I have attached the annex. In the annex, I will just read the names of the countries and the number of scholarships that we received: Algeria gave us 15 scholarships in 2007. In 2008 they gave us ten scholarships. In 2011 they gave us eight scholarships. We have not received anything in the other years. China gave us full scholarships. The scholarships for Algeria were partial. China gave us 20 full scholarships in 2007 and 2008. There was no scholarship awarded in 2009 and 2010 but there were four scholarships in the year--- I am sorry. China has been giving full scholarships throughout the years. It gave us 20 scholarships in 2007 and, again 20 scholarships in 2008. In 2009, 24 scholarships; 2010, 21 scholarships; 2011, 25 scholarships; and 2012, 50 scholarships.

Cuba gave us partial scholarships in only two years. In 2007 they gave us four scholarships and in 2011 they also gave us four scholarships.

Czech Republic gave us partial scholarships. In 2009, 12 scholarships; 2010, four scholarships; and in 2012, one scholarship.

In 2008, Egypt gave us 15 scholarships and none in the other years. In four out of the six years, India gave us as follows:- In 2007, we got 24 partial scholars, in 2008, 25 scholars, none in 2009, 30 in 2010 and 32 in 2012. We are yet to know the figures of 2012 because they are being processed. Indonesia gave us 14 full scholarship in 2011 and three in 2012. Morocco gave us ten partial scholarships in 2008 and 20 in 2011. We have not received for this year. They are still on the process. We have received six full scholarships from New Zealand this year. Pakistan gave us 22 partial scholarships in 2011. Russia has been giving us scholarships as follows:- In 2007, we got 25, in 2008, we got 30, we did not get any in 2009, 15 in 2010 and 28 in 2011. For 2012, they are still being processed and we have not finalized. We got five partial scholarships from Zambia in 2010. We got two full scholarships from Slovakia in 2011. From South Korea, we got three full scholarships in 2008. We got four partial scholarships from Persia in 2011 and two scholarships in 2010. We got eight partial scholarships from Turkey in 2010 and four partial scholarships in 2011. We do not have figures for this year yet. We got 20 partial scholarships from Ukraine in 2011 and none in the other years. This year, we have not yet received. From the

UK, under the Commonwealth Scholarships, we got two full scholarships in 2010 and four full scholarships in 2011. That gives us a total of 595 scholarships.

(b) I have provided herein attached to the answer a list of the names of all the students who received the scholarships in the last five years.

Mr. M.H. Ali: Mr. Deputy Speaker, Sir, while appreciating the answer given by the Minister, I am, however, perturbed by the sequence of the scholarships. There is no consistence in the scholarships. My worry is that we have been losing scholarships, maybe, due to negligence or maybe they are given to family members and friends. You find that in the six years, there is no consistency except for China which has been giving its scholarships and they have been utilized properly. I know for sure that a country like Ukraine has been giving us 20 partial scholarships per year. It is only last year, 2011, when these 20 slots were utilized. Could she give us the exact scholarships given and not only the ones which have been utilized? The answer is only dealing with the scholarships which have been utilized. I believe there are quite a number of other scholarships which have not been utilized.

Prof. Kamar: Mr. Deputy Speaker, Sir, the observation of the Member is correct. We have had irregular numbers being given to the Ministry. We have information that some of the scholarships went through the Ministry of Foreign Affairs. I have heard Members here say that they have received direct scholarships. We cannot dispute that. What I have given is what came to the Ministry. We also discovered recently that some countries post their scholarships directly on their embassies websites. We only found students coming to our offices for clearance. So, scholarships given by different countries have different policies. Some of them want to process them directly, for example, the Slovak scholarships are given directly from the embassy. There are several embassies that have been doing that kind of processing. If they process the scholarships from their embassies, I cannot state them here because I do not even know the number. Students only come for clearance and we give them support letters. We have, however, decided that we need to have a meeting with those ambassadors. I am organizing to meet the ambassadors, so that we can have one channel and during the meeting, I will invite the Ministry of Foreign Affairs.

The other reason why there has been erratic information to us as a Ministry is the fact that we do not have Education Attaches appointed by the Ministry of Higher Education, Science and Technology. This is something that we are proposing to the Cabinet to see if we can restore the position of Education Attaches to the relevant Ministry, which is the Ministry of Higher Education, Science and Technology, so that we can consolidate whatever we can get. It is true that we are not optimizing the use of these scholarships.

Mr. James Maina Kamau: Mr. Deputy Speaker, Sir, while I appreciate the efforts by the Minister for Higher Education, Science and Technology, I would like her to tell the House the criteria used in giving out these scholarships. I have been touring my constituency and getting questions from my constituents and I have not heard or seen anybody who has benefitted from these scholarships.

Mr. Koech: On a point of order, Mr. Deputy Speaker, Sir. This Question is meant to ensure that all scholarships coming to this country go to all Kenyans. The Minister has confirmed to this House today that some scholarships come through the Ministry of Foreign Affairs. We have never seen any advertisements calling for Kenyans to apply for these scholarships under the Ministry of Foreign Affairs. Am I in order to request that this Question be deferred, so that the two Ministries can sit together and bring a comprehensive answer to this House?

Mr. Deputy Speaker: The Minister has answered this Question. The Government has a collective responsibility on this. She has been very categorical. She has told you that there is nothing that stops ambassadors, other donors or anybody from giving scholarships directly. So, she has given the information that you need. If you want to access these scholarships for your constituents, she has given you the information. Minister, can you answer the question by hon. James Maina Kamau?

Prof. Kamar: Thank you, Mr. Deputy Speaker, Sir, for that elaboration. Really, it is difficult to control, but I have said that we have taken one step further and we are going to invite all the ambassadors to a round table. I am sure if they are listening today, they have realized that we have not recognized some of their scholarships because they are not in our books. So, they will be interested to know how we can also recognize them.

A standard criterion is used where all scholarships are advertised in the media. They are also put on the Ministry's website, so that interested candidates can apply. This has worked for purposes of transparency. However, we have realized that for scholarships in areas like Medicine or areas that require Grades A, A- and B+, the students have already qualified to join our universities and they have to make a tough decision. I have seen that it takes very strong students to decide to go for Medicine in China instead of doing Medicine at the University of Nairobi or Moi University. So, we have found that sometimes this attracts few candidates because the candidates already have their own positions. Again, when we advertise, we show the exact requirements of the institutions, so that the students can make informed decisions. So, the criterion is open. I wish to request the Members to inform their constituents to check our website regularly because we post the scholarships whenever an embassy tells us that they have scholarships.

Mr. Affey: Mr. Deputy Speaker, Sir, I just want to find out something from the Minister. If you look at the list given, it is very clear that the sharing of these scholarships in the country is not even. It is also not even in the constituencies or the counties. When they advertize and make a decision, why can they not print out the names of those who have been given the scholarships in the same manner in which they ask for applicants to apply? This is because in between the application and the interview period, there is a lot of mischief done particularly, by Government officers. Can the Minister undertake to release the details of all scholarships after the interview has been done for transparency purposes?

Prof. Kamar: Mr. Deputy Speaker, I will be happy to do that. I think we can always put the list of the candidates who have applied and those who have won. That will make it very transparent because the other candidates will know why they were not considered. So, I agree with the hon. Member's remarks.

Mr. M.H. Ali: Thank you, Mr. Deputy Speaker, Sir. In some countries where partial scholarships are given, you know very well that some of the students cannot afford to cater for their accommodation and food. Recently, I was in Russia and a number of students who got partial scholarships told us that there is money at the Embassy but the money has not been released. When we discussed this with the Ambassador in Moscow he told us that the money was destined to be returned to Nairobi because the Ministry had requested that the money should not be disbursed to the students. Could the Minister ensure that that money is given to the students who are already there and are suffering as a result of accommodation and food requirement?

Prof. Kamar: Mr. Deputy Speaker, Sir, to be honest, I am not aware that there is money that the Ministry said should not be disbursed but should be returned to Nairobi. This is because we do not ask for money to be returned. We know that there was a change of policy sometime

back that Kenya Government scholarships were reduced because of funding problems and we did not have much. In fact, in the last financial year, there was no money that was sent to the embassies. The only money that may be there could be remnant money from the previous financial year. However, if the money is there, I will investigate and see that we utilize it. However, we have been very supportive to the students in Russia. It is not only in Russia where we have students who are stranded. We also some students who appear stranded in Mexico because we have received information from them. We have been trying to see how we can utilize the scholarships that come from Russia to support the same students. We did that for these students in the last financial year. We did not utilize this for all the countries but we negotiated with the embassies, and our Embassy in Russia is one of those that we utilized. So, we are trying to address all these issues, particularly the students who seem to be stranded.

POINT OF ORDER

SECURITY SITUATION IN TANA DELTA

Mr. Mungatana: Mr. Deputy Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security concerning the security situation in the Tana Delta. I want the Minister, in his Statement, to clarify the following issues. One, whether he is aware that on 14th August, 2012, over 193 head of cattle were destroyed in a village in Kilelegwani and in a revenge attack that 110 houses in Kao Village were burnt. Secondly, is the Minister aware that five people have died from gunshot wounds?

We want to further ask the Minister to clarify, after the peace meetings that were held in the presence of the provincial team and I included, what over 100 policemen were doing in the wake of this morning when over 50 people were killed in a village nearby and the whole of Riketa Village burnt down. We want the Minister to clarify why the security officers were not patrolling the area as agreed and why they were not doing anything. Why has the Ministry failed to provide aerial survey and why has the area not been combed for gangs? Why is the Minister watching as people are being killed or butchered despite the fact that I have had meetings with him and all the security agencies? We want the Minister to tell us what urgent action he will take because it appears that the revenge attacks are continuing. Even when we go there and talk, it appears that revenge attacks are going on. The Minister is not taking the recommendations that we are making that there should be checking on these gangs so that they are arrested. What is the Minister doing about this situation and what urgent measures are being taken to stop the revenge killings?

The Minister of State for Defence and the Acting Minister of State for Provincial Administration and Internal Security (Mr. Haji): Mr. Deputy Speaker, Sir, we will issue our Statement tomorrow in the afternoon.

Mr. Deputy Speaker: Fair enough. Next Order!

PROCEDURAL MOTIONS

EXEMPTION OF BUSINESS FROM PROVISIONS OF S.O. 38

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

THAT, this House orders that the business appearing in today's Order Paper be exempted from the provisions of Standing Order No.38(1), being a Wednesday Morning, a day allocated for Private Members' Motions.

Last evening, the House Business Committee had a sitting where all of us were in complete agreement that in order to beat the deadlines that are set up by the Constitution with regard to the listed Bills more particularly, the Bills dealing with integrity and security, there is need to move this Motion in this House so as to allow business that appears this morning as Private Members' Motions be exempted so that this is replaced with this official business. I know that this country is anxiously waiting for this House to take action with regard to these very important constitutional Bills.

Mr. Deputy Speaker, Sir, I beg to move and request hon. Kimunya to second this Motion. Thank you.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to second.

(Question proposed)

Mr. Imanyara: Mr. Deputy Speaker, Sir, I will very reluctantly support this Motion. I say "reluctantly" because two years ago when we promulgated the new Constitution we knew what laws needed to be passed within that period. We have taken time every Thursday when the Leader of Government Business is proposing the Government Business for the following week, to remind him that we need him to publish Bills that need to meet constitutional deadlines. This has been a song on deaf ears. They wait until the last moment in order to push through Bills that will not give hon. Members or the Kenyan public the opportunity to know exactly what is contained in these Bills.

Mr. Deputy Speaker, Sir, we have a lot of pending Private Members' Bills that are as important and also require to be enacted within this same period. I have in mind the IDP's Bill that was brought before this House by Mr. Ethuro which is a product of the work done by this House's select committee on IDPs. We have many times stated that the IDPs issue needs to be given the seriousness it deserves. However, every time this issue is raised, the Government thinks that this is not an issue that deserves priority.

I would urge the House Business Committee when they meet next Tuesday to ensure that the time allocated for Private Member's Bills is not taken by Government Business to the extent that we do not debate the IDP's Bill that is pending before the House.

I support, but very reluctantly.

Mr. Njuguna: Mr. Deputy Speaker, Sir, I will very briefly make my observations on this Motion.

There are critical pending legislation Bills that Kenyans are anxiously waiting for them to be enacted in this House. The sooner the House addresses these crucial Bills, the better for harmony, political development and economic advancement in this country. It is, therefore, important that we do not belabour on this Motion other than to give it faster approval.

With those few remarks, I support.

Mr. Keynan: Mr. Deputy Speaker, Sir, I also want to join my colleagues in reluctantly supporting this Procedural Motion---

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. I am not aware that my good friend has been elevated to the Front Bench in order to use the Front Row.

Mr. Deputy Speaker: Hon. Adan Keynan, please, go back to where the Back Benches are.

Mr. Keynan: Mr. Deputy Speaker, Sir, I was trying to envisage the next Parliament. My colleagues should forgive me because the framework is for the next Parliament. As I said, I reluctantly also support this Procedural Motion. We must be clear in our minds because we know constitutional implementation process is a very difficult one. But at the same time, we must be prepared to tell the Members of the Executive the truth. I am glad that the Leader of Government Business and his deputy are here. What we are trying to do this morning is to cure a process which is as a result of the failed leadership of the Government both inside and outside this House. We knew from day one that some of these constitutional Bills ought to have been published and put to the public in good time, so that both members of the public and the hon. Members critically interrogate them.

Mr. Deputy Speaker, Sir, the import of what we are trying to do this morning is to come up with a crash programme that will deny hon. Members and the Kenyan public at large every constitutional opportunity to have participated in this. It is high time that also the leadership of the House, in particular the Speaker and the Government is told in no uncertain terms that implementation of the new Constitution is a very expensive process. We promulgated the new Constitution, but its implementation will be a very expensive process. Domesticating it is becoming a challenge simply to us because some people somewhere have failed to do what they were supposed to do. I am glad that the Attorney-General, the Minister for Justice, National Cohesion and Constitutional Affairs, the Leader of Government Business and the Deputy Leader of Government Business are here. It is their work to make sure that these Bills are published in time, so that Members of Parliament and the Kenyan public gets time to participate in doing some of this.

Right now, the Members of the Back Bench are being denied their legitimate time to do some of the things that they ought to do. Wednesday morning is normally reserved for the Back Bench. But because of the urgency and the critical nature of these Bills, in particular the National Intelligence Security Bill, the National Security Council Bill, the Leadership and Integrity Bill and the Petitions to Parliament (Procedure) Bill they cannot be delayed. I want to urge my colleagues, notwithstanding the crash programme, we be prepared to interrogate these Bills seriously, so that we meet expectations of the Kenyan public.

Mr. Deputy Speaker, Sir, I support the Procedural Motion.

Mr. Mbadi: Mr. Deputy Speaker, Sir, it is sad that again we are on the same thing that we have been talking about---

Mr. Kigen: On a point of Order, Mr. Deputy Speaker, Sir. I want to seek some direction from the Chair. I can see hon. Members of the House crossing all over the Floor. Could you give us some guidance? I thought the Speaker had told us to cross at the back, but I can see hon. Members bowing and crossing anywhere.

Mr. Deputy Speaker: Who is the hon. Member who crossed?

Mr. Kigen: I have just seen Ms. Amina Abdallah do the same right here. Could you give us some guidance?

Mr. Deputy Speaker: The rules are the same as they were when this Chamber was not refurbished. For any hon. Member to move from one side of the divide to the other side, he must go to the Bar, show his respect and then proceed. Nothing has changed. The moment it is brought

to the attention of the Chair that an hon. Member has contravened our basic rules here, the Chair will take action.

So, proceed, Mr. Mbadi.

Mr. Mbadi: Mr. Deputy Speaker, Sir, the process of crossing the Floor in this Chamber is very unfriendly. You walk for almost a kilometre to get to the Bar. Anyway, those are some of the disadvantages of modern things.

As I was saying, I was stating it for the third time that we are faced with the same things that we have been complaining about. This country is condemning this Parliament for rushing through legislations yet the mistake is not ours. The Executive, deliberately, tries to bring Bills to Parliament at the last minute. I know that the intention of the Executive is just to stop Members of Parliament from scrutinising the Bills, so that some of the mischief that is put in them is not noticed.

Mr. Deputy Speaker, Sir, it is sad that this Government behaves in the way it is behaving. If we had a choice, this Government would be sent home through a vote of no confidence Motion against it. I know that the next Government will not misbehave because the life of Parliament will be separated from the life of the Executive. So, hon. Kimunya and his colleagues, who are trying to arm-twist Parliament by bringing the Bills at the last minute, should be warned that next time, this kind of shenanigan behaviour will not be tolerated.

It is not proper that we are rushed today and tomorrow, to pass important and critical Bills like The Leadership and Integrity Bill, which has attracted a lot of public attention. Members of civil society organisations and the Constitution Implementation Commission (CIC) are complaining about the Bill. The Committees of the House are deliberating on these Bills, trying to see if we can improve them, but the Bills are now being rushed through Parliament, without giving them enough attention.

Mr. Deputy Speaker, Sir, The National Intelligence Service Bill is very important for the security of this country. So is the National Security Council Bill. I can go on and on but we have no choice but to grant the Executive this leeway. Who will save this country from the Executive? This is not a situation of our making. We have been complaining about these Bills as early as January. We have been asking the Government to bring the Bills on leadership and integrity, and the Bills on security. We have been asking, on every Thursday, when the Bills will be tabled in the House. When my good friend, hon. Wamalwa, was appointed the Minister for Justice, National Cohesion and Constitutional Affairs, I had a lot of hope that things would be done differently.

Mr. Deputy Speaker, Sir, hon. Wamalwa has been trying to convince me that he carries the hope of the youth from the time he opted to run for the presidency. I allowed him to run even though I also qualify to run for the presidency. I thought that hon. Wamalwa would carry the hopes of the youth. If he can bring these Bills at the last minute, just in the same way other Ministers have been doing this, who will change things in this country? That is the question I put to the Minister.

Mr. Deputy Speaker: Hon. Mbadi, this is a Procedural Motion.

Mr. Mbadi: Mr. Deputy Speaker, Sir, when hon. Wamalwa responds, he needs to convince us why he has to do things in the same way other Ministers have been doing them. I do not know whether he has been “infected” by hon. Kimunya. I would advise him to sit a little far away from hon. Kimunya because if he continues sitting close to him, there will be no difference in the manner things will be done in this country.

With those remarks, I beg to support.

Mr. Mbau: Mr. Deputy Speaker, Sir, I also stand to, reluctantly, support the Motion. I support the Motion because we must move on, given that we have a duty to perform, as Members of Parliament.

Mr. Deputy Speaker, Sir, in August, 2010, two years appeared to be very far. That was when we said that we must have legislated on certain crucial Bills by the end of 27th August, 2012. It does not wash in the eyes of the public that today we stand here, seeking to extend the sessions of Parliament up to 10.00 p.m., knowing that by the time we rise to participate in the debate on these crucial Bills, which have far-reaching ramifications on the Kenyan people, we will have tired up. Nevertheless, that is the time we want the Bills to become laws, with flaws in them.

My challenge once again goes to the Executive. It is high time that the Executive demonstrated, or at least sought to demonstrate, political will towards the smooth implementation of our Constitution, so that Members of Parliament do not continue to carry the Executive's burden in terms of being blamed continuously by the wider public, which sometimes does not know where to draw the line for the Executive and for Members of Parliament. The public needs to know that, until Bills come to the Floor of the House through the relevant line Ministries, there is not much that Members of Parliament can do about such Bills.

Whenever Bills were brought to the Floor of the House in the past, Members of Parliament always stood up to the task and worked tirelessly, sometimes during the night, to ensure that they play their part. Probably, because we are a coalition Government, the Executive-

--

Mr. Deputy Speaker: Hon. Mbau, this is a Procedural Motion! Take as little time as possible!

Mr. Mbau: Mr. Deputy Speaker, Sir, because this is a Coalition Government, probably, the Executive may not have really come to terms with the fact that, come the next general election, we shall be having an Opposition which will at any time be looking for the slightest chance to ensure that a Motion of No Confidence in the Executive is moved and passed to ensure that the country moves forward.

With those remarks, I beg to support.

Mr. Deputy Speaker: Hon. Members, I will give a chance to hon. Linturi and then I will put the Question.

Mr. Linturi: Mr. Deputy Speaker, Sir, I rise to support this Procedural Motion.

However, allow me to say that, in my view, the Executive is either not interested or it is very reluctant to implement the new Constitution, in respect of which they went round the country, telling Kenyans to pass it because it was a very good Constitution. This manifests itself by the fact that the Ministers present in the House right now are very few. Sometimes we engage in a blame game.

Mr. Deputy Speaker, Sir, I also want to appeal to Members of the Back Benches to rise to the occasion and make it their responsibility to push and make sure that the constitutional Bills with a deadline of 27th August, 2012 are passed. Otherwise, we cannot rely on the Government.

It is also time for Kenyans to re-examine their choice of leaders in this country by electing people who will take their work seriously in the next general elections.

Mr. Deputy Speaker, Sir, without wasting much time, I beg to support the Motion.

Mr. Deputy Speaker: I know that there is a lot of interest by hon. Members on this Order but, for God's sake, this is a Procedural Motion. It should not take more than just a few minutes. Therefore, I will now put the Question.

(Question put and agreed to)

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provision of Standing Order No. 20(2) this House resolves to extend its Sitting time from 6.30 p.m. to 10.00 p.m. on Wednesday 22nd August (Afternoon Sitting) and Thursday 23rd August, 2012.

Mr. Deputy Speaker, Sir, as has just been discussed in a Motion that has just been passed, I want to thank hon. Members of the House for giving us the opportunity to discuss Government business during this morning which was reserved for Private Members business. As it came out very clearly, the 27th of August is next Monday. We only have today morning and tomorrow afternoon to pass the Second Reading and get to the Third Reading for all these constitutional Bills. Unless we are more innovative and create this extra time, we will not be able to give adequate time for discussion as would have been envisaged, and what we are hearing hon. Members asking for in terms of having maximum time to interrogate these Bills and contribute, and not to go through in a rushed process.

So, in the House Business Committee (HBC), we decided to ask hon. Members to be magnanimous and generous enough with your time as part of our national duty to extend the Sitting today up to 10 O'clock at night. Then we can recharge our batteries in the morning and then extend the Sitting tomorrow. There may well be a possibility that depending on the progress we make tomorrow, we could actually even ask for a Sitting on Friday morning. It is not on today but I just want to alert you that depending on how we make progress, we could also be coming back to you to ask for Friday morning – at least a portion of the morning before some of our hon. Members break for their worship.

Mr. Deputy Speaker, Sir, let me just say that these Bills are not being brought at the last minute. They have been processed through a very thorough process. All the State and non-state actors have been involved and certainly we have a lot of faith in the committee system and the committees have been taken through. They have gone through and I believe they are still meeting and that is partly the reason why the House is not as full as it should be. This is because most of the hon. Members are working on those Bills within the committees.

We believe that, indeed, there will be no compromise in the quality of the Bills and legislation because we might give the impression to the outside - especially with our hostile media - that Parliament is going to rush over these Bills and give Kenyans poor quality laws. But of all the ones that we passed even with all the rush, we have taken care to ensure that the quality is not compromised.

Mr. Deputy Speaker, Sir, so, I believe we are in this together and I am very happy that hon. Members mentioned that the Government has not done well as per the collectivity of both Parliament and the Executive. I believe we are now being called upon to do what we need to do, which is to give Kenyan people the laws they want with the participation that they have received. I am sure hon. Members will be happy. I know that some will be reluctant to work the extra time,

but we shall all go home this weekend having given Kenyans the mandatory Bills that are required by the end of this week.

Mr. Deputy Speaker, Sir, with those few words I beg to move and ask hon. Eugene Wamalwa to second.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa) seconded.

(Question proposed)

Mr. Kioni: Mr. Deputy Speaker, Sir, I want to accept the request from the Government reluctantly. I wish to inform the Minister that Members of Parliament have always been willing and ready to give Kenyans good laws. So, we do not even need to be here overnight. It is because they delayed in doing what they should have done that we are going to do what he is asking us to do.

Mr. Deputy Speaker, Sir, let me also say that we are doing this at the expense of a Pyrethrum Bill that has been pending for the last six months. I brought it here in the House and it affects 19 counties. It is also a very important Bill and I am disappointed that we have gotten this far without debating it. But for the reasons that others have said and less of what the Minister for Transport has mentioned, I want to support that request.

Mrs. Shebesh: Mr. Deputy Speaker, Sir, I want to support but I really want to ask humbly that the Government or the Executive side stops lecturing us all the time when they are coming to ask for time. They should just be more candid and say: "We were squabbling and trying to water down Bills. We are trying to see how we can manufacture Bills." They should just be honest because it is in the public limelight that you are a divided Cabinet. That is why you waste our time and tell us to come here and sit until 10 O'clock. But I also want to tell you that whatever you think you have hidden in those Bills and you think that we do not know how to read, we will read and expose them. Believe me, even if you keep us here until 10 O'clock or midnight, the work that this Parliament is supposed to do, we will always do it right.

Mr. Kathuri: Mr. Deputy Speaker, Sir, I will support reluctantly. Why? It is because this is a last minute rush. We have had all the time. We have other Bills that have been presented on the Floor of the House. Why is it that we have to come and sit here up to 10.00 p.m. or midnight so that we can pass these crucial Bills?

Mr. Deputy Speaker, Sir, when I look at the proposal that hon. Kimunya is trying to make of even sitting on Friday, I believe he is also aware that there is a workshop which is being organized in Mombasa where even air tickets have been paid for and he still expects us to be here on Friday morning to have a Sitting. It is also very clear in the minds of the public that we are trying to conceal some of the agendas that they want to push through these Bills. It is also not going to be easy for the Executive. There is no way we will allow them to mutilate parts of the Bills, so that they can have the convenience they want. I want to make it clear that as much as 10.00 p.m. is late at night, it is also important for everybody to know that these are crucial Bills. We will be here and we will not allow them to be diluted.

I support.

The Assistant Minister for Industrialisation (Mr. Muriithi): Mr. Deputy Speaker, Sir, of course, I support. We have been told to accept that this Grand Coalition Government is strenuous at best and, sometimes, it takes time. So, we should admit that in a Grand Coalition Government, frankly, decision-making takes longer. We have been asked to accept here that the

process of law making has become elongated because of the squabbles. But it is also because of the openness that society has come to expect; that those State actors have, in fact, an active role to play in the development of Bills.

So, we accept and we believe that this is a new Kenya where we must do things in this new open way and there is nothing to be hidden in these Bills. So, we shall debate them during the day and night.

I support.

Mr. Chanzu: Mr. Deputy Speaker, Sir, I also want to support the Procedural Motion and also to reiterate that things should be done the right way. Looking at the time when the Constitution was promulgated – that was two years ago – I think there was enough time. It is even in the schedules of the Constitution itself. So, we all knew that we needed to have time to do this. But I just want to remind the Minister that when he says that we are going to have time to recover tomorrow morning, the Back-benchers are working throughout in the committee meetings. We are supposed to be having Committee sittings even now. They are doing that at the expense of the committee business. So, I just want them to know that, in future, they should do things the right way. They should work as one. There is all the goodwill from the Back-bench and I think that should also be reciprocated by the Front-bench.

With those few remarks, I support.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I support but I am a bit confused as to why the Leader of Government Business does not want us to sit on Thursday morning. We do not need recharging of batteries; maybe you do. But if you are saying that the time is short why do we not alter this Motion; I propose that we amend it to include Thursday morning as well so that we do not blackout.

Thank you.

Mr. Njuguna: Mr. Deputy Speaker, Sir, it is important that this House assures the Nation that we are dedicated to providing to the Kenyans quality views.

Therefore, I do support the extension of sitting time.

(Question put and agreed to)

Mr. Deputy Speaker: Hon. Members, as we proceed on to the other substantive business, I also want to inform you that all the amendments, or any amendments, which hon. Members want to move to the four Bills listed on the Order Paper today must be with the Office of the Clerk latest by 4.00 p.m. today. In addition to that, I also want to inform you that because of the interest, the contributions by individual Members are going to be limited to a maximum of ten minutes.

BILLS

Second Reading

THE LEADERSHIP AND INTEGRITY BILL

*(The Minister for Justice, National Cohesion
and Constitutional Affairs on 16.8.2012)*

(Resumption of Debate interrupted on 21.8.2012)

Mr. Deputy Speaker: Mr. Shakeel was on the Floor and he had, under the new regulations, eight minutes.

Proceed.

Mr. Shakeel: Mr. Deputy Speaker, Sir, yes, I will work within that requirement.

As I was saying yesterday, the Constitution required legislation to establish procedures and mechanisms for expected administration of Chapter Six. The Bill that we have in front of us, the amended one, does not provide for this effectively. It also fails to proscribe penalties that may be imposed for contravention of this chapter. The Attorney-General told me yesterday that there is a chapter on penalties but it does not cover Chapter Six of the Constitution. Furthermore, there are major weaknesses in The Leadership and Integrity Bill as proposed by Parliament. The one that was proposed by the Commission for the Implementation of the Constitution (CIC) and stakeholders had mainly concentrated on declaration of income, assets and liabilities. I know we have already signed a wealth declaration form, but that is hidden in the office of the Speaker. I think this time, the stakeholders and everybody else are saying; let transparency come out. Let it be clear. There are some people who want to contest for the governorship of Nairobi. There is one man who is bragging that he gets Kshs9 million in rent every month. We know this person and I wonder how he has moved in 15 years from where he was to now getting the rent of Kshs9 million. I also hope that he is paying tax. These things should come up very clearly. The declaration of income, assets and liabilities should be clear.

Mr. Deputy Speaker, Sir, regarding the issue of gainful employment, the proposed Clause 26 has actually allowed all forms of gainful employment. We had said that there should be no other gainful employment; the little changes mean that the directorship of private companies is allowed, and so is undertaking other investments or work. When the Moi regime allowed doctors and state officers, especially the permanent secretaries and other state officers to engage in other employment, it went wrong. That was when officers started taking advantage of their positions. So, I think we need to go back on that one.

This Bill also fails to provide for procedures to elect or select leaders on personal integrity, although the Constitution says it. The Constitution clarifies it. For those who were wondering where I was standing, Section 73 of the Constitution allows for selection on the basis of personal integrity, competence and suitability or in a free and fair election. Those Members of Parliament who are worried that this Bill is going to cause a difficulty in the vetting of 2,000 people, who will be vying for state offices, be assured that this will not be so. As a matter of fact, the Constitution says that if you are elected in a free and fair election that is a integrity test in itself of the people, for the people. That in itself stands.

However, there are issues of the weakening of the Ethics and Anti-Corruption Commission. I know we have weakened it before but it appears that this Cabinet has gone further and weakened the Bill. Clause 52 provides for mechanisms aimed at disciplining errant officers. Those mechanisms are not going to work. I think what we need to do is strengthen transparency and also the Ethics and Anti-Corruption Commission.

In essence, this Bill also lacks disciplinary procedures for breach of Chapter Six. I am afraid that the watered down Bill leaves out a number of issues. In front of me, I have the first Bill before it was watered down. I feel that this Bill cannot be targeted at a certain number of people. This is a Bill for posterity. It is a Bill for Kenyans and by Kenyans who demand change. I think that, as leaders, we have to sacrifice for the benefit of the new Kenya that we are looking

for. I feel that it is very important that some of the issues that were brought forward through consultation must be captured. It is not right for the Cabinet to sit down and cut out elements that do not suit them just because they want it to be suitable for a few people in the Cabinet.

There are people who are asking how we are going to vet 2000 people. As I said, there is no vetting of 2000. Those who will go for elections will be vetted by the election itself. However, there is an allowance because if something comes out as a whistleblower--- I was going to say that whistleblowers are not covered here very well. We are saying that we want to know what type of whistleblowers there will be. We must be very clear that if somebody is going to lodge a complaint against a state officer, it should be a serious complaint that can be proved. If it cannot be proved then that person should be liable to imprisonment or a fine of at least Kshs5 million or Kshs10 million. It is very easy for someone to come at the last moment and say that Mr. Shakeel has done this or that, and then you are cut out of the elections. Such a person may not be able to prove anything about his wild allegations about peeling back masks and so on. If someone can prove it, then he should do so. If he does not prove it then he should be liable for costs and to imprisonment, so that we have serious people questioning the integrity of others and not for frivolous reasons.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mr. Imanyara) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, in the interest of time I only want to finalize and say that I hope and pray that this leadership Bill will be amended to be in line with some of the issues that have been covered by others, and to be in line with the desires of Kenyans. I repeat, let us sacrifice. I remember a friend of mine said that this is a law for everybody. It is not a law for an event. It is not for the 2013 elections. We must be able to sacrifice for posterity.

With those remarks, I beg to oppose.

The Assistant Minister, Ministry of State for Planning, National Planning and Vision 2030 (Mr. Kenneth): Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kenneth, I think you are an Assistant Minister. You should be using the Dispatch Box or the Front Row.

(Mr. Kenneth moved to the Front Row)

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Temporary Deputy Speaker, Sir, I stand to oppose this Bill. I oppose this Bill because we went round the country proposing a new Constitution for the majority of Kenyans, and it was voted in its form and spirit, and we were going to implement it to the letter.

Mr. Temporary Deputy Speaker, Sir, if you look at this Bill---

The Temporary Deputy Speaker (Mr. Imanyara): Leader of Government Business, may I just get this clarified; have you de-whipped or allowed Members of the Front Bench to oppose Government business on the Floor of the House?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, this is a Government Bill brought by the Cabinet. I am not aware of the resignation of Mr. Peter

Kenneth from the Government. So, unless he is doing it on the Floor of the House, it is obviously not expected that somebody who is serving the Government and deriving the benefits of being in the Cabinet and using the Front Bench can go against the same Government that he is serving. It is part of the leadership and integrity matters we are talking about in this Bill

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kenneth, as long as you are at the Front Row or the Dispatch Box, and speaking for the Government, you cannot oppose Government business. You need to clarify. You can speak but you cannot stand and say you oppose the Bill. It will be out of order. The option is yours, really.

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): Mr. Temporary Deputy Speaker, Sir, let me express my reservations and also advise that even as we work in one Government, we cannot be forced to conform to what we think does not conform to the wishes of the majority!

(Applause)

Mr. Temporary Deputy Speaker, Sir, even with all options available the freedom of expression is also enshrined in the same Constitution that we passed.

The Temporary Deputy Speaker (Mr. Imanyara): Except that there are rules that govern the freedom of expression!

The Assistant Minister, Ministry of State for Planning, National Development and Vision 2030 (Mr. Kenneth): That is why I have expressed my reservations.

Mr. Temporary Deputy Speaker, Sir, we went round the whole country telling Kenyans that this was a very good Constitution. Therefore, it is important that even as we discuss this Bill, the form and spirit of the Constitution that we passed must remain.

My reservations are based first on the supremacy of the Constitution under Section 2, because we might pass, or enact, something here that will fall flat when it goes for interpretation on supremacy of the Constitution under Section 2.

Mr. Temporary Deputy Speaker, Sir, also under Section 10 on the national values, we are supposed to enact and apply laws that will conform to the Constitution. It is, therefore, important that those two sections are looked into as we try to enact a Bill on leadership and integrity.

Looking at the memorandum that the Minister has written, he has extensively quoted Article 80, but if you look at Chapter Six we are supposed to enact law under Section 79 and Section 80, so that we have completeness of the leadership and integrity section. Therefore, even as we continue to discuss, it is important to look at Section 79, so that we have a complete Bill, which is not---

The Temporary Deputy Speaker (Mr. Imanyara): It is Article 79.

The Assistant Minister, Ministry of Planning, National Development and Vision 2030 (Mr. Kenneth): Yes, Article 79; we should have a complete Bill, and which does not contradict certain sections of Chapter Six.

Mr. Temporary Deputy Speaker, Sir, we have now moved to a situation where the threshold, or the bar, has been set very high. We have reached a point where it is okay to ask Kenyans to get a certificate of good conduct. It is okay to ask Kenyans to get clearance from the Kenya Revenue Authority (KRA). It is okay to ask for quite a number of compliances. We must show that leadership from a top down, and not from a bottom up, approach. When we create a Leadership and Integrity Act it should not be about us, but about the whole country, our children, future generations and the discipline that we want to see in our country. We have even seen this

threshold at the Judiciary. We have seen judges vetted. We have seen the situation in which the Deputy Chief Justice and Deputy President of the Supreme Court is; this is because the threshold is very high; she has had to undergo certain procedures because of her integrity. It is not an issue of whether somebody is trying to be white or whiter or playing to the gallery, as we have heard in this House. It is an issue of setting a base. It is an issue of setting that threshold, so that we are all part of it, and so that we can ensure we have integrity in all echelons of leadership in our country.

Mr. Temporary Deputy Speaker, Sir, in as much as we enact, or try to enact, laws we must ensure we have a top down approach, and everybody is affected by this particular Bill, which we want to put into an Act, so that everybody can be subject to some form of vetting.

Everybody who has spoken here has spoken of previous indiscipline. The only way we can curb indiscipline, the only way we can have a fresh start, is by ensuring that we have a Bill on leadership and integrity that covers every sphere, and not just Parliament, the external people, or people who are out there; everybody should be subject to a rigorous vetting process.

Therefore, as I said it is about posterity; it is not about the Tenth Parliament; it is about future Parliaments. As I said at the start, we must not bring down the threshold. The bar must remain very high.

With those few words, I express my reservations.

Mr. Twaha: *(off record)*

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Twaha, you have switched yourself off! Make the request again, because you have put it off. You can go to the Dispatch Box if you are not able to use the facility. You can go to the Dispatch Box if your PIN is not functioning.

(Mr. Twaha moved to the Dispatch Box)

Mr. Twaha: *(off record)*

The Temporary Deputy Speaker (Mr. Imanyara): You can hold the microphone, Mr. Twaha! The microphone is not on!

Mr. Twaha: Mr. Temporary Deputy Speaker, Sir, very recently, the Russian Federation passed a law which defined an NGO that is being financed by a foreign power as a foreign agent. The reason why I am saying that is because when we went to Bomas, Wanjiku had her say. But the process of formulating the Constitution was hijacked to a great extent by NGO forces. When a foreign power is financing an NGO to promote its ideologies, whether it is social engineering, political or economic engineering of another country, it is pursuing its own interests. But for Kenyans who run those NGOs, it is a borderline treason because you might be acting in the interest of the country or acting in the interest of your foreign master. As we speak now, one branch of the Government has already been taken over by people who were previously on the payroll of foreign powers. So, if we are going to be talking about such things as leadership and integrity, we have to expand the list of perceived offences to include people who the progressive Government of Russia has already defined as foreign agents.

Because we were colonized by the British, we tend to look westwards for progressive ideas. But some of the progressive ideas come from the East and Russia is leading the way. This House, as a law making body, has a duty to pass the law to define those organizations or individuals who have been on the payroll of foreign governments to be classified as foreign agents and be disqualified from vying from certain jobs. That way, we will have a level playing

field. The people who were agitating for the vetting and exclusion of certain people from vying for the positions are hoping to - after those people have been excluded - come over and take over this Parliament after they have taken over the Judiciary.

So, I am supporting this Bill. I have confidence in our Government which was voted in by the majority of the people of Kenya from both sides of the divide. If it is the collective wisdom of the Cabinet that this Bill is the best for Kenya, I support it.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Speaker, Sir, I want to thank you for the opportunity to contribute to this debate. I start by saying that I support the Bill. It is not a perfect Bill; it is a consensus document. In matters that are deeply political such as this issue, it is not possible sometimes to get a position where there is total and unreserved agreement. This Bill is the result of work done by the Ministry of Justice, National Cohesion and Constitutional Affairs - and I must commend Mr. Wamalwa for the leadership he provided - the Kenya Law Reform Commission (KLR), the Attorney-General's Chambers and, indeed - and it may come as a surprise but it is true - the Commission on the Implementation of the Constitution (CIC). Long hours went into preparing the final Bill that has come to the House. Indeed, some of the sittings went up to midnight under the auspices of the Office of the Prime Minister.

Our hands are tied by the language of the Constitution itself. We cannot, even if we desired to do so now, rewrite Chapter Six so as to expand the scope of the demands on ethics, integrity and leadership. It may very well be that when we were in Bomas and after, we did not write Chapter Six with the robustness that now, with the benefit of hindsight, we ought to have done. Doing the best we can with the limited material that we have, I believe that this Bill represents a good first step towards creating a statutory regime for regulating the ethical and other standards of the leadership of our country. As we debated this Bill in the Cabinet sub-Committee it became clear - and we received advice from KLR - that, indeed, this may very well be an interim statute. We were advised that it will be necessary in the very near future to consolidate all the laws in this country at the moment scattered in many statutes and difficult to find and enforce under one simple easy-to-use statute. We, therefore, see this law as a necessary one in the manner that it has been brought, acutely aware that it can be improved in many respects and looking forward to the contribution of hon. Members, particularly at the Committee Stage, so that we may put in this Bill anything that can reasonably be put in at this stage to make it more robust; to make it more effective without unnecessarily making it unworkable.

Mr. Temporary Deputy Speaker, Sir, ethics and morals are about aspirations. They are about the good society; they are about setting a bar to which we aspire. On the whole, this Bill has set minimum standards that we can live with and we can work towards maximum standards as we seek to consolidate the statutes that we will eventually look at. When I look at the Bill, I am consoled by the fact that I find within this Bill very clear injunctions as to how a public official will conduct himself. Section 5 states that:-

- (i) He must abide and respect the rule of law.
- (ii) He must do all his duties in accordance with the law.
- (iii) He must take responsibility for everything that he could reasonably foresee.
- (iv) He must not place himself in a conflict of interest situation.
- (v) He must not accept gifts.
- (vi) He must not benefit from tenders that are controlled by him.
- (vii) He must not undertake public collections.
- (viii) He must not have bank accounts overseas.
- (ix) He must submit those accounts, if any, for the scrutiny of the Commission.

- (x) He must take care of Government assets and do so without victimizing his staff, without harassing his staff.
- (xi) He must bring dignity and decorum to his office.
- (xii) He must act in a politically neutral manner; must not place himself in a position where he compromises his office for political reasons.
- (xiii) He must not take any other jobs while in office.
- (xiv) He must act with impartiality.
- (xv) He must conduct his private affairs – according to these rules – with decorum.

That is to say when he goes to church, when he goes to his social club, when he is mixing with members of the community, he must do so with dignity and decorum of his office.

This Bill then says that there will be specific Bills of conduct for specific institutions. This Parliament will have its own specific code of conduct. In that code, we will put things that are peculiar to Members of the House.

Mr. Temporary Deputy Speaker, Sir, Clause 40(1) says:-

“A person is not eligible for election or appointment to a State office if, after a fair administrative process has been undertaken, the person is found to have contravened the rules, regulations and the Code of any entity that do not contravene the Constitution or this Act on matters relating to ethics and integrity.”

To my own mind, that is a reasonable provision giving us the muscle that we need to be able to stop individuals who have contravened the law and, therefore, who ought not to be permitted to assume public office.

Mr. Temporary Deputy Speaker, Sir, I look forward to my colleagues and I deliberating further in the Committee stage about how we can make some of these provisions more robust and how we can improve the mechanism.

We do have here with us today, the foundations and the basis of a good Bill and I support it.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I stand in support of the Bill, but subject to amendments that I am going to propose and that I know the Committee on the Implementation of the Constitution (CIOC) which I serve will propose.

For us to be able to understand where we are, we have to look back and see the background in which this law is being proposed. The greatest problem we have in this country is the issue of corruption and impunity. Members of the Cabinet and Government lead the way in corrupt practices. We have had various scandals. The public has lost faith. That is why there is so much attention on the Leadership and Integrity Bill. I do not agree at all that the Constitution has shortcomings in this regard. Chapter Six is quite clear. In Article 80 it gives Parliament the mandate to make laws that will put into effect the aspirations of this Chapter. We are here now making the law. We are supposed to become elaborate and to detail the steps the various agencies will take and the manner in which to implement Chapter Six.

One of the things that really must be done is ensuring that all State Officers and public officers declare their wealth. We want to know how much you are worth as you come to office so that we can later be comparing with your wealth as you progress in your work. It is very easy to catch those who abuse their offices, if you are able to know where they started.

It is a shame that the Cabinet removed the clauses relating to declaration of wealth, which had been agreed upon with the stakeholders, including the Commission on the Implementation of the Constitution (CIC). We are also forgetting that during the Constitutional review, Kenyans, because they could not trust Government - and the Government here refers to the Executive,

Parliament and Judiciary - they wanted a mechanism that did not have members of the Government, but had civilians of checking whether the implementation of the Constitution is faithful. So, they came up with the CIOC---

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order, Mr. Kimunya?

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to take hon. Karua's time. But if I heard her right, she said, we removed the provision for declaration of wealth, as if the Government does not want declarations. May be the Minister is not aware that wealth declaration is already covered in the Public Officer and Ethics Act and all State Officers are public officers. Is she in order to say that wealth declarations have been removed when the two laws have been cross referenced and what applies to public officers will also apply to State Officers?

The Temporary Deputy Speaker (Mr. Imanyara): That is not a valid point of order. You are giving her information. So, hon. Karua, you may proceed.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I do not need information that is totally unhelpful. My colleague has just demonstrated that the Government or rather Members of the Executive lead the way in impunity. That demonstration is clear enough to Kenyans.

The Public Officer and Ethics Act was made before we passed the Constitution. The law we are making is superior to it. We are making it pursuant to Chapter Six of the Constitution. When the members of the Executive remove the declaration of wealth, it is nothing but impunity.

Something else that has been left out is the prohibition of State officers from participating in any other gainful employment. It is good to remember that State officers tender in the Ministries they serve or in other Ministries through proxies and their companies. If we do not have a provision that bars this, then it is business as usual. These are issues that the Committee agreed to be proposing to reinstate.

There are also issues of conflict of interest. We need to be very specific. That any company where you have a significant shares, even if it is not controlling, cannot tender anywhere near you business because the tendering is one of the ways that corruption has thrived in this country. It is a well known fact that the civil society, the CIC and Kenyans are unhappy with the Leadership and Integrity Bill as it is before the House. But because it is before the House, we are the elected representatives of the people and, therefore, we are charged with the duty of enriching this Bill and ensuring that it is much stronger by the time we pass it.

I want to refer to Article 80. It is true that the Constitution does not explicitly say somebody charged with an offence should not run; that is a criminal offence. But if you look at the Anti-Corruption and Economic Crimes law, it decrees that if you are charged and you are serving in Government or in a job in the Civil Service, you must be suspended or you step aside until the conclusion of the case. Applying ourselves fully, we ought to give effect to Article 80 by legislating on such matters. But even if we do not, all will not be lost. The highest court is the court of public opinion. We, therefore, must put a clause in this law that anybody with a pending case, once the Electoral Commission receives the papers, they will publish a least of all those having pending criminal cases and the cases they are facing, so that the public can, with information, be able to choose leaders. This is the era of transparency. If you have been investigated, or under investigations, if you have been involved in this or that scam, then the public will get to know. I would say that as Parliament we ought to actually legislate on all the areas envisaged. But we are not the final authority. A court of law interpreting this law can also

put a higher threshold. I am telling Kenyans that our collective efforts will ensure that we raise the bar high on issues of integrity.

It is not about you and me. There are many people who are just focusing on those seeking for seats, right from the county to the Presidency. This is about Kenya. It does not matter who ends up getting elected in the various posts. We must ask ourselves: Who are the enemies of Kenya today? I identify the two greatest enemies of Kenya and the people of Kenya as corruption and impunity. This law is supposed to help us tame corruption and impunity. It is not enough to say that a code of conduct of another organization will be the guiding light. A law enacted in Parliament is superior to subsidiary legislation. We want it spelt out and there are many more issues that we have lined up in the Committee, to come and amend.

Mr. Temporary Deputy Speaker, Sir, let us put self-interest aside and legislate for the country. I always say: Legislate even for your worst enemy because, tomorrow, you may be in the position of the person you do not like today. So, we need legislation that is fair, in the interest of the people of Kenya and in line with the Constitution. For those who are talking of foreign masters, who is suffering because of corruption? It is Kenyans and not any foreigner. If you are talking of foreign masters, then the person that is listening to foreign masters is the Government, which includes this institution; Parliament. We are all taking gifts of money to help us in our work. Parliament and the Executive accept support for their projects. The Judiciary also accepts support. So, which foreign masters are you talking about? Let us think about ourselves and be responsible for our fate as a country. Many Kenyans supported this Constitution. Now that it passed, it is our Constitution; whether you voted "Yes" or "No." Let us uphold this document to usher in a new dawn for Kenyans. Let us stop splitting hairs. It is a question of where do you stand as a Kenyan? Where do you stand as an elected representative? Are you going to forward your personal views or the views of the public? If we support the views of the public as contained in this document, we are going to strengthen the Leadership and Integrity Law, so that it can serve this nation and help Kenyans to benefit from the resources that belong to them. It can reclaim Kenyans from the clique or cartels that have currently hijacked the country.

Mr. Temporary Deputy Speaker, Sir, this is a Bill that will usher freedom to the majority of Kenyans. I am urging the hon. Members that we are now seized of the matter and no longer can keep on blaming the Executive. We are now participants and so, let us do our bit. If that is the best that the Executive could do, then let us see what is the best Parliament will do.

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

The Minister for Trade (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill.

Mr. Temporary Deputy Speaker, Sir, I have heard a lot of opinions, both out and in this House. I have tried to read the Bill very carefully, with the eye and mind of a lawyer. I have also looked at the Constitution and not found any provision that contravenes it. They could be weak provisions, but I have not found any provision that contravenes the Constitution. Like the Attorney General said, it is a start and we can always progressively improve as we go along. There is not a single law anywhere in the world that is legislated and cast in stone. Law itself is dynamic; constantly shifting depending on the exigencies and interest of the society of the day. This law is not any different.

Mr. Temporary Deputy Speaker, Sir, I also want to urge Kenyans to be consistent. Offenders of yesterday are the ones shouting the loudest today. This is a country where our memories are thin. One philosopher said that it is like the memories of baboons. They will open

a stone, see a snake, fall and then stand up and open the same stone and see the same snake. We have many Kenyans who have transgressed, offended the public and caused problems, but will still speak differently.

Mr. Temporary Deputy Speaker, Sir, integrity cannot be compromised. This country needs the best, but in doing so, we must not stretch the law to ridiculous levels. The law must be reasonable, sensible and apply to society in a manner that makes society better. When we were crafting the new Constitution, we described and rightly so, prisons as correctional services. This means that a young Kenyan who offends the law, is prosecuted, jailed and corrected, surely, should not be barred from aspiring for anything else in life. Why are we correcting people? Why do we have correctional services? Those who belong to the Christian religion, like me, know that the greatest disciple of Jesus, Paul, killed people before he became a disciple and yet, he is the foundation of Christianity today. Our founding President was unjustly convicted by the colonial regime. He ruled this country for 15 years and went to his maker with that conviction still standing. Nelson Mandela was convicted and sentenced as a terrorist, one of the worst crimes you can prosecute anybody on. He came out and is now described as a living saint. What am I saying? If you want to say that in this country, if an 18 or 20 year old drives a car and knocks down a person and he dies – anyone of you can do this – that automatically disqualifies that person from ascending to any leadership position, that is stretching our imagination to ridiculous levels. We are not creating a leadership of saints. We are creating a leadership of reasonable people who can respond to the needs of society.

Mr. Temporary Deputy Speaker, Sir, if you look at Clause 13(2) of the Bill it says:-

“A person who wishes to be elected to a State office, shall for the purposes of this section submit to the Commission a self-declaration in the form set out in the First Schedule.”

Mr. Temporary Deputy Speaker, Sir, the Bill does not say what the value of that self-declaration is. What is that self-declaration going to be used for? I think it should be clear in the Bill what it is going to be. But look at the self-declaration. If it is meant to foreclose certain persons from aspiring to leadership, then what we are doing is not right.

Mr. Temporary Deputy Speaker, Sir, on pages 20 and 21 there are moral and ethical questions. “Have you ever been debarred and removed from the register of members of your professional organization?” Yes, one can be. A doctor may be disbarred by his organization. Surely that does not remove you from the capacity and ability to represent people as a Member of Parliament.

“Have you ever been disbarred as a lawyer?” There are some lawyers, even in this House, who are excellent Members of Parliament, who have been disbarred and they are doing a wonderful job.

“Have you ever been dismissed from employment on account of lack of integrity?” That I agree with.

“If you have been a public officer, have you ever failed to declare your income?” The income declarations that we have, currently, were meant to be declared and handed to the Speaker and locked away, never to be shown. I think what we need to do now, is what hon. Karua said; that as you walk into office, you must declare what you have. We watch you progressively, what you are acquiring, and see whether or not you are using shortcuts.

Mr. Temporary Deputy Speaker, the next one asks: Have you ever been convicted of any offence and sentenced to serve imprisonment for a period of at least six months? Like I said before, driving offences that are very common, can they be an indication on whether you can be a leader or not? I say not. There are many other petty offences. You are perhaps a trader and you

did not know that it was time to renew your licence and then you are convicted by an enthusiastic magistrate and send to jail for over six months. Does that take you out of the leadership realm? I think not.

Mr. Deputy Speaker, Sir, I think that even this request here, we should say what offence. If it is an offence that pertains to dishonesty, then we can understand. However, we cannot just blanketly say, “any offence”. What time were you and if you went to jail, were you corrected by the correctional services? That is why we have those correctional services. The funnier one, Mr. Deputy Speaker, Sir, is on Page 2022: Have you ever had an application for a certificate of clearance or a certificate of good conduct or for a visa rejected? How can the rejection of an application for a visa have a bearing on your leadership? Many Kenyans are routinely rejected when they apply for visas to many embassies in this country for no reason. They do not even give reasons. So, if you are denied a visa, then---This self-declaration, under Clause 13(2), its value is not indicated. One would imagine that if you are denied a visa, then you will be blocked from standing for elections. That is why it is in the law. If it is, I think those who want to bring amendments at the Committee Stage should look at those kind of clauses very careful because they do not make a lot of sense both in law and in fact.

Another clause I want to point out is with regard to public collections – Clause 18. I think we need to qualify this. I know we have said that in the run up to elections, Members of Parliament and those who want to stand in elections should not participate in public collections. However, after elections, I think as public servants, we have a duty to engage in public collections for funerals, school fees and certain social issues that we all know. There are many people out there who require us to sit together. The country that everybody has been falling head over heels to copy, the USA, is the biggest fundraising arena anywhere anybody can think of. Why should we criminalize certain activities---?

The Temporary Deputy Speaker (Mr. Imanyara): Your time is up, but I will allow you 30 seconds to wind up.

The Minister for Trade (Mr. Wetangula): Mr. Deputy Speaker, Sir, that one should be looked at.

Mr. Temporary Deputy Speaker, Sir, Clause 20 is about the issue of serving foreigners and collecting money for foreigners. This is something that cuts across this country. NGOs that are making the loudest noise in this country are funded by foreigners. They should also style up and come and work with everybody else. There should be no law for Members of Parliament and another law for others. I support political neutrality.

Finally, let me urge those who want to bring amendments not to exaggerate that this Bill is against or contravenes the Constitution because it does not. Let us just strengthen it if we want to. It is a good Bill and this is a good start. We must clean up our act, but more importantly, elements of double speak in this country are our biggest enemy. You do this yesterday and you want to be an angel today. That is unacceptable, Mr. Temporary Deputy Speaker, Sir.

Mr. Balala: Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill in the same spirit I supported the new Constitution. I am among the very few who got the privilege of actually formulating the Constitution. Today, I stand here to support this Bill because I believe it is the right thing.

However, sometimes I ask myself: Is integrity defined in a framework of law or is it a character, faith and upbringing? You cannot just create a law and say that you have integrity. I think integrity is a character of a person. So, I say, because we have diverse character in our midst, then we should create a framework that is reasonably acceptable.

Mr. Temporary Deputy Speaker, Sir, in the last one week in the media and outside Parliament, some of us, as my colleague, hon. Wetangula, mentioned, engaged in doublespeak. They think they can create angels. Yes, we want to have the basic framework of good people. Good people do not come out of the blues – they must have some basics. I see this Bill has created a whole list of basics from the rule of law. I think the rule of law is a basic thing that you must follow. You cannot be a Minister who is also a legislator who creates the law and then you are the same public servant jumping the red light on the highway, or taking wrong route because you have a flag, or you do not want to be searched at the airport because you are a *mheshimiwa*. That is the rule of law and it must cut across everybody. There are issues here to do with public trust, responsibility, performance, and professionalism.

As my colleagues have mentioned here, the three major enemies of leaders--- Sometimes you ask yourself: After being a public servant or a leader, do you really have a job after your service? In Africa and particularly in Kenya, nobody wants to touch a politician after his job. Today, when we are vetting judges, commissioners and public servants, the first thing you are asked: Were you a Member of Parliament before? If you were a Member of Parliament, you are automatically disqualified. After leaving the public service as a Member of Parliament, you are disqualified. So, Members of Parliament have become extinct and endangered because of the basic framework that we miss in our leadership.

However, the biggest three, and I agree with my colleagues, Martha Karua and Wetangula, are corruption--- We are tagged and branded. Even if you are a clean person, because you were a public servant and a politician, you will be termed corrupt. You could be innocent and doing things in good faith, but somebody will think that you must be having something under your sleeves. Corruption is key.

The second one is impunity; abuse of office and the way we run things; that is, having no human feeling on any subject that we engage in. That is why the word “politician” is becoming a dangerous tag on any one of us. Can we trust a politician? I am new in this game, although ten years does not make you new. I find it very difficult to start reconciling the element of compromise. When you have principles and you are supposed to compromise them for the sake of politics, then you have no principles. You have an ideology that is leftist or rightist and then you form a coalition of the centre, where is your principle? You have no principle! Those are the issues that I have a problem with. Those of us who are going to bring amendments at the Committee Stage should look at this as critical. There are many things that are mentioned in this Bill that are of concern. I want to use one or two of them, particularly, financial integrity. Of late, many people have got their wealth through dubious means and now they think that because of the agony and poverty in Kenyans, they can walk in with their blood wealth and buy people out. I want to ask Kenyans all over the country not to accept money for their votes. Dubious people will come here. The law will not be for the poor, but for the rich. It will be for the elite. The law will be for the privileged. The ordinary mwananchi who wants to make a decent life will not have the advantage of being defended and protected in this House.

The Temporary Deputy Speaker (Mr. Imanyara): You must wind up now. Wind up now. Your time is running out.

Mr. Balala: Mr. Temporary Deputy Speaker, Sir, it is not a crime to be rich. It is good to be rich, but to be rich in the wrong way is a bigger crime. In 2013, we will not be looking for angels, but---

Eng. Maina: On a point of order, Mr. Temporary deputy Speaker, Sir. You have heard the remark from hon. Wetangula.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order!

Eng. Maina: Mr. Temporary Deputy Speaker, Sir, I wish I will have the next chance to speak because of these kinds of statements.

The Temporary Deputy Speaker (Mr. Imanyara): Final caution, Eng. Maina.

Mr. Githunguri: Mr. Temporary Deputy Speaker, Sir, I rise to add my voice and comment on this Bill. First, we agree that this is probably the single most important Bill on the Government in the entire Constitution. It will give life to Chapter 6 of the Constitution. It is supposed to be informed by the provision of various regional and international institutions, to which Kenya is a party such as the African Union Convention on Preventing and Combating Corruption, the United Nations Convention against Corruption as well as the United Nations International Code of Conduct for Public Officials.

I want to take note of some of the provisions on integrity and the exercise of public office. Clauses 8 and 9 are very new yet positive provisions---

Mr. Balala: On a point of order, Mr. Temporary Deputy Speaker, Sir. I thought I was concluding and then the rich intervened and hijacked the chance!

The Temporary Deputy Speaker (Mr. Imanyara): Order!

Mr. Githunguri: Thank you, Mr. Temporary Deputy Speaker, Sir, for your protection. In Clauses 32, 33 and 34, State officers are required to conduct private affairs in a manner that maintains public confidence in the integrity of the office and pay taxes when due on time. However, State officers who will include the Members of Parliament are now obliged to financial or legal obligation as a qualification for good leadership. To those who want to hold State offices, including us; the Members of Parliament, the Bill proposes that we must be above board.

There are those who are saying that the Bill appears to micro-manage State officers and elective officers. I have no fear for this. As managers of public offices, the law must also regulate or control State officers. We hold the office in trust for the people of Kenya. If the people wish to vet the managers of their offices, then, so be it. If they wish to regulate and define management parameters for managers of public offices, then, so be it. After all, these offices are not ours. They belong to the people.

Regarding the shortcomings in the Bill, let me just mention a few. First, the Bill fails to establish transparent procedures for the administration of Chapter 6 of the Constitution. It is important that we provide mechanisms as required to enable the selection of persons seeking elective and appointive offices. The Bill also fails to establish a vetting process for persons seeking public office. This is a key expectation of the Bill as to provide a minimum threshold of elections based on personal integrity, competence and suitability. This is a requirement under Article 47 of the Constitution.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Githunguri, sorry to interrupt you, but you have 60 more seconds to wind up.

Mr. Githunguri: Mr. Temporary Deputy Speaker, Sir, the Bill fails to provide for a mechanism that could allow the Ethics and Anti-Corruption Commission (EACC) to prosecute cases of breach of Chapter 6 where the Director of Public Prosecution is used to prosecute without good cause as expected under Article 79 of the Constitution. Finally, in Clause 4, the Bill confers the Ethics and Anti-Corruption Commission a new and huge task. It provides that the Commission is responsible for overseeing and enforcing the implementation of this Act. Is this the same Commission that is said to be experiencing serious exodus of key members of staff and facing challenges in court? How will it be possible for it to vet people?

With those few remarks, I support.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Midiwo! From now on, it will be two minutes per Member, so that we can give as many Members as possible an opportunity to make a contribution. We propose to end this debate at midday, so that we can go to the next Order.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, thank you for the chance. I hope that after me, it will be two minutes. As I rise to support this Bill, something needs to be clarified that the process that many people are talking about that contravenes the Constitution is not what is in this Bill. It is the process by which some sections of the Bill were removed. The way these constitutional Bills should find their way here is very well stipulated. I agree with those who accuse the Cabinet to have over-reached its mandate.

(Mr. Midiwo addressed the House from the Front Bench)

The Temporary Deputy Speaker (Mr. Imanyara): Deputy Leader of Government Business, can you persuade the Chair that the Joint Chief Whip can speak from the Front Bench?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, various decisions have been made. At times, the Whip has been allowed---

The Temporary Deputy Speaker (Mr. Imanyara): I am asking the Deputy Leader of Government Business what decisions have been made.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I believe the Whip is sitting at the reserved place for the Whips.

The Temporary Deputy Speaker (Mr. Imanyara): Very well. You may continue, Mr. Midiwo!

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, the main problem that this House needs to address that the public is misunderstanding is the issue of vetting of State or public officers. I refuse to accept that during an electioneering period, you can subject the KACC to vet 500,000 Kenyans and the process be good.

Mr. Temporary Deputy Speaker, Sir, Article 79 requires that an anti-corruption law be passed. We did that and there is the Ethics and Anti-Corruption Commission. Whether it is dysfunctional or otherwise, that Commission does not require this Bill or Act to do its job. It needs to vet every Kenyan and nothing in law stops that Commission from taking one of us randomly and checking whether he or she conforms to issues of integrity.

Chapter Six talks about integrity issues on individual Kenyans. I think this House and the Ministry of Education should immediately introduce a subject that talks about ethics and constitutionality in the syllabus of primary schools so that we grow a whole new generation of Kenyans who understand these issues and who grow up with the issues. We have a whole generation which grew up in this country under the Nyayo Era and they do not know any better.

The Temporary Deputy Speaker (Mr. Imanyara): Your time is up! Hon. Millie, you have two minutes!

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Speaker, Sir. First of all, I want to support this Bill and indicate that I had a lot to say on it. But because of the two minutes, I will summarize what I have and others by way of amendments which I will bring. By the time we get to a point where, as a country, we are legislating on integrity, you know that we have sunk very low. So, I want to agree with hon. Najib Balala that we have a problem, but I want to say that the problem is not just with the leadership but with the whole country because

we do not get leaders from Mars but from ourselves or the community. The challenge we have as Kenyans is that the moment you become a leader, you are very good and you will be elected. However, a day later, you are condemned and rotten. So, as a country, we must also learn to start believing in our leaders because not all our leaders are rotten.

Mr. Temporary Deputy Speaker, Sir, I heard the Minister for Trade, hon. Wetangula, say that there is nothing unconstitutional about this Bill but I want to say that most of the time, we do not have sins of commission but sins of omission. So, for me, it is not much in terms of what has been provided but what has been excluded. Sometimes by exclusion, we are unconstitutional. I will give an example, again, because of lack of time that if you look at the Constitution, you will see that it says that we will have high standards of probity both in public and in private. We are very silent on the one on private. In some places, we have replicated what the Constitution provides in terms of standards and in some instances we have gone quiet.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, hon. Sospeter Ojaamong. Let us have hon. Linturi and then Eng. Ephraim Maina.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, I am up and ready!

The Temporary Deputy Speaker (Mr. Imanyara): You did not catch my eye!

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, I do not know why your eyes did not see me on several occasions.

The Temporary Deputy Speaker (Mr. Imanyara): Continue! I am sorry. Now that you have made me notice you, please, continue.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, we have been colleagues in the struggle for a very long time. I do not know why you had not seen me.

I also rise to support the Bill on Leadership and Integrity especially in clauses 10 and 11 regarding the performance of duties by a public officer and professionalism. I think that is what has been lacking. If we gave Kenyans that, we shall have achieved a lot and the hue and cry from the civil society should be ignored. I believe that some people here have an intention of locking out some people from contesting in the elections. I think we know how to assess our own leaders when they are good or bad. Somebody can be bad in the society but can also be very good or is liked somewhere else. I believe that we should allow all the candidates who want to contest for presidential or governors' seats. Let them be given an opportunity just the way hon. Martha Karua has put it that the highest court is that of public opinion.

With those few remarks, I beg to support this Bill.

Eng. Maina: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill. One thing that is coming out clearly is that we are in a country and at a particular time. This country is moving forward. It will not be possible to create saints one morning. Even in the Bible, they are very few. So, let no body think that we will legislate to come up with saints. What we need is a framework to ensure that people who are normally a threat to society, by lack of integrity, never achieve leadership. That is the unfortunate situation today. For example, how do you equate a crime of somebody who was taken to court because maybe, he stole a cow with somebody who brought, for example, bad maize to this country gave to some people and some people died or someone who did something and because of what he did, most Kenyans became poor and many died because of lack of food? This is because of some influence or for financial gain. We must differentiate the two crimes.

We opted to follow the US and talk about it. Let this House remember, when we say that people cannot do business or hold a bank account abroad, that in the US, senators are public relations officers of major companies. They are allowed to do this. This also applies to people in the Congress. This is the case and yet---

The Temporary Deputy Speaker (Mr. Imanyara): Yes, Mr. Muriithi!

The Assistant Minister for Industrialization (Mr. Muriithi): Thank you, Mr. Temporary Deputy Speaker, Sir. We have been told in this House that we are looking for saints and angels but I believe that we are a religious society by and large. So, it is good that we aspire to have leaders who are more Godly, saintly and angelic. By our own admittance, 30 per cent of budgetary resources are lost to corruption every year. Every year, we kick out over 400,000 young people out of Standard Eight and yet we can take them up to Four IV with only an additional cost of Kshs19 billion. Thirty per cent of budgetary resources today is Kshs450 billion. I think it is time that we stopped pretending and accepted that we have a problem of corruption.

(Applause)

Mr. Temporary Deputy Speaker, Sir, it is not that there are no laws written in Kenya but it is the absence of the rule of law; that we do not live within the laws that we have passed. So, I support those who have proposed that we should improve this Bill. I support them because, and I want to quote Einstein, that if we do the same thing repeatedly and expect a different result, that surely is insanity.

Fifty years after Independence, most of us cannot afford bread and we still kick out 450,000 young people aged 13 and 14 years from school. What is a 13-year old pupil expected to do? This is the case and yet we have the resources and means to make sure that every child goes to Form Four---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Muriithi, your time is up!

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, this law will address those very serious concerns that have affected the lives of innocent Kenyans.

Clause 34 is on bullying. Kenyans have been ignored and mistreated in offices. This law will address that concern.

Clause 26 is on any other gainful employment. We have seen State officers acquiring land, including catchment areas. Action must be taken against such officers.

Clause 21 is on care of property. We have seen State officers misusing Government vehicles. We have also seen Government drugs being sold in public premises because the State officers are not careful. We have seen cases where traffic police have allowed unroadworthy, unlicensed and uninsured vehicles on our roads. We have also seen some State officers becoming millionaires overnight. This law will address some of these concerns.

Clause 24 talks about impartiality. We should not allow any tribalists to have any impact in this society. The youth of this country have been denied job opportunities because the tribalists in the Government. This law will lay a firm foundation on morality, impeccability and trust in our young society.

With those few remarks, I support.

The Temporary Deputy Speaker (Mr. Imanyara): The next request is from Mr. Linturi. He is not here.

Mr. Kioni, you are next.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I want to support this Bill. In supporting, I will rely heavily on the amendments that I expect from our Committee.

One of the major things that has affected this country is corruption. Politicians have been associated with it to the point where now we are grouped with criminals who have been jailed for a term of six years and beyond. It is important that we allow the process that helps the country to move forward to be put in place.

This is not a Bill that deals with only politicians. It is meant for the whole country. I want to borrow a leaf from Mr. Midiwo's book that, perhaps, the way to deal with the issues that bedevil our society now is to allow this to be part of the school curriculum, so that children are taught on matters of integrity when they are young. I believe that is the way to change our society.

Secondly, let me also say that while the Attorney-General says that we have started somewhere, I think we started too far. We needed to have improved on the Bill. Mr. Wetangula said that it is not unconstitutional. But I think the provisions in the Bill are too weak to support what was envisaged in the Constitution. That is the reason I said I will rely a lot on amendments by the CIOC. We want to help this country to move forward and deal with corruption. We want also to ensure that those who will be appointed to State offices do not use them to enrich themselves. This piece of legislation will deal a big blow to unnecessary greed that continues to bedevil our society.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): The order in which I will call the next speakers before calling upon the Minister to respond is as follows: Nelson Gaichuhie, Luka Kigen, Muturi Mwangi, Sugow Ahmed, Jackson Kiptanui, Mohammed Elmi, Peris Chepchumba, Mr. James Orenge and the Minister will respond.

Mr. Gaichuhie: Mr. Temporary Deputy Speaker, Sir, I want to support this Bill from the outset. It is a Bill which will address corruption that has continued to bedevil this country for a long time.

The Bill is okay, but it lacks the mechanism to enforce it when once it is enacted into law. We see a self-declaration form. However, but we do not know what happens once we fill it. What is the purpose of the self-declaration form? So, what we would urge the Committee that is charged with the Bill is to bring us good amendments. We hope that they will allow us also to bring in our own amendments at the Committee Stage. We would like to see our amendments incorporated in the Bill at the Committee Stage.

It is a good Bill, but a bit shallow. We should strive to enrich it in the Committee Stage so that we come up with a law that will help us fight corruption and impunities in this country. Those two vices are running down our country.

With those few remarks, I want to support the Bill.

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill. Our country is now in a critical moment of addressing its chronic problems. One of the major problems that have bedeviled this country for a long time is lack of integrity among our people. This has denied our youth employment opportunities. State officers have been practising corruption in the process of discharging their duties.

I support this Bill because amendments which will be brought on board at the Committee Stage will make it very difficult for State officers to use their offices to enrich themselves. If we have people of high integrity in public offices, then this country will move on the right direction and achieve its vision.

I believe the new Constitution will herald a new era where people will respect one another and share opportunities as they come. Nobody should be left in the cold because it will help us share our resources equally.

Mr. Temporary Deputy Speaker, Sir, this Bill is long overdue. If we implement it fully, it will help us achieve a lot for this country. Our major undoing is lack of implementation of various laws that we pass in this House. It is a pity that only those people who steal chicken or engage in illicit brew are taken to court. We will never hear of people who are involved in mega corruption being apprehended and taken to court. The real crooks are left scot-free. For example, those who have been involved in the Goldenberg scandal and other scams where the Government lost billions of shillings have never been arrested and taken to court. You will see that overnight they become billionaires---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kigen, your time is up.

Mr. Mwangi: Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill.

Much has been said about it, but I think the most important aspect in this issue of integrity is whether we, Kenyans, address the character and values of our society. The problem we have encountered in this country is that we pass very good laws, but we do not fully implement them. Even when the laws are in order, the enforcement agents are not able to enforce them. Look at the case of land grabbing. There are laws that are very clear about the usage of land, but land grabbing continues unabated. The corruption that everybody has been talking about in this House does not only affect the elected leaders, but it affects all of us. Many people engage in corruption because they know that we do not fully implement the laws we pass in this House. That is the character of our people. We may have problems. Most of us cannot understand how we can vet over 200 people who want to become political leaders in our society. We need to observe very carefully all our shortfalls so that we---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mwangi, your time is up.

The Assistant Minister, Ministry of State for Public Service (Maj. Sugow): Mr. Temporary Deputy Speaker, Sir, I thank you very much for giving me the opportunity to support this Bill.

Honestly speaking, this Bill deserves better input from this House. I hope that the amendments that we envisage from the relevant Committee and various individual Members of Parliament will enrich it further. In fact, I was of the view that we should have a different threshold for elective offices – a threshold that is higher than that for any other public office – because we know the role that elective offices play in this country. We must avoid trying to self-preserve ourselves.

Saying that this is the beginning and, for the time being, it is enough; and that after all the law is not cast in stone, we can change it is, really, a way of making a diluted statute to allow those who have questionable integrity to continue occupying elective offices and perpetuate themselves. That way, we would not be allowing what we see as weaknesses to be corrected in future. Therefore, I strongly support this Bill and look forward to introduction of amendments, during the Committee Stage, for us to strengthen it.

With those remarks, I beg to support.

Mr. Kiptanui: Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill.

I would like to say that, indeed, many Kenyans have been blaming us, as Members of Parliament, by saying that we have watered down the Bill yet we are discussing this Bill here for the first time. We need to set the fact straight by saying that it is the Cabinet which reviewed the Bill before it was forwarded to Parliament; and not Members of Parliament.

Secondly, none of us, Members of Parliament, is against this Bill. I believe that it is high time we elected leaders of integrity, who can be accountable to the people of Kenya. In the Memorandum of Objectives, this Bill sets out the leadership and integrity standards applicable to state officers who hold the highest level of responsibility.

Mr. Temporary Deputy Speaker, Sir, I wonder what happens to other officers, who may not necessarily hold the highest level of responsibility. Are we going to set different standards for them? I believe that when we get to the Committee Stage, we should introduce an amendment, so that the Bill can affect all officers serving in the public service. The law should be applicable to officers at all levels.

Secondly, Clause 40(1) of the Bill partly provides as follows:-

40(1) A person is not eligible for election or appointment to a State Office if, after a fair administrative process has been undertaken---“

Mr. Temporary Deputy Speaker, Sir, what kind of process is “fair administrative process”? Are we going to set up kangaroo courts?

The Minister of State for the Development of Northern Kenya and Other Arid Lands (Mr. I. E. Mohamed): Mr. Temporary Deputy Speaker, Sir, I want to say, right from the outset, that I support this Bill.

Mr. Temporary Deputy Speaker, Sir, every society regulates its behaviour through enactment of certain rules and, in our case, through enactment of laws. So, it is very important that we actually make laws and admit that our behaviour, particularly in the areas of corruption, impunity and in a whole range of other social behaviours; has gone very bad, and that we want to correct this starting with our leaders.

We are, therefore, making a law, through this Bill, to make sure that the leadership of this country lead by example. That is not to say that other Kenyans should not have the integrity that is envisaged in this Bill.

Mr. Temporary Deputy Speaker, Sir, this Bill will actually protect leaders in the future, because it is setting very clear leadership and integrity standards. Currently, whether you are elected chairman of a School Board of Governors (BoG) or Member of Parliament, you are like a Mercedes Benz car. The moment you pay for it, and it comes out of the dealer’s premises, 30 per cent of its integrity goes. The same applies to the integrity of Members of Parliament, just by acquiring the title. So, by making very clear what constitutes “integrity”, we are making sure that leaders are protected. It will be very easy to verify what the values required are.

I want to say, very quickly, that this Bill has to be supported by all the other governance institutions, particularly the judicial system. I am happy that our Judiciary is on the right track. We must now fast-track police reforms. We must provide enough resources to the Director of Public Prosecution and the Criminal Investigation Department (CID) to make sure that these laws actually work.

Finally---

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Elmi, I am sorry, your time is up.

Hon. Members, the next person to have the Floor is hon. Peris Chepchumba. I am afraid, hon. Mwatela, hon. Wambugu, hon. Washiali and hon. Duale; you will have to negotiate with the Minister, hon. Orengo, because it will be his time to reply after hon. Peris Chepchumba speaks. If you want him to donate part of his time, you have to negotiate with him.

Proceed, hon. Peris Chepchumba.

Ms. Chepchumba: Mr. Temporary Deputy Speaker, Sir, from the outset, I want to say that I support the Leadership and Integrity Bill, and echo the sentiments that have been made by my colleagues, and especially to the effect that the values envisaged by this Bill should be included in the school curriculum, so that our children can learn about integrity.

The Scout Movement, and the Girl Guide Movement, in most of our schools have provided an opportunity for our youth to learn about these virtues at an early stage. I also agree with hon. Millie that, indeed, we do not have angels in this country but, there are some people in this country who have developed the habit of tarnishing the reputation of Members of Parliament immediately they are sworn-in. They start saying that politicians should not be trusted with certain functions relating to delivery of service to the communities. Therefore, this Bill should be crafted carefully to ensure that it will not be abused in future, so that elected leaders can be entrusted with the responsibility of leading their communities from the front.

Mr. Temporary Deputy Speaker, Sir, all politicians are vetted by members of the public prior to being elected. The moment you declare interest in an elective office, members of the public would know exactly what kind of leader you will be. I wonder---

The Temporary Deputy Speaker (Mr. Imanyara): I am afraid, hon. Peris Chepchumba, it is now time for the Official Government respondent.

Hon. Orengo, you may donate part of your time, if you so wish.

The Minister for Lands (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, subject to your direction, I am willing to give a minute to each of the hon. Members who are on your list of requests – that is hon. Mwatela, hon. Wambugu, hon. Machage and hon. Duale.

The Temporary Deputy Chairman (Mr. Imanyara): What is your point of order, hon. Mbadi?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I have just heard you read out the names of those who had requested for chances to speak. My name was missing even though I had placed a request with you. This is a very important Bill, and I want to contribute to it.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, hon. Mbadi! Do not seek to get through the backdoor what you could have gotten through the front door.

Proceed, hon. Mwatela.

The Assistant Minister for Education (Mr. Mwatela): Mr. Temporary Deputy Speaker, Sir, first, I would like to thank hon. James Orengo for donating to me a minute of his time.

I rise to basically support the Bill but I would like to see amendments introduced during the Committee Stage; to ensure that we seal the loopholes that have been pointed out.

With those remarks, I beg to support.

Mr. Wambugu: Mr. Temporary Deputy Speaker, Sir, I also stand to support the Bill. But I think this one being a very important Bill, there are those issues especially to do with the integrity of any leader that needs to be looked into. They should be raised to very high standards. I would like to beg the Government to make sure that some of these very important Bills are given enough time. That is because if this Bill had been passed about four months ago, even this issue of saying that we do not have enough time to vet about 200 hon. Members should not have arisen.

Mr. Temporary Deputy Speaker, Sir, I still believe that the candidates who will be vying for the higher posts especially the presidency and even the governors should be subjected to a check.

Thank you.

The Assistant Minister for Roads (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, as I support the Bill, I would like to say that hon. Members should not play to the public gallery on some demands that are not really possible to be met. The Bill as amended by the Cabinet is adequate for the process of governance of this country. Being over-enthusiastic will make the Act that will be created to be impracticable and difficult to implement. Let us be careful on what amendments we will have on this Bill.

Thank you.

Mr. Duale: Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill. I was among the Members of Parliament who brought the amendment to raise the qualifications of Members of Parliament to a degree level. It is this House that felt that leadership, governance and supremacy of this country lies with the people. The Constitution is very clear. Based on that, the vetting of who becomes the next leader of this country lies with the voters in every county. The people of Ijara know the integrity of hon. Haji. The same applies to the people of Dujis and where hon. Orengo comes from. So, I think the ball must go to them. But if they feel that you are corrupt and cannot pass the integrity test, then the people should reject you.

I support.

The Minister for Lands (Mr. Orengo): Thank you very much, Mr. Temporary Deputy Speaker, Sir. I want, first, to thank everybody who has contributed to this Bill. I think the views that have been expressed will go towards enriching the debate and the record of this House as to matters which have been deliberated upon and I, for one, would not state to the contrary that this House has the right to amend the Bill as it deems appropriate. However, I just wanted to put for purposes of record that, at the Cabinet Committee at which this Bill was extensively discussed, the Law Reform Commission was represented. The Commission on the Implementation on the Constitution (CIC) was represented and we had a meeting from about 9.00 O'clock to 10.00 O'clock at night. The Bill that was published was the Bill that was agreed at that meeting. In fact, when there was an attempt to bring in some amendments through the Executive, we, members of the Committee, insisted that it must be published as agreed in the Cabinet Committee in which those constitutional bodies attended. So, I think that is important for record.

Secondly, I want to say this: The Constitution in Article 38 - and I think this is very important because you must see the whole picture - is about political rights and it says that; "Every Kenyan has a right to participate in elections either as a voter or as a candidate." For that right to be taken away, the Constitution in Article 24 says that: "You must justify that limitation if you have very important constitutional standard." That is because what the Constitution gives, we take away. We have to be extremely careful and I do not think that the people in this House want to vote themselves away from this House and abdicate the whole rights as spelt out in the Constitution.

Mr. Temporary Deputy Speaker, Sir, I also wanted to say that if you look at the Constitution itself, Articles 75, 76 and 77 show clearly instances in which you cannot be qualified as a candidate if you commit the offences or the mischief that is spelt out in Articles 75, 76, and 77. Look at it carefully and if you commit offences or you are deemed to have done any of the things which are spelt out in Clause 13 of the Bill, then you are disqualified. I think you better look at this carefully, particularly Article 13(1)(i) which states: "not commit offences and in particular, any of the offences under Parts XV and XVI of the Penal Code, which has set out the Sexual Offences Act, 2006 and the Children's Act, 2008." That also applies to so many other numerous offences. So, really, if you look at this Bill, even bullying is not allowed. If you commit an offence that is considered to be bullying under this Bill, then you will not be entitled

to be a candidate. If you think that I am just speaking, look at Clause 40 which is about enforcement. It says: "A person is not eligible for election or appointment to a State office if, after a fair administrative process--- I will pause there. "After a fair administrative process because the authors of this Bill are aware about Article 38, that you can only be stopped after a fair judicial process. It goes on to say: "The person is found to have contravened the rules" and not even the offences. That is if you contravene the rules, regulations or the code. For example, a code set up by the Teachers Service Commission (TSC). If you violate or contravene the disciplinary code of the TSC, you cannot be a candidate. So, I do not know what type of angels you want us to run for office in this Republic. It says: "of entity" which means that it does not necessarily mean even public entities, but even professional bodies. If you are a lawyer and you commit violations of ethical standards as required by that professional body, you will not be a candidate.

Part IV of this Bill is about enforcement of the leadership and integrity code and the issues of procedure and mechanisms as spelt out in Part IV. Finally, it gives the Commission the power to make regulations on how to lodge complaints, investigate complaints, disciplinary processes and mechanisms on the enforcement of the code so that, if there is anything that is not covered under this Bill, the Commission itself can provide for those procedures and mechanisms.

Mr. Temporary Deputy Speaker, Sir, so, I want to conclude by saying yes, let the amendments come. But I think overall if you look at the Constitution, the Anti-Corruption and Ethics Act, the Public Officer Ethics Act and now this legislation, we have put a very high threshold for public officers.

I beg to move.

(Question put and agreed to)

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

The Temporary Deputy Speaker (Mr. Imanyara): Next Order!

Second Reading

THE NATIONAL INTELLIGENCE SERVICE BILL

The Temporary Deputy Speaker (Mr. Imanyara): Minister, so that we can manage our time properly, could we agree that you will be able to move and second so that the debate may resume in the afternoon?

The Minister of State for Defence and Acting Minister of State for Provincial Administration and Internal Security (Mr. Haji): Yes, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): All right. Go on!

The Minister of State for Defence and Acting Minister of State for Provincial Administration and Internal Security (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, I beg to move that the National Intelligence Service Bill be read a Second Time.

Mr. Temporary Deputy Speaker, Sir, the National Security Intelligence Service was established in 1999 following the enactment of the National Security Intelligence Service Act, No.11 of 1998. The service is an independent civilian agency with no law enforcement powers,

and whose role in matters of national security is advisory. Its main objective is the protection of our national security interest. Prior to the establishment of the service, the intelligence function was performed by the defunct Directorate of Security Intelligence (DSI), the legal successor to the Special Branch. These were departments within the Kenya Police and all operated under presidential charters. The enactment of this NSIS Act was, therefore, a watershed in the history of intelligence in Kenya, besides heralding the establishment of the independent civilian service. The enactment triggered a paradigm shift in the execution of intelligence function, which resulted in the professionalism of the service, establishment of accountability mechanism and adoption of new ethics and international best practices. Today, the service is regarded as one of the most professional intelligence service in Africa.

However, over the years, the service has experienced challenges in the execution of its mandate spanned mainly by the ever changing threats in the environment as dictated by internal and external dynamics. While new threats, from both without and within keep on engaging it, the traditional ones are becoming more complex and sophisticated. These challenges have been compounded by noted deficiencies in the NSIS Act, the main ones being lack of adequate powers and absence.

Mr. Temporary Deputy Speaker, Sir, the principal object of this Bill is to give effect to Articles 239(1)(b), 242(2) and other relevant articles in the Constitution. In this regard, the Bill is to align the law relating to the National Intelligence Service. Moreover, the Bill recognizes the sovereignty of the Bill of Rights in the Constitution, and provides for instances in which certain rights and fundamental freedoms may be limited for good order and discipline in the service, and for protection of service, intelligence operation and maintenance---

*(Mrs. Odhiambo-Mabona crossed the
Floor without going to the Bar and bowing
at the Chair)*

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mrs. Odhiambo-Mabona! As you were reminded by the Chair this morning, if you want to cross to the other side, you must do what the Standing Orders allow!

Continue, Mr. Minister!

The Minister of State for Defence and Acting Minister of State for Provincial Administration and Internal Security (Mr. Haji): Thank you, Mr. Temporary Deputy Speaker, Sir.

It provides for the protection of service, intelligence, operation and maintenance of and preservation of national security.

Mr. Temporary Deputy Speaker, Sir, the Bill was subjected to wide consultation and validation process by a wide range of stakeholders. The Bill also received invaluable input from Members of Parliament during a recent workshop retreat in Mombasa, as well as here at the Departmental Committee of Parliament.

I want to request Mr. Kimunya to second.

The Temporary Deputy Speaker (Mr. Imanyara): You should move.

The Minister of State for Defence and Acting Minister of State for Provincial Administration and Internal Security (Mr. Haji): I beg to move and request hon. Kimunya to second.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I rise to second this very important Bill. I want to start by saying that the National Security Intelligence Service is not a new body. It is already in existence and this Bill, contrary to what has been alleged, is basically to update the already existing Act, Act No.11 of 1998, that changed the service to what it is from the old Special Branch. This Bill is now to accord with the new Constitution. I know this is being looked at from the history of the service. It is one of the highly misunderstood services. Not very many people know what it does. Perhaps, due to the nature of its work, it should best be that way.

For us in Parliament, I would just like to ask that we delink ourselves from the bad old days of the Special Branch and Nyayo House Torture Chambers, when the service was used politically and it earned itself a very bad name. We now need a service that can respond to the future security challenges of this country. We all do recognize that within our region we are in a very delicate situation. We have seen what has been happening in Somalia, the Sudan and within our waters. All that is interlinked with the need for an agency that can provide us with the intelligence to act proactively and also in retrospect.

Mr. Temporary Deputy Speaker, Sir, more importantly, I just want to highlight the fact that Kenya is in competition with the rest of the world, whether you are talking from a trade perspective, transport perspective or all manner of issues. Other countries will only compete with us based on the information that they have and the intelligence. When you look at the way we are within the new constitutional dispensation, we seem to be imagining that we have no obligation to retain any of our confidentiality. That is, perhaps, what we will all regret about at some point in future. Unless we can provide for some confidentiality, especially within Government, all the information we have will be available to other states that are competing with us. It will not be long before Kenya becomes a state that might as well not have any confidentiality, because information is going to the NGOs and the foreign governments, which will use it to the disadvantage of Kenyans and to jeopardize Kenyan national security.

As we look at this Bill, let us start also looking at how we can ensure that this agency works for Kenya, and is given the level of confidentiality that is required to protect the integrity of our nation, as Kenyans, and the confidentiality of the information that we need to have, so that we can move forward as Kenya and protect our citizens from any aggression from outside; somebody should have access to information that they should not have, whether you are talking about threats, military attacks or terrorism attacks by people having information they should not be having.

There is much more we can say, but for now I believe we have made a very good start. The Bill has been validated through all the processes. I am glad that at least even in terms of the debate, there has not been much in the public domain. The committees have been looking at it and workshops have been held. From the information we have, there has been a lot of consensus building on this matter. I hope we shall do justice to it and give Kenyans the security agency that they require for the future.

With those remarks, I beg to second.

(Question proposed)

The Minister for Lands (Mr. Orengo): Mr. Temporary Deputy Speaker, Sir, I also beg to support.

I would like to note that we have come a long way from the old days when we were oppressed and harassed by the Special Branch. At that time the constitutional dispensation was such that the security of the Government and the rulers was of more important consideration instead of the security of the Kenyan nationals and the Government as a whole.

I would say that this is a good Bill. It should be supported subject to comments by Members of Parliament. However, as we now have this Bill under a new constitutional order, we should completely break with the past. The National Security Intelligence Service (NSIS) is a service for the Kenyan people. The Constitution says the people of Kenya are sovereign, so that at all times, the service should equally render services not just to the Government but also to the people of Kenya, including this Parliament. It should not be a service that is meant to serve just the Government of the day and the President, for that matter. I think this Bill will bring this new order into place.

I hope that during this time when we are going through this political process, the NSIS should more than ever before be seen to be independent and impartial, so that whatever is going to happen in the next four, five, six months will be based on the right enabling environment. For those who aspire to office should not meet any roadblocks, as it were. So, I believe---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Order! This is a convenient point at which we adjourn our business. The business of the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.