

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 2nd October 2013

The House met at 2.30 p.m.

*[Hon. Deputy Speaker (Dr. Laboso)
in the Chair]*

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:-

Mr. John Oroo Oyioka, MP

Hon. Deputy Speaker: Members, you may be seated. All right, Members, settle down. I am waiting for the Members to settle down. There is Communication from the Chair. Order, Members, I would like those at the door to settle down, please.

COMMUNICATION FROM THE CHAIR

LAUNCH OF SECOND MEDIUM-TERM PLAN AND PERFORMANCE
CONTRACTS FOR 2013/2014

Hon. Members, you may have been aware that the launch of the Second Medium-Term Plan and Performance Contracts for the Financial Year 2013/2014 was postponed to tomorrow, 3rd October 2013, due to the tragedy at the Westgate Mall. The event to be officiated by His Excellency Hon. Uhuru Kenyatta, C.G.H, President and Commander in Chief of the Defence Forces will now take place tomorrow at Kenyatta International Conference Centre from 8.00 a.m. All Members are invited to attend and participate. Please, pick the launch programme at the reception.

PAPERS LAID

The Report of the Parliamentary Service Commission on the Appointment of Commissioners under Article 127 (2) of the Constitution of Kenya.

(By hon. Keynan)

NOTICE OF MOTION

ADOPTION OF REPORT ON APPOINTMENT OF PSC MEMBERS

Hon. Keynan: Hon. Deputy Speaker, I beg to give notice of the following Motion:-
THAT, pursuant to Article 127 (2)(d) of the Constitution, this House Adopts the Report of the Parliamentary Service Commission on the appointment of Ms. Jennifer Nafula Barassa and hon. (Dr.) Abdullahi Ibrahim Ali as Members of the Parliamentary Service Commission.

STATEMENTS

Hon. Deputy Speaker: Let us have Alex Muthengi Mwiru. Are you requesting or you are responding? Any Chairpersons of Committees or their deputies will give their responses first before we receive more requests. You can begin giving your Statement, Alex.

Hon. Mwiru: Thank you, hon. Deputy Speaker. I have three responses from different hon. Members. They had requested Statements from Chairs of various Committees.

GAZETTEMMENT OF COMMUNITY LAND AS NATIONAL RESERVE IN LAIKIPIA

I will begin with the request by the hon. Member for Laikipia North, hon. Lempurkel on imminent evictions of people living in Lekiji area of Laikipia County. The hon. Member for Laikipia North had wanted to know the fate of the 400 families who were facing imminent eviction in Lekiji. The community had faced multiple evictions over the last 10 years.

The hon. Member further stated that the matter was in court and the community being poor, needed urgent Government intervention. The Committee has settled on the 1442 acres for the last 50 years, and has even built a school with a capacity of 300 pupils.

In view of the following, the hon. Member appealed to the Chairman of the Finance, Planning and Trade to visit the area to establish the facts on the ground and further clarify what action the Government would take to resolve the matter.

I wish to respond as follows: The Committee undertook the inspection tour of Lekiji on Wednesday, 31st July---

Hon. Deputy Speaker: Hon. Mwiru, maybe I was not concentrating. But have you confirmed that the person who requested for the Statement is in the House? We have agreed that you will urge---

Hon. Mwiru: Hon. Deputy Speaker, I do not know whether he is in the House, but the fact that you have asked me to give the Statement, it is good that it is given.

Hon. Deputy Speaker: We have agreed that response will not be given unless the person who sought it is in the House.

Hon. Mwiru: In that case, if he is not, I can shelve this for another day.

Hon. Deputy Speaker: Who requested for the Statement?

Hon. Mwiru: Hon. Mathew Lempurkel, Member of Parliament for Laikipia North.

Hon. Deputy Speaker: Hon. Lempurkel is not in the House. So, you will reserve your response until such time that he is in the House.

Thank you. Let us have the Chairperson of Committee on Lands.

Hon. Mwiru: Thank you so much. I will shelve that.

Hon. Deputy Speaker: Okay.

Hon. Njagagua: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order?

Hon. Njagagua: Sorry, hon. Deputy Speaker. About two weeks ago or thereabout, your colleague the Speaker ruled that this Statement belongs to the House. Even if the person who asked for it is not in the House, the Statement should be read because it actually belongs to all us.

Hon. Deputy Speaker: We will get that clarification. We need to ascertain that, indeed, that is what he said. For now, my ruling stands until such time we find that what you are saying is true and that is a ruling which we can ascertain from the HANSARD. But for now, in my view, it is good practice that if you ask for a Statement the response is to be given to you because you are the one who has supplementary questions, if any. Otherwise, let that be the ruling for now. Okay, let us hear from hon. Maalim Mohamed.

Hon. (Eng.) Mahamud: Thank you hon. Deputy Speaker.

Hon. Mwiru: Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it, hon. Mwiru?

Hon. Mwiru: He says he has a second one and he can do it later.

Hon. Deputy Speaker: Hon. Mahamud, if he had a second one, let him prosecute his two Statements before you bring yours.

Yes, Chair of Departmental Committee on Lands.

Hon. Mwiru: Thank you, hon. Deputy Speaker. From the outset, I had already said that I was going to respond to three requests for Statements.

Hon. Deputy Speaker: Hon. Abbas, you are threatening to leave this Chamber. I have said we do not want to see hon. Members standing while we are debating in the House. I am giving you that benefit because you are a new hon. Member also. That is the last warning.

Please, let us concentrate while we are in the House. You know the consequences of being chased out of the Chamber. Hon. Mwiru, continue.

Hon. Mwiru: Thank you, hon. Deputy Speaker for that indulgence. I am saying that right from the outset I had said that I would be responding to three Statements. Now I am responding to the second one because we shelved the other one.

This one is from hon. Kenneth Okoth from Kibra.

Hon. Deputy Speaker: Is the hon. Member for Kibra in the House?

Hon. Mwiru: I have seen him, hon. Deputy Speaker. He is in the House.

Hon. Deputy Speaker: Okay, then proceed.

LAND RIGHTS OF NUBIANS IN KIBRA

Hon. Mwiru: On Tuesday, 18th June, 2013, the hon. Member for Kibra, hon. Kenneth Okoth requested a Statement from the Chairperson of the Department Committee on Lands on the land rights of Nubians in Kibra. In his request he stated that the community had suffered injustices on land and citizenship in this country Kenya.

Hon. Deputy Speaker, the Committee invited the hon. Member for Kibra, who appeared before the Committee accompanied by some members of the taskforce on Kibra-Nubian land rights. The hon. Member was in attendance during the initial meeting with the Permanent Secretary for lands.

The Committee also invited the Cabinet Secretary for Land, Housing and Urban Development who appeared before the Committee twice to answer the hon. Member's request and addressed the concerns over the issue.

I wish to respond as follows:-

On the efforts the Government has made to settle the Nubians on the 4,400 acres of land originally granted to them by the colonial government; the Nubian community in Kibera had claimed to have occupied the land in Kibera for more than a century and regarded it as their ancestral home. Other than the Kibera Land Committee which was pursuing the land on behalf of the community, other groups have also emerged purporting to be representing them such as Kibera and Nubian Youth Alliance, Kenyan Nubian Council of Elders and the Nubian Rights Forum.

When Nubian ex-soldiers were settled on a parcel of land in Kibera measuring approximately 4,197.9 acres designated as a military reserve, the colonial government did not recognize any freehold land rights in Kibera for them. Therefore, with time, part of the land was planned by the Government for various purposes such as Harlequins Rugby Club, Impala Club, Royal Nairobi Golf Club and housing estates like Ngei, Joseph Kangethe, Jamhuri, Woodley, Otiende, Ayany and Dam estates.

Recent requests by the Nubian Council of Elders indicate interest in allocation of 780 acres which request has been reduced to 300 acres vide letter Ref.OPM/PS/08/03/21.

Pursuant to the above, the Ministry undertook an exercise aimed at identifying the land claimed and prepared an advisory plan for the Nubian village. Advertisements were made on 4th June, 2012 in the local print media for comments by any interested parties.

Subsequently, the Kibera Stakeholder Forum argued that the allocation will be discriminative as other communities had interest in the said land. This led to the shelving of the plan in order to find solutions to the issues raised.

An inventory of the structure owner within the land was carried out by the Ministry officials and other stakeholders and the current ownership is as follows:

Name of Settlement	Structures owned by Nubians	Structures owned by non-Nubians
Makina Village	1, 192	698
Mashimoni Village	93	256
Kambi Nusu Village	389	436
Lindi Village	290	112
Total	1,964	1,502

The land also contains public utilities such as the Sub-county Commissioner’s Office, Kibera Law Courts, mosques, churches, schools and health clinics.

The committee noted that the Cabinet Secretary on 27th July, 2013 issued an allotment letter to the registered trustee of Kibera Nubian Community for 109 hectares. The Committee further noted that she was awaiting the submission of the registered trust deed from the Nubian community in order to issue a title deed.

I am able to report that so far the letter has been given to the Nubian Trust Council and the title for the 380 acres of land that had been identified for them currently is being prepared for onward transmission to the beneficiaries.

That is my response, hon. Deputy Speaker.

Hon. Okoth: Thank you very much, hon. Deputy Speaker. I also thank the Chair of the Departmental Committee on Lands very much. On this issue, we progress on the work that other people had started. The Committee has done a very good job in very many ways and I want to acknowledge the work they have done on behalf of the whole House in following up on this issue.

I especially want to recognize the Chair of this Committee as well as the Chair of the other Committees in the new dispensation. They are doing very important work and I hope that we will be able to urgently figure out how we can make sure that the Chairs of Committees get the same recognition, privilege and rights as Cabinet Secretaries.

(Applause)

This is because right now they are operating just like ordinary Members and yet they are doing very important work, for instance, the issue of Kibra and the sensitivity of it.

This work began many years ago. Many people in the Kibra community especially the Nubians have agitated for their rights and it has been a long journey to get justice. Different Government officials and agencies have been in charge---

Hon. Deputy Speaker: Hon. Kenneth Okoth, do you have a supplementary question?

Hon. Okoth: Yes, I do, hon. Deputy Speaker. However, I have to frame it.

Hon. Deputy Speaker: No! You are taking too long to frame it.

Hon. Okoth: Thank you my dear. It has been a long time. My understanding is that the allotment letter has been done and the Trust Council of the Nubians will be awarded a 99 year lease. Could we get a clarification why if this is a community trust land in an urban area that is being awarded to the community that considers it their only home, it cannot be under freehold? This is because today we are fighting for the rights of these people in the community. We do not want the next generation, 99 years from now to be having the same debate in Parliament. We would like to understand that. Even if there is a reason to explain the 99 year lease, can we get a guarantee that there will be automatic renewal for the beneficiaries?

The land as has been mentioned includes structures and residents of a cosmopolitan nature and not just from the Nubian community. What process is in place and what methods are in place to make sure that the people currently residing in this land who are not from this community will be taken into consideration? They should be compensated or resettled elsewhere to allow the Nubians to fully enjoy the rights of the land that they are being granted. This will also ensure that there is justice for the other people who from now on will be considered as squatters on this land.

The final issue is on the identity of the title owners and methods. We have talked about the land in Kibra for a long time. As recently as March, His Excellency President Uhuru Muigai Kenyatta was talking about 600 acres of land in Kibra. I know he is not a Member of this House to ascertain those facts but I believe him as our President. Today, we are talking of only 288 acres. What has transpired between March, 2013 and now that we have 312 acres disappearing in thin air? If it is owned by people, to whom have these titles been issued so that we can know the current information to avoid conflicts? I want to get more information so that I can do my job as a Member of Parliament representing those people and give them full and proper information.

I thank the Committee very much for the work it has done, its spirit of cooperation and co-ordination. The Chairman of the Committee deserves full ministerial rights.

Hon. Deputy Speaker: You have really appreciated them. Has he answered your last question?

Hon. Okoth: He will answer because he is capable.

Hon. Deputy Speaker: Hon. Chair, you have been loaded with praises.

Hon. Mwiru: Hon. Deputy Speaker, I must appreciate the praises that my Committee and I have been given. But my ability is not just as the Chair but the ability of the Committee. I would also like to thank the Member.

I want to respond very quickly on the clarifications that the Member has sought. On the issue of 99 year lease, Kibera lies within Nairobi City and the planning of the city and the titles given make all plots in the city to be leasehold. Therefore, Kibera falls in the same class.

Besides that, it is easier to cancel or revoke a leasehold title than a freehold title. So, in case of a dispute especially now that it has been given in trust to the Nubians, such a conflict can always be settled very easily than if it was registered as a freehold title.

On the non-Nubians who are already on this particular area, we have already profiled their structures. Therefore, it is an issue of excising them out of the said land so that they are also able to enjoy the title they are supposed to hold as other Kenyans.

On the matter of the identity of the title owners, I would like to say that an organisation that is already registered is an institution by itself. It can be sued. It can sue. Therefore, it is not necessary for me to give individual names. Of course, if the hon. Member wants to know the registered persons in that particular trust, I can give him the information even over a cup of tea.

On the matter of disappearance of many acres of land that were given to the Nubian community by the colonialist, I would like to say that this is indeed a historical problem found almost everywhere in Kenya. Therefore, it is not a matter that can be tackled very easily. That is why we have the National Land Commission dealing with these kinds of injustices. Therefore, this is a matter to which I can respond another day, if I am asked to do so.

Hon. Deputy Speaker: Hon. Nassir, is yours a supplementary question on the same matter?

Hon. Nassir: *(off-record)*

Hon. Deputy Speaker: No! No! Ken Okoth, can you wind up before we get the next response?

Hon. Okoth: Hon. Deputy Speaker, I am very happy with the progress that has been made so far. I look forward to working with all Members of the Committee, including hon. Dori from the Coast, who has been doing a lot of work in the Committee. As we go forward, I promise that we will work with the Cabinet Secretary and everybody else to make sure that this issue is resolved in a peaceful way, and we will share the information. The matter is not over yet. The land parcel was 4,000 acres. We will slowly and progressively take what we have got. We will request to see if there are other ways of giving justice to those people, even if it means resettling them elsewhere. I hope that our friends, especially the Leader of Majority Party will steer his office's efforts towards ensuring that the National Land Commission intervenes to do whatever else the Cabinet Secretary is not empowered to do at this point in time.

Thank you.

Hon. Deputy Speaker: Thank you. Do you still have your last response, hon. Mwiru?

DOUBLE ALLOCATION OF ADC LAND

Hon. Mwiru: Hon. Deputy Speaker, as I had earlier indicated, this is my last response, which is in respect of a Statement sought by hon. Samuel Moroto.

Hon. Deputy Speaker, the Member for Kapenguria, hon. Samuel Moroto, requested for a Statement from the Chairperson of the Departmental Committee on Lands on double-allocation and issuance of allotment letters in Chepchoina Settlement Scheme, Trans Nzoia County. The Committee invited the hon. Member, who appeared before it and briefed Members on the status of the allocations. The hon. Member was also in attendance during our initial meeting with the Cabinet Secretary.

The Committee also invited the Cabinet Secretary for Lands, Housing and Urban Development, who appeared before to respond to the hon. Member's request and address the

Committee's concerns over the matter. The Committee also toured Chepchoina Settlement Scheme---

(Some hon. Members consulted while standing on the passageways)

Hon. Deputy Speaker: Leader of Majority Party and Anna, please, find a place and sit down. Let us not have hon. Members standing on the corridors and the passageways. You are obstructing the person who is speaking.

Hon. Mwiru: Thank you, hon. Deputy Speaker.

The Committee also toured the settlement scheme and held a total of three sittings in Trans Nzoia to consider the matter. The Committee had meetings with the Trans Nzoia County Commissioner, county land officials, county leaders and local security leaders. Thereafter, we toured the scheme. In that tour, we were with the Members of Parliament from Trans Nzoia County.

The Member for Kapenguria had sought the following:-

- (i) reasons for double-issuance of allotment letters in respect of same pieces of land;
- (ii) tabling of a list of all the beneficiaries of the said allocation, indicating the *bona fide* owners of the land;
- (iii) an indication as to whose instructions police officers were acting upon during the evictions; and,
- (iv) why the Government had not taken measures to resolve the problem and ensure that peace prevailed in the area.

Hon. Deputy Speaker, the Cabinet Secretary carried out investigations on the matter, but those investigations did not give indications of double-allocation in the scheme. She further stated that the role of the Ministry was to demarcate, survey and formalise the allocations that had already been done by the Agricultural Development Corporation (ADC) and the Provincial Administration, through issuance of letters of offer. The farm belonged to the ADC, which in 1997 handed it over to the Settlement Fund Trustee (SFT) to administer the settlement scheme.

An *ad hoc* squatter settlement committee was set up to verify and ensure that the interests of all the *bona fide* beneficiaries were safeguarded. Lists of allocations for Phases I and II were provided to the Committee, which I will table after I finish responding to the Statement request. Phase I of the settlement scheme covers LR Nos.8029/3 and 8028, with an area of approximately 4,436 acres. Demarcation of this phase was completed in 2007, yielding 656 plots.

The first 492 plots were allocated by the Trans Nzoia East District Settler Direction Committee by the minutes of 1st April, 2008. The remaining 164 plots were allocated by the committee in a meeting chaired by the District Commissioner, Kwana. The phase was fully settled and SFT land loan repayment was in progress. Over 90 per cent of the allottees are from the Pokot community.

Hon. Deputy Speaker, Phase II covers LR Nos.8026/1, 8026/2 and 4140/9, comprising of approximately 10,343 acres. Demarcation and survey of this phase commenced in 2008 and was completed in 2009. The decision to sub-divide Phase II into 2.5 acres and five acres of arable land was arrived at by the settlement committee to accommodate as many landless people as possible. Identification and vetting of the beneficiaries was done by a committee elected by the local communities in a public *baraza*, held on 7th January, 2011. A total of 1,691 people were identified and the list was forwarded to the Ministry headquarters on 17th June, 2011. Furthermore, the

genuine allottees that appear in the ADC records, but who were not considered in Phase I, were accommodated in Phase II.

Phase III comprises of 3,000 acres. Demarcation and survey has been completed, yielding a total of 950 plots. The local verification committee has identified the beneficiaries from the different communities and the Ministry is awaiting the list from that committee for approval by the Cabinet Secretary and issuance of letters of offer. Furthermore, the Cabinet Secretary has instructed her officers on the ground to carry out a verification exercise to determine whether some squatters have been left out, with a view to resolving any outstanding problems through this phase.

Hon. Deputy Speaker, the Committee recommends that the Cabinet Secretary should address individual complaints on allocation omissions in Phases I and II, and emphasises that this should not involve communities. The Cabinet Secretary has already promised to do so. We further recommend that the local selection committee, including elected leaders from the area, should verify and certify the list of allottees for Phase II. We have already talked to the Members of Parliament from that area, who indicated that they are going to propose that and move forward.

Thank you.

Hon. Deputy Speaker: What is your reaction, hon. Moroto?

Hon. Chumel: Thank you, hon. Deputy Speaker. I want to thank the Committee, under the leadership of their Chairman. However, I disagree with the information that was given to the Committee by the Cabinet Secretary. I was not there during that particular session. I had attended peace meetings between the Pokot and the Turkana communities on that day. Otherwise I would have raised some concerns over the information.

Hon. Deputy Speaker, I agree with the concerns of the Committee, where they ask the leadership of that area to get further details. The Cabinet Secretary is new in the Ministry. I have lot of respect for her. The problem is that she got reports from the same group of corrupt officials on the ground. Members of the Pokot community are not the only ones who were given plots in the first phase, in respect of which the Committee talked of 90 per cent of allottees being Members of the Pokot. Since Independence, this is the only land that was given to members of the Pokot and Turkana communities, and members of other communities who were living in the ADC farm before. The land was given to the people by Chelang'a in 1997, when he was the Provincial Commissioner. The problem started in 2012, during hon. Orengo's tenure. There was a time when the Ministry of Lands sent hon. Kamama and the Director of Lands to that place to go and settle those communities that I have mentioned who are the Turkana, Pokot and those others who were working in the ADC farm. Hon. Kamama came on behalf of the Minister.

Hon. Deputy Speaker: Now, hon. Moroto, we want to hear the further clarification that you are seeking.

Hon. Chumel: I wanted to give the history, hon. Deputy Speaker. Yes, I will do that. There are two select committees. The first one was appointed by hon. Kamama and then there is this other one which came in 2012. These committees are messing us. Now, could the Chair of this Committee table the minutes that were used to appoint these two current select committees? This is because to me they were just appointed by the District Commissioner (DC) and his group. So, could he table those minutes here so that we can go further and check what happened?

Two, what steps will be followed? This is because he says that he has discussed with the Cabinet Secretary while the people on the ground have no knowledge up to now. The 2012 group who were given land the other day are now coming to evict those who are already settled there. So, could he ensure that the people who were given land in 1997 are the ones to be resettled first and then the others can follow later?

Hon. Abongotum: I would like to say something.

Hon. Deputy Speaker: Okay. Chairman, before you respond hon. Kamama who is also an interested party would also like to say something. Are you on a point of information?

Hon. Abongotum: I am seeking further clarification.

Hon. Deputy Speaker: Okay, hon. Kamama.

Hon. Abongotum: Hon. Deputy Speaker, to the best of my knowledge and recollection, I remember dealing with this matter when I was an Assistant Minister for Lands and the situation in that place and I am sure the Member for Kwanza is here and he can confirm that, is that the Pokot and the Turkana communities were actually settled there in the late 1980s and early 1990s and as you know, Trans Nzoia is a cosmopolitan county. However, there is a deliberate move by the leadership in Trans Nzoia to marginalise the two communities, that is the Turkana and the Pokots who are actually settled in that place and this is not in Chepchoina Scheme.

Hon. Deputy Speaker, Trans Nzoia has many other schemes like Mwisho Farm and others where Kenyans were settled. So, could the Chairman who is experienced in that area really promise that these communities are not going to be marginalised and that they are going to get their proper documents so that they can start farming in that particular area? It is an issue that has actually brought conflicts between communities there. So, it has to be solved as a matter of urgency. What is the Chairman doing to address these possible conflicts in this particular county?

Thank you, hon. Deputy Speaker.

Hon. F.K. Wanyonyi: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Is it on the same issue?

Hon. F.K. Wanyonyi: Yes, hon. Deputy Speaker.

Hon. Deputy Speaker: Proceed.

Hon. F.K. Wanyonyi: Hon. Deputy Speaker, I come from Kwanza. The Departmental Committee on Lands headed by the able Chairman came on the ground. I was there and I think he has mentioned that. Hon. Moroto was there. In 2007 as mentioned by the Chairman, one community got 90 per cent of the share of the land that was given. In the second phase, they got over 50 per cent. Let us make it clear, I come from Kwanza and I am aggrieved because for a Member of Parliament to say that the two communities have been marginalised and yet they got 90 per cent of the allocation, I do not know what he means by "marginalization".

Hon. Deputy Speaker, secondly, there is no conflict today between the neighbours and I think hon. Moroto is here. We are living in peace and we do not want incitement. All I want is the Departmental Committee on Lands to get elected leaders involved in Phase III of the allocation so that everybody gets his rightful share. Phases II and I allocations were biased. We are not complaining and for the Member to come and say there is tension, I think he is just fanning fire. In fact, he should withdraw that remark because I come from Kwanza and we have done so much. You have heard hon. Moroto say that we have actually even been having peace meetings and for the Member to come up and say there is tension, I think that is misplaced. I do not want to hear that because we are working very hard to make sure that these communities live in peace.

(Applause)

So, hon. Deputy Speaker, before I finish, I want the Departmental Committee on Lands to involve the elected leaders in the county so that we can harmonise the last allocation.

Hon. Deputy Speaker: Okay. I think your point has been made. Can we leave it to the Chair to clarify the questions that were asked by both hon. Kamama and Moroto and then we can move from that Statement?

Hon. Mwiru: Thank you, hon. Deputy Speaker. First of all, I want to state in this House and to Kenyans that the Departmental Committee on Lands is not biased in any way and as the Chair, I will work as a Kenyan without fear or favour. One thing I have said is that the Pokots in Phase I benefited 90 per cent from the allocations made and I can repeat again that they benefitted 90 per cent.

The other thing that I should be able to say or clarify for hon. Moroto is that there is no other authority over allocation of land, whether it is the DC, Provincial Commissioner (PC) or ADC Director. Therefore, it was just on humanitarian ground that those people who had letters signed by the late hon. Chelang'a were settled but it was not an authority. An ADC Director is supposed to develop seed or take care of cattle. On the matters to do with settlement, letters of offer can only be signed by the Director of Settlement. That is how the law is at the moment. However, on the steps to be taken to make sure that there are no conflicts, I have already stated earlier that the local leaders and leadership be involved so that conflicts that are likely to emanate can be sorted at the initial levels.

I want to respond to hon. Kamama's concern; he was my boss at that time. He was the Assistant Minister for Lands in the Ministry where I was working. I want to believe that all those who have been identified as needy cases, whom we have been advised that the Cabinet Secretary has taken into consideration, are the cases in Chepchoina Phase III. They include those who had been left out in the settlement of Phase II. They will be given the first priority regardless of which tribe or ethnicity they come from.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Ferdinand Wanyonyi, I thought you made a comment. You did not really ask a question. I think you were given ample time.

Hon. F.K. Wanyonyi: I just want to make a point clear to the Chairman of the Committee on Lands. In any allocation of Phase III we must have people from Trans Nzoia being given land, and not people from outside, either from Bungoma or West Pokot. So long as they come from Trans Nzoia, then we have no problem. I want to make it clear on behalf of the people of Kwana.

Hon. Deputy Speaker: I do not think we are allocating land on the Floor of the House, hon. Members. So, can you please go to the right forum for that? I believe the Chairman has noted that.

Hon. Mwiru: Thank you, hon. Deputy Speaker. I earlier stated that Trans Nzoia is a cosmopolitan county. I want to clarify that hon. Ferdinand Wanyonyi is not a Member of Parliament where that settlement scheme lies.

(Applause)

The Member for that area is Hon. Dr. Pukose; therefore, let him not generate more heat here. What we know are facts and the Committee on Lands visited the place.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Okay, we move on to the next response from the Chairperson of the Committee on Environment and Natural Resources. Responses first; let us leave it there hon. Moroto. Any further clarification can be done through the Committee.

Hon. (Ms.) Abdalla: Thank you, hon. Deputy Speaker; I do not see the person who requested the Statement in the House.

Hon. Deputy Speaker: Who requested it?

Hon. (Ms.) Abdalla: Hon. Esther Gathogo.

Hon. Deputy Speaker: Hon. Esther Gathogo is not in the House; so, we will not prosecute that matter.

The next response; do we have Eng. Mahamud Mohamed? I do not see you.

STATUS OF PERFORMANCE OF RIFT VALLEY RAILWAYS

Hon. (Eng.) Mahamud: Thank you, hon. Deputy Speaker. On Wednesday, 10th July, 2013, the Member for Nakuru Town East Constituency, hon. David Gikaria, MP, requested a Statement from the Chairperson of the Committee on Transport, Public Works and Housing on the following:-

(i) status and performance of the concession agreement of train operations to Rift Valley Railways (RVR);

(ii) train safety operations signaling equipment that is currently in use;

(iii) number of employees who were working in the Kenya Railways 10 years ago, those who have been retrenched, those currently employed as well as those identified for retrenchment; and;

(iv) the number of expatriates at managerial level working for the Kenya Railways Corporation.

The Committee summoned the Cabinet Secretary for Transport and Infrastructure on 12th August, 2013 to appear before it and answer to the Member's request. The Committee also invited hon. David Gikaria, for the meeting.

I wish to report to the House as follows:-

(i) The Kenya Railways Corporation (KRC) handed over its operating assets to Rift Valley Railways (RVR) on 1st November, 2006. The operating assets comprise of the infrastructure and the rolling stock.

(ii) The concession is for 25 years for freight services and five years for passenger services. The passenger concession expired on 30th June, 2012 but it is still being operated on extension agreement between the concessionaire and the former Ministry of Transport.

(iii) The Ministry is monitoring the concessionaire's contractual compliance in areas such as; freight volume targets, frequency, punctuality and quality of passenger services, payment of concession fees, capital investment, standards of maintenance of the conceded assets, safety management plans and provision of the requisite performance bonds and insurance.

(iv) The Rift Valley Railways inherited from the KRC infrastructure, equipment and rolling stock with a backlog of maintenance.

(v) The concession was restructured in 2010, with amending deeds requiring RVR to invest US\$40 million in two years, after the assumption date in ratio of five to one for Kenya and Uganda portion respectively.

(vi) The freight targets for 10 years were as follows:-

(a) by June 30th, 2013, RVR ought to have moved 1.7365 million net tonnes kilometers (NTKM);

(b) by June 30th, 2014, they ought to have moved 1.8875 million net tonnes kilometers;

(c) by June 30th, 2015, RVR ought to have moved 2.6425 million net tonnes kilometers. We are aware they have not met this target. So far the performance has been about 40 per cent of that volume.

(vii) The number of employees in the corporation as at 10th July, 2003 stood at 9,162 comprising, of 6,145 permanent employees, 374 temporary employees and 2,463 casual employees.

(viii) The restructuring of the corporation affected employees as follows:-

(a) As at 31st December, 2006, when the concession was signed, 5,687 employees were retrenched.

(b) Another 3,296 employees were transferred to RVR on 1st November, 2006.

(c) The KRC retained 179, both new and former employees.

(d) The RVR has since retrenched an additional 975 employees to rationalize the establishment at different times since 2006.

(xi) The current number of employees in the KRC is 178.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members the level of consultations is rising again.

Hon. (Eng.) Mahamud: There are no expatriates working for KRC. The RVR however, has nine expatriates working at various levels of management.

As regards the train safety operation signaling equipment that is currently used, the RVR inherited the old signaling equipment from the KRC, which operated trains up to concession commencement date. Some of the signaling equipment was installed during the construction of the railway line in the year 1900. The operation of trains is stipulated in the Kenya Railways Act, Cap 379, and Kenya Railways job guidelines and manuals, which the RVR was obliged to adopt as provided for in the concession agreement.

The technology of train safety operations has advanced significantly in the world. It is only prudent for RVR to change with the new technology to address safety efficiently. The new technology in train operation is to install a computer train control system in a room and the locomotive be installed with an onboard computer and telephone. The RVR is currently installing these systems as shown in the work-in-progress.

Hon. Deputy Speaker: Hon. Chair, Committee on Transport, Public Works and Housing, can you summarize this because I can see it is really long?

Hon. (Eng.) Mahamud: Hon. Deputy Speaker, yes, I have summarized. In fact, I have stopped there. This is the Report that we came up with and I wish to lay it on the Table.

Hon. Deputy Speaker: Hon. Gikaria.

Hon. Gikaria: Hon. Deputy Speaker, it is unfortunate that you directed earlier that if one seeks for any Statement then one is invited to the Committee so that one can interrogate and understand the issues. Unfortunately, I was out of the country when I was invited and I told the Committee the same. I have tried to follow the Statement as it was being read.

One of the clarifications I am seeking has to do with the number of expatriates working for RVR. From what I have heard there are no--- I have reasons to believe otherwise. I could be allowed until tomorrow because I have been waiting long for this Statement. I have some information which I am in a position to table, including the names of the expatriates who were working there.

Besides that, the number of employees is contrary to what I have---

Hon. (Eng.) Mahamud: On a point of order, hon. Deputy Speaker. I did not say that there are no expatriates working in the Kenya Railways Corporation. There are nine expatriates working in RVR. I have not denied that they work in RVR.

Hon. Deputy Speaker: We cannot have the same Statement again tomorrow. Hon. Gikaria, consult with the Committee and clear with it. Let any other question that you have be processed through the Committee.

Hon. Gikaria: So, you direct that---

Hon. Deputy Speaker: That you get in touch with the Committee and get any further clarification that you may want on this matter.

Are there any other responses from Committee Chairpersons? Are there any hon. Members seeking for Statements which have been signed and approved?

INVESTIGATION INTO DEATH OF MR. HAJI LUKINDO

Hon. (Eng.) Gumbo: On a point of order, hon. Deputy Speaker. Two weeks ago I requested for a Statement from the Chairperson of the Departmental Committee on Defence and Foreign Relations regarding the death of a Kenyan citizen, the late Haji Lukindo after a road accident in which an American diplomat was involved. On that day, an undertaking was made by the Vice-Chairperson of the Committee that the Statement would be delivered today.

Hon. Deputy Speaker: Is the Chairperson or the Vice-Chairperson or a Member of that Committee present?

Hon. Melly: Hon. Deputy Speaker, on the issue of students---

Hon. Deputy Speaker: No! No! I think you were not listening to hon. Eng. Gumbo. You could ask him to repeat it if you are not sure of what he actually asked. It was about a Statement. If you have no information, it is not wrong for you to say that you will inquire and get back to the Member. For the sake of time, just briefly state what it was all about.

I am told hon. Melly is not a Member of that Committee. Who is a Member of the Defence and Foreign Relations Committee? The hon. Whip.

Hon. Katoo: Hon. Deputy Speaker, it is very unfortunate because the Vice-Chairperson of the Committee yesterday said on the Floor of this House that the request for that Statement has not even gone to the Ministry for deliberation. I think this was deliberated yesterday at the House Business Committee that clerking to all the Committees is delaying the relay of information from Parliament to the Executive. I kindly seek the indulgence of the House that it bears with that situation. I am a Member of that Committee and I promise to contact the Chairperson of the Committee to see whether we will deliver this Statement by Tuesday, latest. I know the urgency and I can really feel what the hon. Member wants to say. However, because of what is going on in terms of administration of the Committees we have no otherwise other than to wait a little bit longer.

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, while I do not want to belabor this point, last week I said that as a Kenyan who believes in this country, I am very bothered about what appears to be poor treatment of Kenyan citizens. They are being treated as second grade citizens. I referred specifically to a case where a bride and her brother-in-law were murdered in broad daylight in Nairobi and the killers have not yet been found yet a foreigner who was murdered at night in Nanyuki, the killers were found two days later. These issues concern us because as Kenyans we must feel that the Government is concerned about our welfare. A Kenyan was killed and the diplomat chose to run away and I think it is important.

I want to request, through you and possibly with the indulgence of the Leader of the Majority Party that this matter touches on the sovereignty of Kenya. I would request that when the Committee deliberates on this matter, it actually calls the Cabinet Secretary so that we understand why a diplomat would kill a Kenyan and the next thing in their mind is to run away and leave behind an expectant widow who has three children. It is totally inhuman. If these issues cannot concern us Members then we are failing the people we are elected here to represent.

Hon. Deputy Speaker: Thank you, hon. Eng. Gumbo. Leader of the Majority Party you can see that these are matters of the Committee and you being the link with Government, could you undertake to---

Hon. A.B. Duale: Hon. Deputy Speaker, I totally agree with you. Committees should not have the excuse of clerks. When a Member asks for an investigative issue pertaining to a Committee, there is always a bit of laxity on the Committees; they are not taking hon. Members' issues very seriously.

Also, the issue hon. Eng. Gumbo has raised is a matter of national importance. It is a matter that we should not watch. Today our diplomats who are everywhere in the world and more so in the United States of America, if they kill an American, a Briton, French, or a German, they cannot leave those countries. They would be arrested. Here we have a situation where a USA diplomat killed an innocent father of three children living in one of the slums of Nairobi. The following evening the embassy evacuated him from the country. This is why we have the Ministry of Foreign Affairs.

I want to now direct that this Committee should bring this answer on Tuesday. If they do not bring it on Tuesday then you can refer it to me and I will engage the Minister for Foreign Affairs and International Trade and the Minister in charge of internal security to bring a comprehensive answer to the country and this House on why a foreign diplomat can kill a Kenyan and leave the country the following evening and we have a widow and her three sons suffering in the slums. This country is 50 years since Independence. Our diplomats cannot do this in Washington. They cannot do it in Paris, London, or Bonn. So, I task the Committee on Defence and Foreign Relations. This is a small matter. It is a matter of calling the Cabinet Secretary for Foreign Affairs and the Cabinet Secretary in charge of internal security. It has taken three weeks. You need to act.

Hon. Deputy Speaker: The Leader of the Majority, I would like you to work with the Committee to ensure that we get that answer by Tuesday. Tuesday, it shall be. I had given the Floor to hon. Sherrif Nassir. Are you requesting for a Statement?

REQUESTS FOR STATEMENTS

Hon. Nassir: Yes, hon. Deputy Speaker.

GAZETTEMMENT OF RECENTLY LAUNCHED *UWEZO* FUND

Pursuant to Standing Order No.44 (2) (b), I wish to seek a Statement from the Leader of Majority Party regarding the recently launched *Uwezo* Fund. We are all aware that His Excellency the President launched the *Uwezo* Fund on 8th September, 2013, to provide financial support to women and youth groups as a means to empower them economically. In the official opening, the Cabinet Secretary in charge of devolution stated that the key elements or the frameworks of the

Fund were published in a Gazette Notice on 6th September, 2013, a fact which is incorrect. In the Statement, I wish the Leader of Majority Party to inquire and report on why the Ministry has not gazetted the *Uwezo* Fund to date, yet the public has been informed that the Fund had been gazetted on the said date. When will the Fund be officially gazetted? What is the Ministry doing to resolve the delay in issuance of registration certificates by the Department of Social Services, which is hindering the disbursement of the Fund to the various qualified groups?

Hon. Deputy Speaker: Who is the question addressed to? Is it the Leader of the Majority Party?

Hon. Nassir: Yes.

Hon. A.B. Duale: Hon. Deputy Speaker, I will provide an answer on Wednesday next week. I hope my good friend will be in the House.

Hon. Deputy Speaker: Okay, Wednesday next week, it shall be. Any other signed request? I can see none. Let us move to the next Order.

Hon. Bowen: On a point of order, hon. Deputy Speaker. Last week, I requested for a report from the Chairperson of the Committee on Education, Research and Technology on students who were sent home for six years from the South East University College of Kitui. I was told that the Chairperson was going to give me the correct answer. I have not heard from her or the Vice-Chairperson.

Hon. Deputy Speaker: Committee on Education, Research and Technology, you have a lot of questions that are pending. The Chair, you undertook last week to give hon. David Bowen Kangogo a report.

Hon. Melly: Hon. Deputy Speaker, I am the Vice-Chair and on the issue of the suspended students, I have a report which the Committee sought from the University and the Ministry. It is a very lengthy report and I will go through it and shall lay it on the Table of the House.

Pursuant to the provisions of Standing Order No. 44(2) of the National Assembly Standing Orders, hon. David Kangogo Bowen, Member for Marakwet East requested for a Statement from the Committee. We sought this report from the university. The six students were suspended and the reasons for the suspension were as follows---

Hon. Deputy Speaker: Are you responding to the question?

Hon. Melly: Yes, I am responding to the question.

Hon. Deputy Speaker: But hon. Melly, why did you not let us know? I know there was a time you rose up and started answering, but you were answering a question which had not been asked.

Hon. Bowen: I had not got it and I thought it was this one.

Hon. Deputy Speaker: Okay, very quickly, but I can see that it is a very thick report. How long is that report? How many pages?

Hon. Melly: It is around 10 pages.

Hon. Deputy Speaker: No, no. Hon. Bowen, please, allow hon. Melly to go and summarize, so that you can get your answer tomorrow. You can see that he has the answer, but the time is the problem. We have quite some serious business that we need to finish today.

Hon. Bowen: Hon. Deputy Speaker, he can just highlight in form of a summary in two minutes, so that I can get to know what kind of an answer he has.

Hon. Deputy Speaker: Let my ruling stand. Let us do it tomorrow, so that you do it properly because he was expecting to read the whole 10 pages. Let him go and do a good summary and then you will get a proper answer tomorrow.

Next Order.

MOTIONS

VETTING OF NOMINEE TO SALARIES AND REMUNERATION COMMISSION

Hon. Langat: Hon. Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of Nominee to the Salaries and Remuneration Commission, laid on the Table of the House on Tuesday, 1st October, 2013 and approves the appointment of Mr. James Maina Muhoro to the Salaries and Remuneration Commission.

First of all, I want to clarify that by the time we constituted the Salaries and Remuneration Commission (SRC) in 2012, the National Police Service Commission (NPSC) was not in place and therefore, the representative of that body could not have been part of the SRC. That is why we are doing it this time, so that the SRC as composed is full and inclusive of the representative of the NPSC. According to the Public Appointments (Parliamentary Approval) Act, this House is supposed to vet the nominee from the NPSC. We have done that. My Committee held one meeting where we invited the nominee and he came. We subsequently held another meeting in which we deliberated on the answers given by the nominee.

From the outset, my Committee unanimously approved this appointment, but with some comments which I am going to share with the House. In terms of educational qualifications, my Committee confirmed and noted that, indeed, he qualifies as per the Salaries and Remuneration Act, which requires that any nominee as a Commissioner should hold a degree from a recognised university.

Hon. Ng'ongo: On a point of order, hon. Deputy Speaker. This Parliament is discussing a very important issue of a commission which is one of the most important commissions. I thought this House had a contract with the Kenya Broadcasting Corporation (KBC). I would like to know why the KBC has switched off Parliament and is concentrating on the Nairobi International Show. We have a contract and we should get value for money. So, the KBC must account to this House and if at all it is not covering Parliament, namely, either the Senate or the National Assembly, it must reimburse this House or we fail to pay for this afternoon. I am sorry for interrupting my friend, hon. Langat.

Hon. Deputy Speaker: Your point has been noted and we shall get clarification that, indeed, we are not being covered and we will take the necessary action thereafter.

Hon. Langat: The Salaries and Remuneration Act provides that for anybody to be nominated to be a commissioner, he must hold a degree from a recognized university and, indeed, the Committee confirmed that he holds a Bachelor of Arts degree. The Act also requires that the person should have knowledge in finance and administration, public management, economics, human resource management, labour laws and meets requirements of Chapter Six of the Constitution. Madam Speaker, I want to confirm that in terms of academic qualifications, the Committee was satisfied that he holds the relevant minimum qualification, which is a first degree.

There is also a requirement that the Committee should check in terms of tax compliance. We received an independent report which was sent by the Clerk's office on his tax compliance up to the time of vetting. The other thing is about Higher Educational Loans Board. We received confirmation that he has paid all the loans. There is also a requirement that we request from Ethics and Anti-Corruption Commission whether they have an issue.

We received confirmation that the Ethics and Anti-Corruption Commission is investigating Mr. Maina. After a lengthy deliberation, it was the opinion of my Committee that to say that you are investigating somebody without mentioning exactly what you are investigating, is not enough. If we were to deny the person the job just on the basis of an allegation, it would be wrong. We felt that it would be unfair to deny somebody a position because of an allegation. It is not only Mr. Muhoro who has such an allegation. I am sure Members, those of you who have dealt with CDF, know what I am saying. There are so many allegations against them, but that does not mean in any way that they are guilty. There is presumption of innocence until proven guilty. My Committee strongly felt that despite that comment from Ethics and Anti-Corruption, we should still approve the nominee until a serious matter arises and then other agencies can take over. We have all the systems in place. So, that was the main issue.

There was the issue of regional balance. Looking at the composition, it may look biased towards one region, but after a long deliberation we noted that it would be very unfair to deny him the opportunity. Indeed, the Salaries and Remuneration Commission is a very unique commission, in the sense that all commissioners are from different nominating bodies. We have a nominee from Parliament, Public Service Commission---

Hon. Aden: On a point of order, hon. Deputy Speaker. I want to ask the Chairman of Finance, Planning and Trade Committee why they are in a hurry when this Committee is already in possession of information that the said person is under investigation? The SRC is under no duress and I am not aware of any problems that particular commission is facing because of being understaffed. As a matter of fact, the Budget and Appropriations Committee, which I am privileged to be a member of has in the past been asked a question which it is going to report on, on whether these commissions are overloaded or not. Why can your Committee not wait or get to the bottom of the details of this investigation before bringing a name to the Floor of this House?

Hon. Langat: I think you need to guide the House. He needs to be patient. I am moving the Report and he will have his opportunity to make those comments at the right time.

Hon. Deputy Speaker: You are absolutely right. You know, I was asking what was out of order, but I have seen the Member was for the point of argument.

Hon. Langat: I have already explained that in a scale we are looking at academic qualifications, tax compliance and everything else including that aspect. He needs to be patient and contribute at the right time.

Having said that, I had already explained and it is on record, we once said if Ethics and Anti-Corruption Commission has an issue, they must tell us what they are investigating. If it were you hon. Abdikadir, I am sure you would not be happy if somebody excluded you just because you were under investigation. In fact, we asked the nominee whether he was aware that he was under investigation and he told us he was not aware. What kind of investigations are we talking about if somebody is even not aware that he is being investigated? I think this House must rise above pettiness. We must look at everybody fairly and look at circumstances. It can be you today; it can be anybody. There are already systems.

We approved one Chairman of Ethics and Anti-Corruption Commission and there were issues, but he was cleared. Really, let us not dwell on small negatives. In terms of the general experience of the nominee, I must confirm that he is a career civil servant. He has a career spanning 30 years of service. He demonstrated knowledge of the field as documented in the report.

Hon. Ng'ongo: On a point of order.

Hon. Deputy Speaker: Order, hon. Mbadi! Please continue and finish.

Hon. Langat: Generally, he demonstrated a wide experience in public administration. He has served in the Office of the Prime Minister and is currently working at the Office of the Deputy President. In terms of public administration, he demonstrated good knowledge of the same.

Madam Deputy Speaker, the only issues or questions which were being raised concern regional balance but as we said, we cannot use one individual to correct---

Hon. Murungi: On a point of order, hon. Deputy Speaker. I was not addressing the Chairman but the Chair. Before we continue deliberating this report, the Chairman has given us the officials or the commissioners who are holding office and *ex-officio* members. He has mentioned Mr. Joseph Kinyua, Permanent Secretary, the Treasury; Mr. Wanjuki Muchemi, Solicitor-General and Titus Ndambuki, Permanent Secretary, Ministry of State. Before we continue deliberating this document, could he kindly clarify whether these people still hold these positions or not? I think we have a new team. Why are these people now appearing as the *ex-officio* members of the Salaries and Remuneration Commission (SRC)?

Hon. Ng'ongo: On a point of order, hon. Deputy Speaker. I was a bit concerned with the remarks made by the Chair of the Departmental Committee on Finance, Planning and Trade with regard to his reference to the report from the Ethics and Anti-Corruption Commission as being petty.

Article 79 of our Constitution says:-

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

Hon. Deputy Speaker, the Constitution is not ambiguous. It is very explicit that the responsibility of ensuring compliance with Chapter Six of the Constitution with regard to integrity is the sole responsibility of the Ethics and Anti-Corruption Commission. Therefore, I find it a bit demeaning and compromising the status and independence of the Ethics and Anti-Corruption Commission to refer to a letter or an opinion from the same Commission as petty.

We may disagree with the Ethics and Anti-Corruption Commission but it will be wrong for this House to have it on record that we describe the response from the Ethics and Anti-Corruption Commission as petty reaction or petty opinion.

Hon. Deputy Speaker, I urge that you find the Chairman out of order. I request that whatever he said with regard to pettiness be expunged from the records of the House.

Hon. Deputy Speaker: I think you are right, hon. Mbadi. Hon. Langat, frame it in such a way that it does not demean the importance of a constitutional commission. Please rephrase and expunge whatever was written earlier on. Otherwise, there will be no reason why we are talking about Chapter Six.

Hon. Langat: Thank you, hon. Deputy Speaker. I have always said that the House must rise above pettiness. I think that is the statement that will carry the day. But I withdraw that if it makes my friend uncomfortable. So, I withdraw that word.

So that we make progress, I want to respond to my friend who rose on a point of order on the other *ex-official* members. That was the Commission as composed in 2012. The names the Member has read out are actually institutional officers. He should quickly note now that if there is a change in Principal Secretary, the new Principal Secretary will sit in that Commission. I would like to convince the hon. Member that the names are as constituted in 2012. That is the list as constituted in 2012.

Hon. Deputy Speaker: You need not belabour that point, hon. Langat. I think the point is clear. It is the institutions being represented and not specific names of individuals.

Hon. Langat: Hon. Deputy Speaker, the nominee declared that he had already been charged with regard to the sale of shares of Kenya Seed Company (KSC). At one time he was the alternate Director to the Permanent Secretary for one meeting in which they approved the sale of the shares of KSC.

He also tabled a ruling in the Committee that he was subsequently acquitted of that charge. So, he was that honest to table that ruling which is attached to the report. I want to request the House that we approve this nomination so that the SRC is now complete. The list should now be complete so that the National Police Service is represented in the SRC. We hope that this nominee will be a voice of soberness in that Commission which one, Linturi had an issue with. This will enable the Commission to discharge its duties properly.

Hon. Deputy Speaker, I request the House to approve---

Hon. Deputy Speaker: Your 20 minutes are over!

Hon. Langat: Hon. Deputy Speaker, I was interrupted many times. I would like to request hon. Dawood to second the Motion.

Hon. Linturi: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Dawood is seconding this Motion. Can we please leave the points of order until I have proposed the Question? Order, hon. Linturi.

Proceed, hon. Dawood.

(Hon. Linturi stood up in his place)

Hon. Dawood: Thank you, hon. Deputy Speaker. I would like to indulge you to ask hon. Linturi to sit down. Thank you.

I would like to second my Chairman. We vetted Mr. Muhoro for the post and as has been stated by my Chairman, he has a wealth of experience. He has worked in various Government positions; he is qualified. He does not have any tax arrears or any other obligation and he has never held any political office nor does he have any political affiliation. Despite being charged in a court of law, he was acquitted in 2008.

On the matter regarding the Ethics and Anti-Corruption Commission, I want to put it here categorically that some of the Parliamentarians who are here had issues with this Commission. They went ahead, got cleared and won the elections. So, the Ethics and Anti-Corruption Commission should come out clearly. If they are investigating somebody, they should say the crime he or she has committed. They should also inform that person properly.

Hon. Deputy Speaker, we had a few issues regarding regional balancing. But when we talk about regional balance, do we mean ethnic balancing or regional balancing? This is because there are some regions which are cosmopolitan and you can have all ethnic groups there. So, Members would talk about regional balance or ethnic balance. So, we should get it right in this case.

I want to state it here that many of us from Meru or Central Kenya are termed as being Kikuyu. We are not. We are from Mount Kenya East and we are Meru. We are different from the Kikuyu. Many of these issues were raised in the Committee and I would like to state it openly.

Hon. Members: You are Jubilee!

Hon. Dawood: Yes, we are Jubilee and we do not deny that.

Hon. Deputy Speaker: Order, hon. Members! He is clearly including himself in that categorization.

Hon. Dawood: Hon. Deputy Speaker, we are Meru and Meru are not Kikuyu. So, we should not be grouped as being Kikuyu. We come from Mount Kenya East and we do not come from Central Province. That should be put in a proper perspective.

The mandate of our Committee was not to choose anybody. That was the mandate of the National Police Service Commission. Mr. Muhoro was one of the six people who were chosen from 86 people. He was the one who was nominated. He is just a nominee from the National Police Service.

If Members of this House feel that the National Police Service did not do justice, they can petition it and not the Departmental Committee on Finance, Planning and Trade which was given the mandate to vet a nominee who had been appointed. He was not nominated because of regional or ethnic persuasions.

Hon. Deputy Speaker, with those few remarks, I support my Chairman and urge the House to look into this matter. This is not a Jubilee or CORD affair, but it is us. It is James Maina Muhoro. He is not the Director of the CID and he is not a police officer. I urge this House to approve this nominee because we want to complete the composition of the SRC which has been long overdue. This is the time to do this. Let us not be bipartisan. Let us support the nominee.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Did you say “let us not be bipartisan” or did you mean “let us not be partisan”?

Hon. Dawood: *(off-record)*

Hon. Deputy Speaker: That is okay, but you need to say that you are seconding. You said that you were supporting.

Hon. Dawood: Hon. Deputy Speaker, I meant “let us not be partisan”. Let us be for Kenya and support the nominee. I think we will have done a great job today, if we do so.

With those remarks, I beg to second.

(Question proposed)

Hon. Deputy Speaker: Yes, hon. ole Metito.

Hon. Katoo: Hon. Deputy Speaker, I stand to support the Motion.

I want to urge the House to care about the welfare of police officers. This is the Commission that determines salaries and other remunerations as well as privileges for police officers. The nominee is supposed to represent the interests of police officers in the Commission. We have even seen in the recent past, police officers putting their lives on line while on duty, trying to defend the citizens of this country.

Hon. Deputy Speaker, a lot has been said about the welfare of police offices. I would, therefore, request hon. Members to be considerate. If we are to uplift the morale of police officers, we need to have somebody who is knowledgeable about police welfare in the SRC. This is the time to approve this nominee for the benefit of the welfare of police officers. Having been a Minister in charge of the police in the past, I would like to inform this House that there is a problem of housing for police officers.

(Hon. Abongotum consulted loudly)

Hon. Katoo: Hon. Deputy Speaker, the Chairman of the Committee is---

Hon. Deputy Speaker: Committee Chairman, you are the one causing disruption. If you are going to lobby, call the hon. Members somewhere in the back and do so there, please.

Hon. Katoo: Hon. Deputy Speaker, I know that he is lobbying but he should do so quietly.

I was talking about housing for police officers. These are some of the things that the SRC needs to look into. As leaders in this country, all hon. Members have constituents who are police officers. We all know the kind of houses they live in. When it comes to accommodation, there is no difference between married and unmarried officers in the National Police Service. Therefore, let us pass this nominee for the PSC. One of the most important things that they should look at as the SRC, is giving police officers better conditions of living.

Hon. Deputy Speaker, another area that needs to be looked into is that of medical attention. This House should know that when police officers get injured while on duty, they depend on the goodwill of their colleagues, through their SACCOs to raise funds for treatment. There is no insurance for police officers. We should, therefore, approve this nominee, so that he can present the issue of police welfare in the SRC. At this juncture, I would like to urge the SRC to look into ways of creating an insurance scheme for police officers or provide funds for construction of a referral hospital for them – a hospital similar to Forces Memorial Hospital for Kenya Defence Forces (KDF) personnel.

Alternatively, we should provide for them a good medical scheme because they perform very dangerous duties. Police officers get injured all the time, as they perform their duties but they do not have any medical scheme. There is no provision for compensation for loss of life even as we speak.

(Loud consultations)

Hon. Deputy Speaker: Order! Order, hon. Members! The consultations are too loud. We cannot hear hon. ole Metito's contribution.

Hon. Katoo: Hon. Deputy Speaker, there is no provision for compensation for loss of life to the next of kin of police officers who lose their lives in the line of duty, trying to defend this country. Almost every day, we have burials of police officers who lose their lives in the line of duty. We have no compensation scheme for their next of kin. Since the hon. Members of this House represent the constituency called the "National Police Service" they always seek Statements on what the Government is doing to compensate the families of police officers who lose their lives in the line of duty.

Therefore, this is the right time for us to approve this nominee, so that he can sit in the SRC and raise issues of welfare for police officers, including the ideas of establishing a medical insurance scheme for them and provision of compensation for loss of life to the next of kin of officers who die in the course of performing their duties. That way, the morale of police officers will be uplifted and they will continue to serve this country better. So, I urge this House to approve this Motion.

Hon. Deputy Speaker, if I may repeat what the Chairman said about this nominee being investigated, this House previously approved the nomination of persons who were under investigation. It has been resolved that being under investigation is no reason for one to be denied a job. Once investigations reveal that one has a case to answer, he will step aside. An investigation may turn out negative. Since there is no resolution by the Ethics and Anti-Corruption Commission, let us pass this Motion. If the investigation outcome turns out to be that the person needs to be

charged in court, he will step aside. Therefore, I urge my colleagues to have the interests of police officers at heart as we debate this Motion.

With those remarks, I beg to support.

Hon. Deputy Speaker: Yes, hon. Nkaisery.

Hon. (Maj-Gen.) Nkaisery: Thank you very much, hon. Deputy Speaker. I am on a point of order. I have no problem with the name of James Maina Muhoro but I have a problem with the Motion. The Motion is defective. This is because when you heard the Chairperson of the Committee moving the Motion, he was referring to *ex-officio* members of the Commission who are people who have already left those positions. Mr. Kinyua is no longer the Treasury Secretary; Njuki Mwaniki has already retired; Njee Muturi is now there and Ndambuki is a retired person. So, instead of bringing one name, the Committee should have sat down and brought all the names so that this House does not approve reports on a weekly basis. That is point number one, hon. Deputy Speaker.

Point number two which is very fundamental, and we do not know what this Committee was doing, is that when you look at the members of this Commission, it is bloated. When you look at the membership of that Commission, it is composed of 12 members and 50 per cent are from one ethnic group.

(Applause)

Hon. Deputy Speaker, I think this is Kenya and we should actually be a House which manages the diversity of this nation. So, in my view, my point of order is that: Should we adopt this report? It is a defective report and I would like the House to withdraw it and then the Committee goes and brings proper recommendations.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Okay. Hon. Benjamin.

Hon. Langat: Hon. Deputy Speaker, I think the General is misleading the House. First and foremost, this is a constitutional commission with membership defined in the Constitution. The numbers are already defined in the Constitution. So, it is wrong to mislead the House that the Commission is bloated. This is provided for by the Constitution. When I was moving the Motion I said that it was the National Police Service Commission as at that time. That is why this name is coming in. Number two, I have explained that the Commission was constituted in 2012 and whatever he is saying, those are *ex officio members* who were there by virtue of their offices. If you look at the Constitution, it is the office not an individual.

Hon. Deputy Speaker: Hon. Members, really let us not belabour that point. If you look at the report on page 5, this report before us is coming to the House pursuant to the communication that was given by the Speaker on 17th September, 2013 which says:

“We inform the House that Principal Secretary for the Ministry of Interior and Coordination of National Government vide letter dated 20th August, 2013 had communicated that the National Police Service Commission had nominated James Muhoro as its representative in the Salaries and Remuneration Commission (SRC).”

So, subsequently the Departmental Committee on Finance, Planning and Trade was directed to conduct approval hearings pursuant to Article 118 of the Constitution. So, they are just fulfilling a requirement that was already constitutional. The SRC was not fully constituted because this member had to be nominated by the National Police Service Commission.

On the question of Kinyua or the other names that you have cited, they are not there. We do not even vet them because they are there by virtue of their offices. They can be substituted by any names because they are representing the institutions. It is not them as persons that are included in that list. So, hon. Members, let us not pursue that line of argument anymore. I think we have sufficiently cleared and we need to move on. Hon. Linturi, I remember you were burning with some point of order.

Hon. Linturi: Yes. Thank you, hon. Deputy Speaker. I am very grateful for giving me this opportunity. At that time I was really burning because the Chair of this Committee wanted to make this matter personal. I wanted to tell him that there was nothing personal between me and Mrs. Serem. I was only defining the law and the Constitution of this country because I have a duty to do so as a Member of Parliament. This is why I also want to take this opportunity to support this Motion despite the misgivings that I have with that Commission because I believe in the rule of law. I believe that in the event that something is wrong, we must use the right channels as provided for by the law.

Hon. Deputy Speaker, I want to support this Motion because I have a lot of feelings, respect and love for the police force of this country. You know each one of us seated here probably has a bodyguard. These people are supposed to be looking after your welfare and what pains most is that if there was a bomb or grenade that was thrown into this House, each one of us would be running to the exit in order to escape while the police officers outside here would be running towards the Chamber. This makes it very difficult for them because these are human beings, brothers and sisters and these are people who have blood flowing in them. When I look at the conditions under which they live or operate, they are terrible.

I support this Motion because I believe with the appointment or the inclusion of Mr. James Muhoro in this SRC, he will be able to plead the case for the police properly so that the SRC that has the mandate of fixing salaries or remuneration and other benefits for State officers can understand the conditions under which police officers work.

Hon. Deputy Speaker, I do not want to say much beyond that and I think we must approve the name of Mr. James Muhoro so that he can put forward the case of police officers. We have a police force that is demotivated and most of the times they are on go slow because there has not been anybody who has tried to really argue their case.

So, hon. Deputy Speaker, I support this Motion.

Hon. Shimbwa: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order?

Hon. Shimbwa: Hon. Deputy Speaker, first of all, it is not right for hon. Linturi to refer to Members of Parliament as cowards. I think we are the bravest of all in this country. Secondly, going by the General's comment about the diversity of the members of that Commission, maybe it would be proper for the Chairman to give us the membership of that Commission because this House especially this 11th Parliament---

Hon. Deputy Speaker: Hon. Mwinyi, have you read the report? The membership of that Commission is in the report. So, you do not need the Chair to inform you.

Hon. Shimbwa: Yes, but this House is actually supposed to be addressing the historical injustices and if the statement given by hon. Nkaissery is true then we must actually look into that matter seriously.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you, hon. Mwinyi but it was not a point of order.

Hon. Members: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Members, really we do not want to belabour the same point. Hon. James Wandayi, you are next but not on a point of order but to contribute.

Hon. Wandayi: Hon. Deputy Speaker, thank you very much. I just want to refer you to the provisions of Article 10 of the Constitution.

Before I do that, hon. Deputy Speaker, I must declare that I do not know this James Maina Muhoro personally. If you look at Article 10(2) (c) of the Constitution you will realize that it talks about national values and principles of governance including good governance, integrity, transparency and others. If you look at Article 73, the operating word here is “integrity.” If you look at Article 73(2)(a), the guiding principles of leadership and integrity include among others selection on the basis of personal integrity and many others. The operating word here, again, is “integrity”.

Hon. Deputy Speaker, if you look at the annexure to this Report, one of them is a letter from the Clerk of the National Assembly to the Ethics and Anti-Corruption Commission (EACC). If you allow me, I will read it. It is addressed to the CEO of that Commission and second last paragraph states thus: “This is to request you to provide information touching on the integrity of the nominee---” In their response, the EACC states in the second paragraph: “We confirm that we have received allegations against Mr. James Muhoro who has been nominated to the above position. The Commission is actively investigating the allegations to confirm appropriate course of action.”

These allegations, pursuant to the letter that was written to the EACC by Parliament can only be allegations touching on integrity. That is my submission.

Hon. Deputy Speaker, one of the cardinal principles of good governance which has been observed in this country over time is that whenever you hold a public position and any investigations are commenced against you, the first thing you do is to step aside. Why then would you want to bring somebody to a position when there are serious investigations actively in progress by the EACC?

Hon. Muchai: On a point of order, hon. Deputy Speaker. I rise because of the statements that the hon. Member has made with regard to this nominee being under investigation. According to him this would amount to the nominee’s integrity being in question. I do not know whether that would be in order given that investigations stem from suspicion, they move to allegations and finally investigations. The root cause of investigations and allegations is suspicion in the first instance. Suspicion, however, strong is not sufficient to deprive one his human dignity. The hon. Member is completely out of order in suggesting that for a simple reason that this nominee has been suspected and allegations made against him and he is under investigation, therefore, his human dignity is in question and he must be deprived. I find that to be out of order. The hon. Member should be so ruled.

Hon. Deputy Speaker: Hon. James Wandayi, finish your contribution.

Hon. Wandayi: Hon. Deputy Speaker, I will obviously ignore that point of order because it is not relevant. This House does not act in vain. This House cannot just pass a resolution to appoint somebody in a position while we are aware that very active and serious investigations on his integrity are underway by a Commission which is mandated to do so by the Constitution. If at all we went ahead and passed this nominee today and then tomorrow the EACC resolves that this person needs to be taken to court, we shall have done zero work. The simplest thing is that this person stays away until his name is cleared.

Hon. Kamau: On a point of order, hon. Deputy Speaker. I want to seek directions from the Chair on this matter which I think will actually determine how our future deliberations and

debates in this House, perhaps, might continue. If you look at this letter it actually says, and I read--

Hon. Deputy Speaker: Which letter are you referring to?

Hon. Kamau: The letter from the EACC. It reads as follows: "We confirm that we have received allegations against Mr. James M. Muhoro who is a nominee to the above position. The Commission is actively investigating the allegations to inform appropriate course of action."

Hon. Deputy Speaker, it does not even say what type of allegations these are. It is a very vague letter, in my opinion. The only question, perhaps, that you need to advise us on and make an informed decision on is whether allegations alone are enough to declare that one does not have integrity. That is what I would want you tell us. This is because if somebody wants to block someone they could simply get a letter declaring allegations against somebody and then one will not proceed.

Hon. Deputy Speaker: Hon. Members, I think that is a valid point of order.

Hon. (Ms.) Nyasuna: Hon. Deputy Speaker as you consider the points raised by hon. Jamleck Kamau, it is also important to note what has happened in the past. You will see clearly that in this Report, Mr. James Maina, whom I do not know and I have nothing against was actually charged in 2004. This is the point here. He was interdicted. The letter says in part: "Following your arrest by police on 26th May and your charging, we have interdicted you."

When this matter, however, went to court and he was cleared there was a lifting of the interdiction. If this is the same principle that could apply then there is no marathon or hurry that the EACC is in currently. Why can we not await conclusion of the investigations that the EACC are currently undertaking so that we then bring this gentleman to the Floor? I am speaking like this because this gentleman has a family and children. We do not want to disgrace him. We want to treat him with respect. We want him to be cleared. We want his name to come to the Floor when it is already cleared. We have nothing against this gentleman.

Hon. Deputy Speaker: Order! Hon. Kimaru. We have two Kimarus and I did not mean hon. Kimaru Bett, but the other Kimaru.

Hon. Kimaru: On a point of order, hon. Deputy Speaker. On the issue that we are debating heatedly, there was a court ruling before we went for the elections. Many of those who are sitting here today would not even have been able to contest elections were that particular ruling not made; that presumption of guilty would only occur when you have gone through the court process and have been proven guilty.

Hon. Deputy Speaker: Through the appeals.

Hon. Kimaru: Hon. Deputy Speaker, I have suffered the same kind of treatment that some Members of this House would want to subject Muhoro to. Before the elections were conducted, somebody went to court accusing me of hate speech, which was not valid. If the elections were not pushed to March, I would not have contested and injustice would have been done to me. That is the same kind of injustice that some Members want done to this innocent Kenyan.

Hon. Members: How do you know?

Hon. Kimaru: He is innocent. He has not been proved guilty. So, he is innocent. If the Members can allow me to finish making my point, let us not use these strange methods to prevent people from ascending to certain positions. If we allow this to continue, every other time somebody will be appointed---

Hon. Deputy Speaker: That is a point of argument. You made a good clarification earlier, but you have passed your time. Your point has been made.

Hon. Katoo: On a point of order, hon. Deputy Speaker. The point is very clear here. The precedent has always been that investigation cannot stop you from being in office. Let us be tolerant.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! You are all going to get opportunity, but can you listen to each other. Do not think that it is only your point that is important. Other people's points are also important. So, can we listen?

Hon. Katoo: Hon. Deputy Speaker, it is wrong for the Members not to be tolerant. You have to listen. Even when you were on the Floor and maybe you were giving misleading information, we were tolerant and we listened to you. Once you are being investigated, you continue with your job. We have seen Permanent Secretaries and Ministers and once they are charged, they step aside. If the ruling is that you have no case to answer, you go back to your job. So, even if we approve this nominee---

(Loud consultations)

Hon. Deputy Speaker: Order! The consultations are too high.

Hon. Katoo: Hon. Deputy Speaker, even if we approve this nominee, he will not stop any investigations from going on. How many Members of Parliament are being investigated now? Why have you not resigned from your position? You are being investigated, we know. Yesterday, somebody said here that he is going to Kisumu for a court hearing. Why has he not stepped aside? He will not step aside until a ruling is made. So, please, just make your contribution and if you are opposing the Motion, oppose it, but do not try to block it.

Hon. (Ms) Wahome: On a point of order, hon. Deputy Speaker. This debate is being generated from the point of view that there is a letter from the Ethics and Anti-Corruption Commission that suggests that there is an investigation. I want to raise the issue that once this kind of a letter is written, in ordinary circumstances, when they want you not to get the job, they would be saying that there is a caution that this person should not be considered.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! You risk being thrown out of the House. Allow Members to speak.

Hon. (Ms.) Wahome: Hon. Deputy Speaker, the letter has not given any caution to the Committee. It has not also said that there is any objection from the Ethics and Anti-Corruption Commission that this person should not get the job. Should we move the way we want to move that when a letter like this is issued, then that person automatically falls out from consideration, I think we shall not apply prudence, fairness and reasonability. These are standard letters that are issued by the EACC. Sometimes we know that these kinds of letters can be induced by persons who may have the intention of stopping or barring somebody from getting a job. The other issue that was raised by hon. Wanga is that this person had been charged. Until proven guilty, the person was taken to court but was released. He was not convicted. Are we talking about conviction? We cannot apply standards differently. This should be supported.

Hon. Wandayi: Hon. Deputy Speaker, I have about seven minutes remaining.

Hon. Deputy Speaker: No, no. You have only got two minutes.

Hon. Wandayi: Hon. Deputy Speaker, the principles as laid out are so clear that if there are active investigations, the EACC does not just investigate people anyhow and everybody, for any matter. For them to confirm that they are investigating you and then your name is brought before this House, then something must be wrong. It appears, therefore, that positions in this Commission are a preserve of a certain breed of people that even if they are being investigated, they have to be pushed into those positions at all cost. This House will be setting a dangerous precedent if it approves the appointment of this gentleman. That will be the impunity of the highest possible order.

Besides the investigations, the court case that was referred to is my next point. This gentleman was taken to court sometime in 2005 or 2004. Upon being taken to court, he was interdicted.

Hon. Deputy Speaker, what is curious is that this interdiction was lifted before the court case was concluded. Therefore, this is basically a manifestation of the intrigues and conspiracies in the Public Service that have led us to where we are in this country. Therefore, to go ahead and appoint this gentleman would be to further the impunity that has continued to kill us in this country.

I, therefore, I want to oppose this Motion vehemently. I want to oppose the appointment of this gentleman in totality and urge my colleagues to do the same.

Thank you.

Hon. A.B. Duale: Thank you, hon. Deputy Speaker. I stand to support this Motion. Before I go very far, I want to call upon my very good friend who has just spoken, hon. Opiyo, that it is not about how you raise your voice. It is the kind of substance in your contribution. Even the letter from the Ethics and Anti-Corruption Commission--- I am sure there are various ways in which EACC communicates to Parliament. They will tell you: "The above nominee is under investigation and this is the file number. The nominee has a case in court and we are pursuing him." But here they are saying: "We have received allegations."

Hon. Deputy Speaker, Mr. Francis Kimemia, the current Secretary to the Cabinet had worse allegations from the EACC. They appeared before the Departmental Committee on Administration and National Security and they retracted them.

(Hon. Members stood up in their places)

Hon. Deputy Speaker: Order! Order, hon. Members!

Hon. A.B. Duale: Hon. Deputy Speaker, I want to be protected.

Hon. Deputy Speaker: Hon. Members, there must be order in the House. Order, hon. Members!

Proceed, Leader of Majority Party.

Hon. A.B. Duale: Thank you, hon. Deputy Speaker. The CEO of the EACC appeared before the Committee chaired by none other than the Chairman of Administration and National Security Committee and retracted his letter. He gave a letter clearing the nominee.

(Loud consultations)

These people who make noise behaving as if this is a market--- This is a National Assembly, listen to me, I have the Floor.

Hon. Deputy Speaker: Order, hon. Members!

Hon. A.B. Duale: Hon. Deputy Speaker, out of the 24 Principal Secretaries, seven---

Hon. Ng'ongo: On a point of order, hon. Deputy Speaker.

Hon. A.B. Duale: I am contributing!

Hon. Deputy Speaker: Please continue.

Hon. A.B. Duale: If you relax hon. Ng'ongo, you will have your say. I have the chance. I am not on a point of order, I have been given chance to contribute.

Hon. Deputy Speaker: He is not on a point of order.

(Loud consultations)

Hon. A.B. Duale: Hon. Deputy Speaker, the truth must be told and people do not want to hear the truth because they want to play ethnic politics.

Hon. Deputy Speaker: Hon. A.B. Duale, I think you want to live by your own words. You have just said, please, it is not about how loud the voice is. You have to bring it down.

Hon. A.B. Duale: Hon. Deputy Speaker, I take your guidance. Twenty four nominees for the Principal Secretaries slots were brought to this House. The HANSARD will prove right. Out of the 24, *The Star* carried eight of those nominees. One morning they walked to EACC, which is a creation of this House, and came before many Departmental Committees with letters clearing those Principal Secretaries. They are serving the Government.

When a report of this nature is brought – I want to beg my colleagues, Kenya is a country of 47 tribes. Let us charge individuals based on the benchmark that we set as Parliament; integrity and qualifications. The moment we charge somebody because he comes from region “X” or tribe “X”---

Hon. Shimbwa: On a point of order, hon. Deputy Speaker.

Hon. A.B. Duale: I am contributing; you will have your say. I am contributing from the Floor of the National Assembly and I do not want to be replied to. I want to be on the HANSARD. You will get a chance and you will reply to me. My good friend hon. Mwinyi, give me time.

Hon. Deputy Speaker, today you will have one from one region; tomorrow we will have another person. The Motion before this House has six members that a Committee of this House, in its wisdom, has rejected. It is for this House either to agree or not to agree with that Committee.

This House is not a conveyor belt; it is a House of hon. Members. We will look at individuals based on---

Hon. Member: That is impunity of the highest order!

Hon. A.B. Duale: There is no impunity. A Committee of this House with hon. Members from both sides of the House scrutinized this report. They have cooked, they have put all the salt and sugar and they have brought it to the House. Let us debate it very soberly. We are sending the same nominee to SRC. Let us not be hypocritical, in the near future, this House is going to receive a Bill to remove us from the category of State officers.

Hon. Members: *(Inaudible)*

Hon. A.B. Duale: I will go there! We ourselves do not---

(Loud consultations)

Hon. A.B. Duale: Protect me, hon. Deputy Speaker.

Hon. Deputy Speaker: Order!

Hon. A.B. Duale: Hon. Deputy Speaker, I want you to protect me from my good friend, the hon. Member of Suba Constituency. This is not a fish market! This is the august House, not a fish market. It is the Eleventh Parliament.

Hon. Deputy Speaker: Order, hon. Member!

Hon. A.B. Duale: With those remarks, I vehemently support the Motion.

Hon. Deputy Speaker: Order! I want hon. Isaac Mwaura to contribute.

Hon. Mwaura: Thank you, hon. Deputy Speaker. I rise to support the nominee, Mr. James Maina Muhoro because I have worked with this gentleman. Before I came to this House, I was an advisor to the Prime Minister on Special Interest Group and I worked with Mr. Muhoro in the office. I can attest that he is reliable, honest, and very competent as an administrator. It is somebody we depended on very much in the office.

Let us not judge this issue based on ethnicity. The National Police Service Commission is chaired by one, Mr. John Kavuludi and through their decision they have nominated Mr. James Maina Muhoro as a nominee to the SRC, just like Parliament has Mr. Peter Oloo Aringo, the former Member of Parliament.

I rise to actually support Mr. James Maina Muhoro that he should not be prosecuted out of emotions and public discourse that have nothing to do with his character. The National Police Service Commission right now has been constituted by people who are from various backgrounds. We need people who are from various backgrounds. We need people who are career administrators. In fact, I would want to say that Mr. James Maina Muhoro is actually a principal secretary material. If you look at his curriculum vitae, he has been able to chair two secretariats. He is actually the one who set up the Secretariat of the National Police Commission. He was actually recruited as the CEO.

Therefore, we cannot sacrifice experience and talent based on mere allegations. Anybody can go to the Ethics and Anti-Corruption Commission and write letters of various allegations to anyone of us seated here. Does it mean that based on those allegations you are supposed to vacate office? Until you are charged and proved guilty, you are innocent. At this point in time, this is not a question of party; it is a question of individual's integrity.

I would like to support.

Hon. Deputy Speaker: Thank you. I will now give an opportunity to our latest hon. Member who has requested to make a few words. Please come to the Dispatch Box, hon. Oyoo from Bonchari Constituency.

The Member for Bonchari (Hon. Oyioka): Thank you, hon. Deputy Speaker. I rise on two issues. First, I would like to make my maiden speech which has been long overdue.

(Applause)

Secondly, I will contribute to the Motion.

First and foremost, I wish to thank the people for Bonchari for giving me victory which has made it possible for me to be in Parliament today. Though I believe in pre-destiny, initially, my seat was taken from me unfairly but because God had put the pre-destiny which I have talked about, I went to court. I thank the Judiciary, especially the High Court in Kisii for using adduced evidence to find me to be the duly elected Member of Parliament for Bonchari. That is why I am here today. My advocates are in the gallery and I wish to thank them for doing a very good job.

Thirdly, I want to thank the Jogoo – Kenya African National Union (KANU) which gave me relentless support from the beginning, during the petition up to now. I think KANU is the party to watch and I am very serious about this.

(Laughter)

Hon. Deputy Speaker, this is the first time to be in the august House. I am surprised that people have turned this House into a shouting contest.

Hon. Members: Aaah!

The Member for Bonchari (Hon. Oyioka): Hon. Deputy Speaker, I need your protection. One should contribute, make his or her points---

Hon. Deputy Speaker: Order, hon. Oyioka! You also do not cast any aspersion on the Members. Because you have just come and you have not learnt the traditions, just make your contribution. Finish your contribution.

The Member for Bonchari (Hon. Oyioka): Hon. Deputy Speaker, I am saying that we are looking for an ideal situation which will not be available. If somebody has been alleged, then the person remains innocent. It is on that basis that I say that whereas I do not know Mr. Muhoro, he should be given the chance to serve this country. He can step aside if he is found guilty.

Hon. Deputy Speaker, with those remarks, I support the Motion.

Hon. Bunyasi: Thank you, hon. Deputy Speaker. I rise to speak on issues that I think in my view touch on our core values. Therefore, I should not be blamed for stating whether I am for or against, but I will do that at the end.

I was looking at Chapter Six, Article 73(1) (a) (iv) of the Constitution which says:-

“Authority assigned to a State officer is a public trust to be exercised in a manner that promotes public confidence in the integrity of the office.”

We cannot assume that Mr. Muhoro is guilty in any way. Nobody has said that. However, I would like this House to confront the issue of perception more broadly than this particular nomination. We need to clarify this so that when the Ethics and Anti-Corruption Commission comes back, we should give a degree of judgment whether the House should ignore it or proceed with it.

As it is now and to the extent that we are going to rely on the input by the Ethics and Anti-Corruption Commission, we will have a problem. I think the House is more to blame than the Commission because the House has tolerated vagueness right from January. If we could clarify that, it could be very helpful, indeed, even as we maintain the principle that you are innocent until proved guilty.

I also suggest that in cases of such nature, and I have no doubt about the arguments in favour of the National Police Service Commission because I subscribe to that entirely as stated ably by the Chief Whip--- However we should move this responsibility back one step. Before those proposals were done, the National Police Service Commission could have sought from the Ethics and Anti-Corruption Commission if there were any issues that could impede such nomination so that we could not be guessing by the time the names come here.

The second point is that we are dangerously close to implying that the Ethics and Anti-Corruption Commission does not do its work. If that is the case, I think it is in order for the House to put measures in place that will force, induce or persuade the Ethics and Anti-Corruption to be more decisive.

On that basis, I think the House might be confronted with a situation in which we may appear to be thinking along partisan lines. In nominations of this nature, it will be very important if the House could have been bipartisan.

The House should not be put in a situation in which we have to consider cases of this nature. What worries me is that the House in its own wisdom in January threw out this requirement of integrity which I think was a major mistake. I hope it comes back again before the next election.

Hon. Deputy Speaker, the House should also be clear on what it will do with the candidates where such cases arise. We are not just discussing it only in respect to this nominee, but because we have very many such cases coming up.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you, hon. Bunyasi. We always benefit from your wisdom. Like the rest of us, we have very valid contributions that we make in this House. Going by what was asked of me by hon. Bunyasi and hon. Jamleck on the way forward in terms of what we do with cases of integrity and particularly that we get very vague responses from the Ethics and Anti-Corruption Commission, we will give a more comprehensive ruling on this. This will not affect the current cases. It will be for all our future dealings of integrity. We should get a clear direction for the House to be able to prosecute these kinds of cases instead of guessing whether we should see it as guilty or not.

In future, we will expect a more decisive answer from the Ethics and Anti-Corruption Commission. However, a more comprehensive ruling on this matter will be given. I have clearly said that this will not affect the case that is before us today.

Thank you.

Hon. M'uthari: On a point of order, hon. Deputy Speaker. I request that the Mover be called upon to reply so that we can clear this debate and go to other matters. There is a lot of business ahead of us. I rise on Standing Order No.95.

Hon. Deputy Speaker: I will indulge you and give two more. Members, you still have ample time because even the next one is a debate on appointment. So, let us finish with this and move on to the next Order.

Yes, hon. (Eng.) Gumbo.

Hon. (Eng.) Gumbo: Thank you, hon. Deputy Speaker. Listening to the Members, I want to take this debate entirely differently. I wish hon. Members could listen to me. There is a joke that is doing around in the internet now and it is not good for us. It says that if you want to divide Kenya, involve the politicians but if you want to unite Kenya, involve the terrorists. I do not know whether it is a good joke or a bad joke. However, as leaders of Kenya, let us think about it. We divide ourselves along political lines and when the terrorists come calling, we say we are one. It is a statement of fact.

(Loud consultations)

Please, give me my time to speak.

Hon. Deputy Speaker: Order, hon. Members!

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, this is a good opportunity for us to look at the whole spectrum of constitutional commissions. We are taking it, dragging it and moving along partisan political lines which to me is not favourable. I have said it here on the Floor of the House and I want to say it again that if there is a defect in the Constitution we passed in 2010, it is the burden that the commissions have put on the Kenyan public. It is very clear in the Constitution. It

says between three and nine Commissioners. But in a bid to pursue this elusive thing called “ethnicity or regional balance” as if we can fit every community in one Commission, we insisted on going for nine commissioners. It is elusive and it is not achievable.

The functions of the Salaries and Remuneration Commission are very clear; that is to set and review salaries of State officers and to advise on salaries for public officers. To me, that is a part time job that Madam Serem and her team have turned themselves into full time Commissioners. We have to say this.

Hon. Deputy Speaker, if there is something defective with this Constitution, we need to point it out. I want to declare that I supported it half-heartedly in 2010. It has reached a point where it appears to have put what I can call “official dishonesty” in the way we do things. I will give you an example. Look at the Judicial Service Commission (JSC). We read in the newspapers that those people sit almost on a daily basis, and that every time they sit, each one of them earns Kshs80,000. That is obscene. We cannot call it anything else. Looking at the functions of the JSC, which of them requires them to sit on a daily basis? What for? Look at the squabbles that are going within the JSC. Why on earth must the SRC be working on a full-time basis?

When I first spoke in the Eleventh Parliament, I said that this House has a duty to look at the composition of all constitutional commissions. They are a burden to the public. The members of most of those commissions are overpaid. The commissions constitute of individuals who do not even know what they are supposed to be doing for the people of Kenya. A lot of the commissioners are old men with white hair. What do they do? They entertain girls who are young enough to be their daughters.

Hon. Members: No! No!

Hon. (Eng.) Gumbo): Hon. Deputy Speaker, I have seen it myself. You cannot deny it. It is because they do not have any job descriptions. I have nothing against Mr. Muhoro. I do not know him and, therefore, I do not qualify to judge whether he qualifies or not. I do not qualify to judge him but I am asking this House: I have said before that, as we go forward, let us re-look at the whole spectrum of constitutional commissions. Do we need all these commissions? If we do, do they have to be so heavily laden with commissioners the way they are? My submission is that we do not need commissions comprising of nine members. In fact, some commissions duplicate the duties of other commissions. We have to look into this aspect. To me, that is a service that this House owes to the people of Kenya.

Hon. Deputy Speaker, I neither support nor oppose.

(Laughter)

Hon. Deputy Speaker: Yes, hon. Lelelit.

Hon. Lati: Thank you, hon. Deputy Speaker. I rise to support the nomination of Mr. Muhoro.

Hon. Deputy Speaker, being in the Finance Committee, I have had a chance to interview this man. Apart from having an impeccable resume, in terms of both the period he has served this country through the Public Service and academic standing, there are other good attributes in this man that we should consider. I want to speak to the person of Mr. Muhoro in that perspective.

Looking at his resume, Mr. Muhoro is a philanthropist. He actually supported several kids through their education. I was so impressed because one of the kids that appeared in his resume is not somebody from the Central region. He is a Maasai boy. For someone to go out of his way to look for a Maasai boy who is herding goats or ship down in the valleys, take him to school and see

him through his education; he must be a true Kenyan. I do not care about the region he comes from.

Hon. Deputy Speaker, whenever I go home, I interact with Members of the County Assembly (MCAs) of Samburu, and something comes up all the time. They talk about being in committees like the ones we have, and vetting people who have been nominated for county appointments. One thing that is coming out very clearly is that those guys vet people who are very junior, in terms of their job descriptions but who end up earning a lot of money, compared to what MCAs earn.

I had to ask Mr. Muhoro that question, and he impressed me. I asked him what his thinking was about an MCA interviewing somebody for secretarial job and end up earning a lot more than what the vetting officer, the MCA, earn. Do you know what Mr. Muhoro said? He said that he felt it inside him. He said that once he got to the Commission, he would make sure that the Commission looked in that direction to ensure that MCAs vet people when they earn good money.

Hon. Deputy Speaker, another question I asked Muhoro during the vetting exercise was on the issue of regional balance. I was surprised. I am sorry to say that there are communities here that should not be talking, looking at that list. There are some communities whose members constituted a half of the list. I am not talking about the Central region this time round. I am talking about the Nyanza region. Let us leave this matter at that point.

I asked Mr. Muhoro about regional representation because I wanted to know what he thought about regional representation. Again, he impressed me very much. He told me that if he were the President or the appointing authority of any commission or any other office in this country, he would have made sure that even an Elmolo was in that Commission. Coming from a small community called “Samburu”, I have sat in this Committee, vetting people. I have always longed for the moment I would see a Samburu or an Elmolo appearing before the Committee for vetting, so that I could go home and say that I vetted my brother, and that he did very well.

So, looking at the aspect of regional representation, as provided for in our Constitution, sometimes I wonder whether it is being applied. The Commission is not good but, looking at Muhoro as a person, I want to say that he is a good guy. He answered our questions in a very humane way than most of us would have done. Therefore, if there is anything about Muhoro with the Ethics and Anti-Corruption Commission, let us leave it to them, so that they can do their job. Let me say that even if Muhoro did something wrong, there is something right he did – educating a Maasai boy. There is something good he is going to do by making sure that MCAs earn good salaries. There was something good in him in saying that if he were the appointing authority, he would have made sure that the regional balance requirement was implemented.

Therefore, Mr. Muhoro is a good guy. Let us look at him as an individual, and not in terms of what he is being suspected of.

With those remarks, I beg to support.

Hon. Deputy Speaker: Yes, hon. Sane.

Hon. Sane: Thank you, hon. Deputy Speaker. In the spirit of non-partisanship, as advised by the Seconder of this Motion, I rise to support.

Hon. Ng’ongo: (*off-record*)

Hon. Sane: Hon. Deputy Speaker, I represent the people of Wajir North. I seek your protection from hon. Mbadi.

Hon. Deputy Speaker: Hon. Mbadi, remember we were informed while in Mombasa that in a presidential system, you vote with your conscience. Allow hon. Members to vote with their conscience.

Hon. Sane: Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker, I have observed that every time we deliberate on vetting of nominees for various positions on the Floor of this House, there has been so much confusion over certain issues. Allegations of integrity issues against Kenyans are always raised. It is unfair. I have also observed that, to some people in this House, “investigation” means “conviction”. That should not be allowed to happen.

The Ethics and Anti-Corruption Commission has become a public court that judges Kenyans before they are judged in courts of law. I believe that their sword is unfairly rolling heads of career civil servants. Therefore, this House should rise to at least protect Kenyans from those kinds of judgements. I believe that Mr. Muhoro is competent, having read the Report of the Committee. So, his nomination should be supported.

Thank you.

Hon. Deputy Speaker: Thank you, hon. Sane. I will give chance to two lady Members of Parliament, because none of them has spoken. I will have Mary Emaase and Ghati, so that we can close this debate.

Hon. (Ms.) Otucho: Thank you, Deputy Speaker. I rise to support the Motion.

I happen to be a Member of the Committee that vetted Mr. Muhoro. The work of our Committee was to vet. If we found fault in him, we would have rejected his nomination but we chose to approve it. What I can say is that Mr. Muhoro is one man with a wealth of experience, having worked in the public sector in various capacities up to the position of undersecretary. He was also the acting Chief Executive Officer (CEO) of the National Police Service before we eventually got the new CEO.

Hon. Deputy Speaker, having found him with the right qualifications suitable for the position, two issues however were found to be very contentious and we deliberated at length on them. One was the issue of regional balance but later on we came to the understanding that Mr. Muhoro had been nominated by a corporate body just like all the other nominees who were found suitable by the corporations that they were working for to represent them in this Commission.

What I want to say is that this honourable House has responsibility. It is our duty to come up with regulations that should guide us on how such nominees should be brought to Parliament for vetting, if we want to ensure regional balance. This is because you cannot choose for any corporate body unless you are going to bring all the corporate bodies to a table and give them instructions that they are going to bring somebody from this community, and another from another community. We did not find fault in him; we did not find a reason to deny him the opportunity on the basis of the fact that he is from a certain community. You do not choose to be born in a certain community.

Secondly, we also looked at the issue of integrity. When I was standing on a point of information the clarification I wanted to give was that we are confusing the issue of a court case and the issue at hand, which is the investigation against him. What is against Mr. Muhoro is an allegation which is being investigated by the EACC and the Constitution again is very clear – you are innocent until proved guilty. We again did not find any reasons why we should not pass or approve his name and bring it to the Floor of this House.

Hon. Deputy Speaker, as I conclude, some hon. Members have asked why our Committee was in a hurry to conclude the vetting and bring this Motion to the Floor of the House. I want Members to remember that in the recent past issues of security have been of concern and some of us have suffered. My constituency has suffered. Innocent people have been killed through attacks. The welfare issues of the police need to be addressed. Issues of low morale have to be addressed,

so that we can address some issues of security lapses and what have you. The police need to be represented in the SRC. So, we felt it was important to bring this nominee to the Floor of this House, so that Members can decide whether we approve his name or not. As a member of that Committee I say that we approved his name.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Dennitah Ghati.

Hon. (Ms.) Ghati: Thank you very much, hon. Deputy Speaker. I stand to oppose; must it be Muhoro? We are talking about regional representation in this House. So, why has it to be from one region? Every time we have a position in this country it has to go to one region, and we are talking about regional representation. I look forward to a day in this country and House when we will have a Dorobo, Endorois, Kuria or other minority communities being given an opportunity to represent this country.

Hon. Deputy Speaker, it is very clear. The Ethics and Anti-Corruption Commission (EACC) has a letter here that it is actively investigating Mr. Muhoro. If I were Mr. Muhoro, I would politely tell them to investigate me and let them present the findings they get about the position and my suitability.

Hon. Deputy Speaker, for those reasons I am opposing this nomination of Mr. Muhoro.

Hon. Deputy Speaker: Hon. Members, as we agreed I will then put the Question.

Hon. Members: The Mover should reply.

Hon. Deputy Speaker: I apologise profusely to the Chairman of the Committee. Anyway, he has replied. Therefore, hon. Members, I will put the Question.

(Question put and agreed to)

Next Order.

ADOPTION OF REPORT ON VETTING OF TSC NOMINEES

Hon. Deputy Speaker: The Chair of the Departmental Committee on Education, Research and Technology.

Hon. (Ms.) S.W. Chege: Thank you, hon. Deputy Speaker. I beg to move the following Motion:-

THAT, pursuant to Section 8 of the Teachers Service Commission Act and the provisions of Standing Order 45, this House adopts the Report of the Departmental Committee on Education, Research and Technology on Vetting of Nominees to the Teachers Service Commission, laid on the Table of the House on Tuesday, 1st October, 2013.

Hon. Deputy Speaker, on behalf of the members of the Departmental Committee on Education, Research and Technology, and pursuant to the provisions of Standing Order No.199, it is my pleasure and duty to present to the House the Committee's Report on vetting of the nominees to the Teachers Service Commission (TSC).

The TSC is an independent constitutional commission established pursuant to the provisions of Article 237 of the Constitution. The appointment of the chairperson and members of the Commission is provided for under Sections 5 and 8 of the TSC Act, No.20 of 2012.

The selection panel constituted pursuant to the TSC Act, No.20 of 2012, conducted interviews of the people shortlisted for the positions of chairperson and members of the

Commission. The panel awarded marks with regard to how each of the nominees performed and the score sheet is annexed to the report that I am very much aware Members have.

In addition, pursuant to Section 87 of the TSC Act, which states that the President shall within seven days of receipt of the names forwarded to him nominate one person and eight others for the appointment as chairperson and members of the Commission and forward the names to the National Assembly, on Wednesday 18th September, 2013 the Speaker of the National Assembly gave a communication regarding the message from His Excellency the President nominating the following members to the TSC: Mr. Kiragu wa Magochi for the position of chairperson; Mr. Fred Ekirapa for the position of member of the TSC; Ms. Jacinta Kapiyo as a member of the TSC; Mr. William Makubo as a member of the TSC; Mr. James Nkoroi and Mr. Mohammed Mwinyipembe as members of the TSC.

Hon. Deputy Speaker, in the communication from the Speaker, the Departmental Committee on Education, Research and Technology was asked to consider the names of the nominees prior to approval by this House. While considering the above nominees, the Committee held three sittings where oral interviews were conducted and the Committee was guided by the Constitution of Kenya, Chapter Six on integrity, the Public Appointments (Parliamentary Approval) Act No.33 of 2011, the TSC Act, Act No.20 of 2012 and the Standing Orders of the National Assembly.

On behalf of the Committee I have the honour and pleasure to present the Committee's Report on the vetting of the nominees. At this juncture, I want to take the opportunity to thank all members of this Committee for their commitment, input and valuable contributions during the deliberations that were very hot and sometimes very emotional; the vetting of the nominees was done and finally we came to a unanimous agreement.

The vetting process of the Committee on Education, Research and Technology examined the nominees against the following criteria set out in Public Appointments (Parliamentary Approval) Act:- academic qualifications, employment records, professional affiliations, potential conflict of interest, knowledge of the relevant subjects, overall suitability for the position, tax compliance and integrity. During its sitting on Friday, 27th September, 2013, the Committee conducted face to face interviews with the six nominees.

The first nominee to appear before the Committee was Mr. Kiragu wa Magochi on Friday, 27th September, 2013. He was nominated to serve as a Chairperson of TSC and he mentioned to the Committee that he was born in 1954 in Murang'a County. He is currently working with the Ministry of Education, Science and Technology as the acting Education Secretary. He holds a Master of Education degree from Kenyatta University and a Bachelor of Education degree from University of Nairobi. He has undertaken many professional courses including, professional and continuous education on managing staff and running an organization.

When the Committee looked at the report that was presented to us, the selection panel scored him position two with 78.1 per cent points, which was second from the leading candidate who scored 80.3 per cent. The Committee examined him on general and specific thematic areas which the nominee responded to as follows: On qualification *vis-a-vis* his appointment, Mr. Kiragu wa Magochi informed the Committee that he has contributed immensely as a teacher to teacher development programmes by developing a manual on Teacher Advisory Centers. He also has undertaken several training courses that have prepared him adequately for his role as a chairperson. He started his career as an untrained graduate rising through the ranks to become an acting Education Secretary. This has prepared him adequately to perform his responsibilities. He was

also instrumental in preparing the TSC Act 2013; therefore, he was to ensure that it was implemented to the letter.

Due to limited time and the number of nominees that I am going to present, I beg to mention some of the issues we interviewed him on and he answered satisfactorily to the Committee. The issues were on reforms in Teachers Service Commission, integration of Information and Communication Technology (ICT), information management, decentralization of TSC services, indiscipline cases among teachers, improving standards of teaching and performance contracting.

(Loud consultations)

I am very sure that hon. Members have a copy of this report; if anybody wants to further probe the report, they can read their copy. If you do not have one you can pick it from the entrance; I saw a few copies there.

Hon. Deputy Speaker: Order! Order! Hon. Members, do not harass the Chair of the Committee. Yes, do not be harassed I will protect you.

Hon. (Ms.) S. W. Chege: You can see what was happening at the committee level.

The second person was Mr. Albert Fred Ekirapa, who appeared before the Committee on Friday, 27th September, 2013. He was nominated to serve as a Member of the Commission. He is 53 years old, and was born in Busia County. He is currently working with the Ministry of Education, Science and Technology as a Senior Deputy Director of Education, Directorate of Secondary and Tertiary Education. He holds a degree in Education Administration from the University of Nairobi and a Bachelor of Education (Science) degree from Kenyatta University.

The selection panel had ranked him position nine with a mean score of 65.1 per cent. The Committee examined him on several general issues and I am sure Members can go through them.

The third person was Jacinta Kapiyo, who appeared before the Committee on Friday 27th, September, 2013. She was nominated to serve as a Member of the Commission. She was born in 1957 and hails from Homa Bay County. She is currently working with the Ministry of Education, Science and Technology as a Deputy Director of Education and is currently pursuing a doctorate degree in educational planning at the Catholic University of Eastern Africa (CUEA). She holds a Master of Education degree from Kenyatta University and a Bachelor of Education degree from University of Nairobi. She has undertaken several professional courses, including introduction to education management for secondary schools and a certificate in education management, among others.

We also met Mr. Willam Makubo Mwita, who appeared before the Committee on Friday, 27th September, 2013. He had been nominated to serve as a Member of the Commission. He was born in 1956 and comes from Migori County. He is currently working with the Ministry of Education, Science and Technology as Head of Department, Bursaries and Grants Section. He holds a Master of Business Administration (MBA) in Strategic Management from the University of Nairobi and a Bachelor of Education (BEd) in Mathematics from the University of Calgary, Alberta, Canada. The selection panel had ranked him position 16 with a mean score of 44.4 per cent. As stipulated by the TSC Act, only 13 names were forwarded to the selection panel and his name was not among those forwarded.

I hope hon. Members are paying attention. Of the many questions that we asked Mr. Makubo, the only question he attempted to answer was about his qualifications *vis-a-vis* his appointment. He told the Committee that his distinguished performance when working in Tarang'anya Secondary School earned him a distinguished service medal from the Office of the President, as he was able to put up a school library, laboratory and install a generator, even without

the support from the Government. That is the only question that Mr. Makubo properly answered before the Committee.

We also vetted Mr. James M'uthuri Nkoroi. He appeared before the Committee on Friday 27th, September, 2013. He was born in 1960 and comes from Meru County. He is currently working with the Teachers Service Commission as the County Director, Samburu County. He holds a Master of Science degree, Applied Mathematics, from Jomo Kenyatta University of Agriculture and Technology (JKUAT), a Bachelor of Education (Science) and a Double Mathematics degree from Kenyatta University. The selection panel had ranked him position 12 with a mean score of 58.6 per cent. The Committee took him also through some specific questions which are there and the responses are recorded.

Finally, we also vetted Mr. Mohammed Mwinyipembe. He has been nominated as a Member of the Commission. He was born in 1955 and comes from Mombasa County. He is currently working with the Ministry of Education, Science and Technology as an acting Director of Quality Assurance. He holds a Master's in Education Administration from Kenyatta University and a Bachelor of Education (Arts) degree from Kenyatta University. He has also undertaken several professional courses and also participated in several publications within the education sector. The selection panel ranked him position 1, with a mean score of 72.6 per cent.

I would like this House to note that Mr. Mwinyipembe had sat in the last selection panel representing the Cabinet Secretary, and interviewed candidates for the same position, which he was later to be interviewed for as well. He stated that he had no undue advantage over other candidates.

The Committee examined the nominee on general, specific and thematic areas and the responses are recorded

I would like to present the Committee's observations basically on each candidate. This is very important for the decision that the Committee has taken. We looked at the curriculum vitae and heard oral submissions from Kiragu wa Magochi.

After we looked at the curriculum vitae of Kiragu wa Magochi and heard oral submissions from him, the Committee made observations. He confirmed that he once served as the Chairperson of the TSC. He was born in Murang'a in 1954. He works in the Ministry of Education, Science and Technology as the Acting Education Secretary in charge of coordinating, supervising and overseeing effective and efficient operations of the directorate. Mr. Kiragu rose through the ranks from an untrained teacher and now holds a Master of Education degree from Kenyatta University and a Bachelor of Education degree from University of Nairobi. He undertook courses as indicated in the Report. He also participated in teacher development programme and developed a manual on Teacher Advisory Centres. He was awarded the Moran of the Burning Spear medal in 2011. The selection panel placed him in position two with 78.1 per cent.

He was interviewed twice by the selection panel. The first interview was on 16th October, 2012 and the second one was on 2nd August, 2013. Mr. Kiragu wa Magochi has been rejected twice by Parliament. However, he was cleared by a High Court ruling, which is attached to the Report on account that he was eligible for a second interview since previous rejection by the National Assembly was not itself a bar to subsequent application for the same position.

Mr. Kiragu wa Magochi had never been charged in a court of law and was cleared by the Ethics and Anti-Corruption Commission (EACC). He had fully complied with Chapter Six on integrity. He has also fully complied with tax obligations. He has not been dismissed from any office for contravention of the provisions of Article 75 of the Constitution.

Hon. Deputy Speaker, about Mr. Albert Ekirapa the Committee observed that he is 53 years old and was born in Busia. He works for the Ministry of Education, Science and Technology as a Deputy Director of Education. He holds a Master of Education degree. The selection panel ranked him position nine with a mean score of 65.1. He has not been charged in a court of law and has no potential conflict of interest. He has fully complied with tax obligations. He has never been dismissed from any office.

With regard to Jacinta Kapiyo, the Committee confirmed that she was born in 1957 in Homa Bay. She started her career as a teacher at Agoro Sare High School, and rose through the ranks. She is also currently working with the Ministry of Education, Science and Technology as the Deputy Director of Education and is pursuing a PhD degree. She is a member of the Technical University of Kenya Council. She has undertaken several professional courses. She is the only candidate who brought the books she has authored. Their titles are: Evolving World---

Hon. (Ms.) Sanjeev: On a point of order, hon. Deputy Speaker. As much as I respect my colleague I know she is going through the Committee's findings, but could she do it in a summary form? Most of us would like to contribute to the Motion.

Hon. Deputy Speaker: Hon. Sanjeev, as the Mover of the Motion, she has to give you enough meat for you to be able to debate on when we finally come to that. Allow her to continue. Let her finish.

Hon. (Ms.) S.W. Chege: Thank you, hon. Deputy Speaker. I am trying to summarize because I know the concerns of the Members. It is, however, good that hon. Members contribute from an informed point of view.

Ms. Kapiyo was ranked position four with a mean score of 69.4 per cent.

About Mr. William Mwita Makubo, the Committee made the following observations: He was once a member of the TSC. He was born in 1956 in Migori County. He also works for the Ministry of Education, Science and Technology as the Head, Bursaries and Grants Section. He holds a Master of Business Administration degree. The selection panel ranked him at position 16, with a mean score of 44.4 per cent. However, as stipulated by the TSC Act which was guiding the Committee, only 13 names were forwarded by the selection panel, and his name was not in the list forwarded to His Excellency the President for nomination despite his name being sent to Parliament for approval. This left our Committee wondering where his name came from if it was not forwarded to the President. However, he has not been charged in any court, neither has he been dismissed from any office.

With regard to James Nkoroi, he is the youngest in this team. He was born in 1960 in Meru County. He started his career as head teacher at Igoki Secondary School. He is currently working with the TSC as a County Director, Samburu County. We verified that he has a Master of Science degree, Applied Mathematics. The selection panel had ranked him position 12, with a mean score of 58.6 hence his name was forwarded to the President for nomination. He has never been charged in court and he has never been dismissed from his work.

Finally, Mr. Mohammed Mwinyipembe was born in 1955 and comes from Mombasa County. He is currently working with the Ministry of Education, Science and Technology as Acting Director of Quality Assurance. He holds a Master's degree in Education Administration from Kenyatta University. He has participated in several publications. The selection panel ranked him position one with a mean score of 72. The Committee observed that he had sat in the previous selection panel, representing the Permanent Secretary and then he was interviewed by the same panel. He has never been charged in a court of law and has no potential conflict of interest. He fully complies with tax obligations. He has never been dismissed from his duties.

The Committee made the following general observations: A list of seven names for the position of Chairperson was forwarded to the President in contravention of the Teachers Service Commission Act, Section 8(6) which stipulates that a list of three names be forwarded to the President. The name of Mr. William Makubo was forwarded to the National Assembly for approval despite it not being among the 13 names forwarded to the President by the selection panel. This contravenes the Teachers Service Commission Act, which was guiding the Committee. The Act states that the President shall nominate members from the 13 names submitted to him by the selection panel. The selection panel displayed bias because of allowing Mr. Mohammed Mwinyipembe, who was a former panelist, to appear for the second interview and ranked him position one overall.

The Committee observed that five out of the six nominees were all employees of the Ministry of Education, Science and Technology, indicating a mass exodus of senior officials from the Ministry to the Teachers Service Commission (TSC). The Committee observed that the list lacked a mix of professionals with all nominees having a background in education.

The Committee observed that the nominees presented did not depict transitional leadership since majority of nominees were over 55 years of age when we are promising our youth that we are also giving them an opportunity to get jobs.

The Committee observed that special interest groups like persons with disabilities were not considered despite being in the list forwarded to the President. The Committee observed that the list did not meet the constitutional requirement of regional balance.

Before I table the recommendations of the Committee, I would like to say something on behalf of the Committee. We have not rejected the message from the President, but we would like to reject the process. Second, all the Members are eligible for further application and interviews. Let me do my final recommendations before I ask hon. Opiyo to second it.

Pursuant to Section 8(7) of the Teachers Service Commission Act, No.20 of 2013, and Standing Order No.45, and based on the Committee's observations that are well laid down and tabled before the House, the Committee recommends that:-

(i) Fresh advertisements should be carried out for the position of Chairperson and members, namely the five positions.

(ii) We appeal to the President to compel a fresh selection panel to be constituted as per the TSC Act.

(iii) Finally, this House rejects the following six nominees for appointment by His Excellency the President as the chairperson and members of the TSC, namely, Mr. Kiragu wa Magochi as the Chairperson; Mr. Albert Ekirapa as a member; Ms. Jacinta Kapiyo, Mr. William M. Makubo, Mr. James Nkoroi and Mr. Mohammed Mwinyipembe. This is not captured here as the final recommendation, but in the minutes; we deliberated in the Committee and said that all these members are eligible for further application and interviews.

I would also like to tell this House that the education of this country is in your hands. We have had several Members asking questions about how teachers are managed in this country. My appeal to this House is to shape the future of our children and you will shape the future of our country.

Finally, history will judge us. I now request hon. Opiyo to second the Motion.

(An hon. Member clapped)

Hon. Deputy Speaker: Order, Members! You do not clap in the House. You know the way we applaud.

Hon. Opiyo: Hon. Deputy Speaker, I rise to second this Motion. First of all, I want to thank the Chair of the Committee. I also want to thank the Committee Members. They did a wonderful job. They sat through days and nights to ensure that they came up with this report. It was not as easy as some of us may think. It was really demanding. I want to speak to this report on a number of issues.

One, when I came to this House, we committed ourselves as Members of this House to uphold the rule of law, and to defend the Constitution of the country. We did not have very specific and serious issues with the candidates, but we had very grave concerns with regard to the process that brought them to the Floor of this House. I want to draw our attention to the TSC Act, Section 8(7), which requires that a list of three and not seven be submitted to the President after duly having undergone approval by this august House. This was not done. Instead, seven candidates were forwarded to the President in contravention of this section of the Act. We know that we are lawmakers and we cannot, whatsoever, participate in anything that breaks the same laws that we make in this House.

We also made several observations as has been well articulated by the Chair. Section 6(2) of the TSC Act envisages a situation where the Commission, which is more or less an executive Commission, has diversity of expertise. In our case, all the people who were presented to us for vetting had a background in education. Actually, 90 per cent of them do their job in Jogoo House. Outside there, the perception has been that the troubles at the TSC are a creation of Jogoo House. Up to recently, we were aware that the TSC has been a semi-autonomous Government agency under the Ministry of Education, Science and Technology. It has been managed by Jogoo House. All of us here know that we have serious issues with the TSC today. Just recently, we had a massive teachers' strike. We have serious issues with regard to the number of teachers we have. The teacher shortage is biting and it is a question that we ask when we go to our constituencies. We needed people who have diverse experience, and who can be creative and innovative to sort out the issues at the TSC.

I also want to add here that the issue of the TSC cannot be sorted out by the same people who seem to be the trouble makers at the TSC. Many reports, of late, through researches have brought to our attention that literacy and numeracy among pupils in our primary schools is very bad. At Class Six, pupils are not able to read and write. At Class Six, basic numeracy is a mirage among our students.

Hon. Deputy Speaker, I want to add here that we may not have had a lot of issues with these nominees with regard to their ability to perform. I want to draw the attention of the House that certain nominees actually raised concern about the moral issues regarding their appointment. For instance, Mr. William M. Mwita Makubo did the interview and was ranked last. This gentleman was not in the list that was forwarded to the President for nomination by the selection, or interviewing panel. How on earth did this particular name find its way into Parliament? These are grave concerns that were raised by hon. Members of this Committee. We want to present to this House this anomaly for consideration. This is an august House and we cannot accept to sanction irregularities.

Hon. Deputy Speaker, before I rest my case, I want to add here that the vetting process also envisaged a situation where the vetting panel looks at national values. In the list of those people who were proposed for nomination, we had persons with disability who were capable, but they were omitted from the final list that found its way into this House. This is a grave matter because

we committed ourselves to consider minorities and marginalized groups, including persons with disability.

Hon. Member: Yes. Is hon. Mwaura listening?

Hon. Opiyo: Hon. Deputy Speaker, as I wind up, I want to ask this Parliament to consider positively the report laid on the Table of this House by the Departmental Committee on Education, Research and Technology. The House should do this with a view to approving it, so that it does not become a House that rubber stamps decisions of the Executive. In future, the due process must be followed by the appointing authorities. Vetting actually means that a process goes through all the stages before being brought to this House.

With those remarks, I second the Motion.

(Question proposed)

Hon. Murungi: Thank you, hon. Deputy Speaker. I do not know whether hon. Linturi is attentive. I do not want to disagree so much with the Committee because they were tasked to do this work. But according to me they have been pinpointing a few individuals whom they have issues with. Why can they not approve the three individuals who are clean and then reject the rest who have issues?

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Every hon. Member shall be heard. Please, allow him to express his opinion.

Hon. Murungi: They should not agree with me in totality. I am just expressing my sentiments about this issue. What I am requesting this Committee to do---

Hon. Deputy Speaker: Hon. Murungi, you are just being told that if you are so serious about what you want to see, then you can propose an amendment and these hon. Members will either support or reject your amendment; do not just speak and leave the matter as it is.

Hon. Murungi: I stand guided hon. Deputy Speaker.

But I thought I could express my sentiments. This is because some of these good citizens have no issues which need to be treated the way they have been treated. So, I think the few people who have issues, like the one who was the last and came through the back door-- Such names should be expunged from the report, then we have three or four who are clean, so that they can be approved. Then the President, the appointing authority, can bring other names. These people are just suffering even though they are innocent.

(Loud consultations)

Hon. Deputy Speaker, I know one of these members personally.

Hon. Deputy Speaker: Order, hon. Members. Every hon. Member shall be heard. We shall have order in the House. Please, desist from shouting. I am telling you that one of you will go out. If I hear any more shouting, you will go out one, two or three of you or a lot of you. Please, let us have an orderly debate, so that we can hear each other. You may be emotional; I have a lot of interest in this topic, but when an hon. Member is upstanding and giving his points, please, let us listen to them and you will have your chance, if the time allows, to express your own views.

Hon. Murungi: Thank you, hon. Deputy Speaker for protecting me. If my colleagues really hate Mr. Kathuri, then they should love the Kenyans who suffer injustice.

What I am saying here is that I am guided by what you have advised me to do. I will propose some amendments in due course, so that these three or four Kenyans can get justice; they have families and are getting humiliated for no apparent reason.

Hon. Deputy Speaker: Unfortunately, you have already spent all your speaking time. So, you must now give your amendment to somebody else.

Hon. Murungi: Thank you, hon. Deputy Speaker. I will do that.

Hon. Deputy Speaker: Let us hear from hon. Linturi.

Hon. Linturi: Thank you, hon. Deputy Speaker. I want to start by saying I really sympathize with hon. Murungi because of what has happened. If there are people who have found themselves in this mix, and having heard very clearly what the Chair said, it is really unfortunate. If the process has been flawed--- If the process is wrong, the end product will be wrong.

Hon. Deputy Speaker, I really want to take this opportunity to thank this Committee because it is wonderful. This Committee has restored the dignity of this House by rising beyond ethnicity and regionalism as this is a House for this country. It has a duty to check the Executive and to ensure that whatever is done is done in accordance with the law and the Constitution.

Let me say here very clearly that it should not be assumed that at all times we want to discuss issues as coalitions. It should not be assumed that we can misuse the numbers we have in this House; these hon. Members must act for the benefit and the good of this country.

This is a very good signal to the Executive that we understand that this Parliament must have teeth to bite and it must do whatever it is supposed to do. There are princes of impunity who surround the Executive. The law is clear. If a name is rejected by this House, how does it come again before this House? Are these people in disregard of the law?

Hon. Deputy Speaker: There is a point of order by hon. Moses Malulu Injendi. Is it a point of order? What is out of order?

Hon. Injendi: Thank you, hon. Deputy Speaker. I am looking at the time and also considering the time we took to discuss Mr. James Maina Muhoro; I am humbly requesting the House to extend our discussion time.

Hon. Deputy Speaker: Hon. Members, we have been advised that we can continue with this debate tomorrow. There is no reason why we should extend our sitting. Let us continue; we can conclude it tomorrow.

Hon. Linturi: Hon. Deputy Speaker, I think it would be in the interest of this House and the country to conclude. I am saying that there has been a lot of lobbying on this matter. There has been conspiracy. People are saying that the Speaker must extend this matter to tomorrow because some people want to be lobbied to come and disagree with the hon. Members of this House.

Let us not set bad precedent. The Committee is the one that had time to interact with the individuals. It will be very dishonest for me to disagree with a Committee of Parliament that has come with a unanimous decision. Are you telling us that any time an issue comes here it must always be rejected? Are we saying that people must make us disagree?

Hon. Deputy Speaker: Hon. Linturi, you are also getting excited. Just calm down. The Leader of Majority Party has some point of order.

Yes, hon. A.B. Duale.

Hon. A.B. Duale: Hon. Deputy Speaker, I am sure you will guide me on the Standing Orders. I agree with hon. Linturi that when a committee brings here a report, it is the whole House that makes a decision on that report. Secondly, there is no urgency, not even in the

Standing Orders, for this matter to be concluded today. We will do so tomorrow; we will finish. There is nothing urgent.

(Loud consultations)

Hon. Deputy Speaker, I request you to instill some discipline in the House!

Hon. Deputy Speaker: Order! Order! I am sorry; I was---

Hon. A.B. Duale: Hon. Members, let us have decorum; let us listen to everybody. The hon. Deputy Speaker has been asking us to debate this issue. I am begging that we should not have a shouting match. Let us listen to one another; let us use our time properly. We can have tomorrow. There is nothing urgent; we will agree or disagree with the Committee.

Hon. Deputy Speaker: Hon. Kimaru, are you on a point of order? You are standing far from your microphone.

Hon. Kimaru: Hon. Deputy Speaker, as a member of that Committee, I would like to say that there was nothing wrong with the qualifications of the nominees. It was just the procedure involving only two nominees. So, it is not right to say that they were not nominated properly; they were nominated properly. Only two were nominated irregularly. That is why I will be moving an amendment; I have already given a notice of it.

(Loud consultations)

Hon. Deputy Speaker: Order! Order, hon. Members! We are not making progress; there is nothing we are gaining from this shouting match. This is not a debate! You know you will have your time, and you will know whether the “ayes” or the “noes” will win. You are only having differences in argument.

Continue, hon. Linturi.

Hon. Linturi: Hon. Deputy Speaker, I am almost getting defeated because I realise that the strategy is almost working out. I have worked very closely with the Leader of Majority Party and I know that the issues being raised are for the purpose of wasting time.

Nevertheless, let me ask the House to consider this matter with a lot of sobriety. This is because we are making rules and creating a precedent. The Committee has looked at this and realized that so and so was the best evaluated. How do we reward merit? Issues about balance will be there. I think there was a time when this House came up with a way of addressing issues, and the lacuna that we have in law and the Constitution. When similar issues come up, there should be a proper way of trying to look at them; we should not deal with issues that are not expressly provided for and are not clear.

I want to say that this Committee has done well; this is the time we must make a statement to this country. Every time we pass something here members of the public think that we do things for ourselves. Let us also show the Executive that we want to support them, but that we want them to do things in the right way, as provided for in the law, and nobody will have a problem with them. In any case, we support the Government but, please, numbers will not make us do the wrong things here.

I support the Motion.

Hon. Deputy Speaker: What is your point of order, hon. Grace Kiptui?

Hon. (Ms.) Kiptui: Thank you, hon. Deputy Speaker, for giving me the opportunity. Hon. Deputy Speaker, we have sat here for a very long time debating this Motion. I would not want us to push it to tomorrow. We can conclude debate today.

Hon. Deputy Speaker: Yes, hon. Samuel Gichigi.

Hon. Gichigi: Hon. Deputy Speaker, I stand to support the Motion.

I do not think it is the business of this House to be supporting illegalities. We should be on the forefront in ensuring that the rule of law is adhered to by everybody in this country. We adopted the new Constitution and said that we must take care of vulnerable groups in our society, and more so people with disabilities. We now got an opportunity to do exactly that. As a country, we have done a lot of disservice to this particular group. If a list that has been submitted to this House contains a name of a person with disability, it is only fair that we consider such person. So, while I sympathise with those people who are qualified, and who have no issues, I am afraid that if we say that we should approve them, we will completely be forgetting the people with disabilities.

Hon. Deputy Speaker, again, adopting a list containing the name of a person who emerged last in the interviews would be promoting incompetence in Government institutions. As a person who has passion for education, being a lawyer; I have had serious challenges with the TSC. They are known to countenance and support people who are incompetent in the profession. We can see why the education standards in this country are going down.

(Loud consultations)

Hon. Deputy Speaker, there is too loud consultation in this House.

Hon. Deputy Speaker: Hon. Members, lower your levels of consultations.

Hon. Gichigi: Hon. Deputy Speaker, if the current team of the TSC was appointed through a process similar to the one we are witnessing here today, it is no wonder then that they are very incompetent.

Hon. Deputy Speaker: What is your point of order, hon. Mbadi?

Hon. Ng'ongo: Hon. Deputy Speaker, I would really not want to interrupt hon. Gichigi because he is usually a very articulate Member of Parliament, whom I admire. However, this Report is very clear. The reasons as to why the Committee has rejected these nominations are properly documented. If the Chairperson of this Committee continues this way, we may recommend her for bigger positions in future. She has put her case very well.

Hon. Deputy Speaker: What is your point of order, hon. Mbadi?

Hon. Ng'ongo: Hon. Deputy Speaker, our Standing Orders allow that in an event like this one, I would request the Chair to call upon the Mover to reply, and then the House can grant that leave.

(Loud consultations)

Hon. Deputy Speaker: Order! Order, hon. Members! There is a lot of interest in this Motion. So, I will give some hon. Members time to speak.

Yes, hon. Peter Kamande Mwangi.

Hon. Mwangi: Thank you, hon. Deputy Speaker. From the outset, when we came to this House we vowed to protect the Constitution and the laws of this country. In any case, if there is anything wrong with these people, as it has been articulated, it is very wrong for us all to put a very blank blanket on all of them. I urge Members that if we want to expunge the names of some

of these people from the Report, we can do so. We cannot be saying that everybody is wrong because of others. If we are to expunge two or three names, let us do it instead of saying that we throw out all the names.

Hon. Deputy Speaker, we know that there has been some research which has been done on some of them but not on all of them.

An hon. Member: But the good ones can come back.

Hon. Mwangi: I urge those who are coming up with amendments to do so, but regarding what we are dealing with now, we have to come up with a decision. What are we telling our children? That a last person can be number one. The wrong thing has been done, because you cannot really say that somebody who was number 16 is the best. That is wrong and we cannot continue with it. If we say it is wrong, let us say no to it.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, all of you want to hear your own voices. How will you even know whether the things you have said have already been said? This is because each person is itchy and standing to be the one to talk, and then repeat exactly what the previous Member has said.

Hon. Mwangi: Hon. Deputy Speaker, as long as I support the Government, I do not want to support an illegality and a wrong doing.

Hon. Deputy Speaker: Hon. Cecilia Ngetich.

(Hon. Gichigi stood up in his place)

Hon. (Ms.) Ngetich: I am on the Floor.

Hon. Deputy Speaker: Hon. Cecilia, apparently hon. Gichigi had not finished. Somebody rose on a point of order when hon. Gichigi was contributing. So, allow him to finish.

Hon. Gichigi: Thank you, hon. Deputy Speaker. The other issue that I had with these particular nominations is that one of the youth--- Where are the youth in these nominations? We can respect the old people but we should actually be permitted to have the youthful lot also contributing to some of these things.

(Loud consultations)

Hon. Deputy Speaker, could you protect me from Mr. Kathuri? He is interrupting me and I cannot even contribute. I think it is just because he knows somebody in the panel.

Hon. (Ms.) Nyasuna: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Please hon. Wanga, can you allow hon. Gichigi to finish?

Hon. Gichigi: Well, I guess I am even losing the chain of my thoughts. I support this Motion.

Hon. Deputy Speaker: Thank you. I had given hon. Cecilia Ngetich the Floor.

Hon. (Ms.) Ngetich: Thank you very much, hon. Deputy Speaker. I am a member of the Departmental Committee on Education, Research and Technology, and I stand to support or defend the decision of the Committee. I want to add that earlier on I had wanted to stand on a point of order to really ask hon. Kimaru a question. Hon. Members, be informed - I am sorry to say this -

that hon. Kimaru was never in any of those meetings that we held. So, to stand here and purport to have a dissenting view is really misleading this House.

Hon. Deputy Speaker: Order, hon. Members! Hon. Cecilia, I will give hon. Kimaru opportunity just on what you have said about his presence. He is on a point of order.

Hon. Kimaru: Hon. Deputy Speaker, if you read that Report you will realize that hon. Ms. Cecilia Ng'etich is misleading this House. In that Report, I appear as a Member who participated. You may read that Report. They will see.

(Loud consultations)

Hon. Deputy Speaker: Okay, Kimaru. You have made your point.

Hon. Members: You were absent!

Hon. Kimaru: If you read that Report--- If I was absent how come my signature appears there?

(Loud consultations)

Hon. Deputy Speaker: Order, Members! If you look at the minutes of the 29th sitting of the Departmental Committee, Mr. Kimaru's name appears as No.39 when the Report was being adopted. Hon. Cecilia, what was your argument? We do not want to dwell on this matter, because as you can see it is not helping us to progress.

Hon. (Ms.) Ng'etich: Thank you, hon. Deputy Speaker. With all due respect, I want to correct my statement and say that it was during our deliberations. The Members of the Committee are here. He only came yesterday as we were signing the Report before we forwarded it. So, he did not know the things we went through during the deliberations.

I support and we can request the Mover to reply.

Hon. Deputy Speaker: Members of the Committee, it may not be in order for you Member of the Committee to come to the Floor to oppose your own Report.

(Applause)

Hon. Kamau: Hon. Members, we are here as respected Members of Parliament. I want to tell Members of the Departmental Committee on Education, Research and Technology that they have had an opportunity to debate these names. I wish they could give us -those of us who are not Members of that Committee - an opportunity to understand and scrutinize the Report and then make proper a decision.

I am one person who values education very much. I am sure my colleagues do the same. The TSC, as it is now---

Hon. Keynan: On a point of order, hon. Deputy Speaker. Taking into account what you have just said, I want to invoke the provisions of Standing Order No.91, as read with the provision of Standing Order No.107, and ask this House that if really we are fair to ourselves and our listeners, we must apply our rules equally, fairly and in a justified manner. Therefore, I invoke these provisions, so that we deal with hon. Kimaru taking into account what hon. Cecilia has said, that, indeed, if a Member---

This is a House of procedures. Three weeks ago we named a Member and he was sent out of this House, simply because of breaking our own rules. We have a Member here and the Report

shows that he has never participated in any of the deliberations. However, the Member is here before this august House trying to mislead the entire nation.

I, therefore, want to invoke the provisions of the Standing Orders, so that hon. Kimaru either apologizes to the House and the entire nation or we name him under Standing Order No.106 for gross misconduct. This is the only way we can have a civilized debate and respect our institutions. Until we clear this, it will be wrong for us as a House to just assume that hon. Kimaru did not do anything wrong when we know that the rules of procedure, the Constitution, and the membership of the Committee have all been offended. This is not something that will go on record without the Member being punished. I seek your guidance on this particular issue.

Hon. Deputy Speaker: Hon. Keynan, an allegation has been made by hon. Cecilia and hon. Kimaru has refuted it. All those have to be verified. The truth of whether he attended or did not attend any of the meetings can be seen from the minutes. Let us verify the issue before we decide whether to name him or not. Allow us to go through the HANSARD and to look at the minutes before we make that ruling.

Hon. Kimaru: Hon. Deputy Speaker, Sir, I appreciate what my friend, hon. Keynan is saying and indeed, I would not want to bring disgrace to this House. But if you look at the records, they speak for themselves. If you go to page 37 ---

Hon. Deputy Speaker: Hon. Kimaru, I had already talked on that. It is not on the day of adoption of the Report, it is before the adoption of the Report. Go by my ruling that we will check the records and determine the truth of the matter. We can then make a ruling.

Hon. Jamleck Kamau, you will have a balance of eight minutes when this matter comes on the Order Paper.

ADJOURNMENT

Hon. Deputy Speaker: It is now time to adjourn the business of the House. This House stands adjourned until tomorrow, Thursday, 3rd October, 2013 at 2.30 p.m.

The House rose at 6.35 p.m.