

NATIONAL ASSEMBLY

OFFICIAL REPORT

SPECIAL SITTING

Thursday, 18th December, 2014

The House met at 9.30 a.m.

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

PRAYERS

Hon. Speaker: Hon. Members making their way into the Chamber, could you, please, come in and take your seats?

(Several hon. Members walked into the Chamber)

(Loud consultations)

Hon. Members, those of you who are making your way into the Chamber, could you, please, take your seats?

(Hon. Lelelit shook hands with hon. Members)

Hon. Lelelit Lati, if you could stop shaking hands and take your seat! Hon. Lelelit, just take your seat instead of shaking hands! You can shake hands later. You have the whole day and, perhaps, much longer. Hon. Members, I expect---

(Hon. Outa walked into the Chamber)

(Applause)

Order, hon. Members! Perhaps, this is the opportune time for me to make this Communication because I think it may have a bearing on some of you making your way. Hon. Gaichuhie, this is not a--- You cannot just be walking!

Hon. Members: Hon. Speaker, speak louder. We cannot hear you!

Hon. Speaker: You cannot hear me?

Hon. Members: Yes!

Hon. Speaker: Now I am audible!

Hon. Members: Yes.

Hon. Speaker: For the benefit of those few Members now, take your seats quickly. In one minute, please, be seated.

(Several hon. Members walked into the Chamber)

COMMUNICATION FROM THE CHAIR

GROSS DISORDERLY CONDUCT IN THE HOUSE

Order, hon. Members. Hon. Members, I make this solemn Communication on the matter of lack of decorum and grossly disorderly conduct in the House in breach of our Standing Orders.

Hon. Members, allow me to welcome you to this Special Sitting, which has been convened for the sole purpose of considering three matters important to our nation. As indicated in *Kenya Gazette* Notice No. 9021 of December 15, 2014, during today's Sittings, we shall be considering two Special Motions; that is, the Motion for the Appointment of the Cabinet Secretary nominee for the Ministry of Interior and Coordination of National Government and the Motion for consideration of nominees to the Constituencies Development Fund Board. We are also scheduled to deliberate on the Security Laws (Amendment) Bill, 2014 at the Committee Stage and the Third Reading.

However, you are all aware that debate in this House in the past week has not been as decorous as we all would desire. Our rules of debate have largely been breached. As your Speaker, I am equally concerned at the very fast degeneration in propriety of our conduct, manners and reference to each other in speeches. We have witnessed some Members creating disorder, using or threatening violence against colleagues and/or abusing their privileges.

We have seen behaviour that has bordered on disrespect for the presiding officers during the proceedings in the Committee of the whole House and in the plenary. Some Members have, in the past week, exchanged insults in the most despicable of ways and even attempted to rough up their colleagues. Other Members even threatened to take away the Mace. This state of affairs, which is unacceptable, will surely erode public confidence and bring the institution of the National Assembly into disrepute.

Honourable Members, one main duty of the presiding officers in the House is to maintain order and, if the rules are breached or the situation deteriorates, determine the requisite recourse for removal of a Member from the House for a certain period, or if the situation worsens, name and suspend the offending Member or Members from the House all together.

I wish to appeal to you to familiarise yourselves with the provisions of the Standing Orders regarding rules of debate and order in the House, Committee of the whole House and, particularly, Standing Orders No. 98, 102, 103, 104 and 107 to 112, which should provide you with the requisite guidance on the breaches and sanctions that follow disorderly conduct in the House. These Standing Orders are designed to ensure that you exercise your privilege of free speech with good sense and taste, maintaining courtesy of language towards other Members in debate. You are thus reminded of the provisions of Standing Order No.87 (3), which *inter alia* states that, and I quote:-

“It shall be out of order to use offensive or insulting language whether in respect of Members of the House or other persons.”

Personal references, unbecoming language and insults during debate do not, therefore, augur well for the House.

Hon. Members, Standing Order No.107 defines “grossly disorderly conduct” as:-

“(1) Conduct is grossly disorderly if the Member concerned –

- (a) creates actual disorder;
- (b) knowingly raises a false point of order;
- (c) uses or threatens violence against a Member or other person;
- (d) persists in making serious allegations without, in the Speaker’s opinion, adequate substantiation;
- (e) otherwise abuses his or her privileges;
- (f) deliberately gives false information to the House;
- (g) votes more than once in breach of these Standing Orders;
- (h) commits any serious breach of these Standing Orders; or
- (i) acts in any other way to the serious detriment of the dignity or

orderly procedure of the House.”

Standing Order No.76 (4) further stipulates decorum during a Division. It specifically states - and you, hon. Members, must listen to this! It states that:-

“During Division, Members shall maintain order in the House and shall be in their designated seats and must remain seated until the result is announced.”

Members should remember that our rules are not suspended during Division. I wish, therefore, for purposes of what we are about to embark on, re-state that:-

“During Division, Members shall maintain order in the House and shall be in their designated seats and must remain seated until the result is announced.”

The Speaker or the Chairperson of Committees is expected to order any Member whose conduct is grossly disorderly to withdraw immediately from the precincts of the Assembly on the first occasion, for the remainder of that day’s Sitting and, on the second or subsequent occasion during the same Session, for a maximum of three Sitting days, including the day of suspension. If the situation deteriorates further and the Speaker or the Chairperson deems that his or her powers are inadequate, the Speaker or the Chairperson may name such Member or Members resulting in a suspension in accordance with Standing Order 108.

I will pause there for hon. Members coming in to do so quickly, in less than a minute, and make their way. Members making their way, you are coming in greeting others like this one here now! Just take your seats because you are likely to remain standing for a very long time. Make your way and take your seats.

(Several hon. Members walked into the Chamber)

Hon. Members, I will now continue.

The Mace of the Assembly, though not provided for in the Standing Orders, has come to be regarded, both within and without Parliament, as the over-arching symbol of the authority and dignity of the House, as well as the Speaker presiding over the House. The Mace enhances the richness of parliamentary tradition and symbolizes the authority

of the Legislature in which it is displayed and utilised. In most Parliaments, no formal business can be transacted in the absence of the Mace. It is an essential part of parliamentary regalia, and gives credence and legality to the Assembly of Members of Parliament. Simply put, the Mace has the meaning of the innate authority and dignity of Parliament and its presiding officer, namely the Speaker.

Other than parliaments, maces also feature in academic processions. In the African context, certain traditional ceremonies would be undertaken by the appointed elders who used objects like a flywhisk, a gourd, a stool or a shield which were very much revered. It would be appalling to disgrace these objects in any way and, such an act would attract wrath from the community.

In our case, while the Speaker is officiating over the House, the Mace must be in its proper place on the Table before him. No business may be conducted in the House unless the Mace is present. I, therefore, wish to remind you of the need to honour this symbol of authority, and for the orderly conduct of the House.

Honourable Members, although neither the Constitution of Kenya, 2010 nor our own Standing Orders make any specific reference to the Mace, Article 94 (1) of the Constitution does provide that the legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament. The Mace is viewed and accepted as the symbol representing this legislative authority. As such, any attempts to disgrace or remove the Mace will be met with the greatest severity of discipline allowed by the Standing Orders and the practices of the House.

(Applause)

Any offender will face the full wrath of the House as this would be considered grossly disorderly conduct that may attract the expulsion from the Sittings of the House for a period that, under Article 103 of the Constitution of Kenya, may lead to loss of a seat by a Member. Thus, Members are reminded that certain actions that we take for granted have grave implications and consequences.

Attempts to take away maces and, therefore, disgrace them have taken place in other jurisdictions with attendant punishments. In those cases, culpable Members were suspended from the House and, in some cases, from their parties for those offences. Some were even required to issue formal apologies to the House for their behaviour. For example, in 1930, John Beckett, a Member of the Labour Party in the United Kingdom, was suspended from the British House of Commons for showing disrespect to the Mace by trying to leave the Chamber with it, while protesting against the suspension of another Member.

In 1987, Ron Brown, then a Labour MP, again in the British House of Commons, picked up the Mace during a debate on the Poll Tax and threw it to the Floor. The Mace was damaged and Brown was ordered to pay £1,500 to repair it. When he later failed to pay the penalty read out as a pre-agreed apology to the Speaker, he was suspended from the House of Commons and his Labour Party. He lost his seat.

In 2002, when hon. Keith Martin, a Member of the Canadian House of Commons seized the ceremonial Mace of the House of Commons from the Clerk's Table, the Speaker ruled that a *prima facie* breach of the privileges of the House had occurred and

contempt had been committed. Martin was not permitted to resume his seat until he had issued a formal apology from the Bar of the House pursuant to a Motion passed in response to the incident.

Therefore, as has been the case in other jurisdictions, any Member here who engages in such activity regarding the Mace, will attract severe sanctions as stipulated under our Standing Order No.107(1)(a), including suspension from the House for the remainder of the Session. For avoidance of doubt, our Sessions invariably correspond with a calendar year. Therefore, if a Member is suspended at the commencement of a Session, it, therefore, means that, that Member automatically would be in breach of Article 103 of our Constitution and, therefore, must proceed to relax with his electors.

Hon. Members, you will also notice the Serjeant-at-Arms officers are always protective of the Mace. As such, any tussling, wrestling with or use of violence against any officer of the House while they are engaged in the performance of their duties of securing the Mace and attending to the Speaker and Members, will attract the punishment to be meted under the Standing Order No.111. Hon. Members, for the avoidance of doubt, I would want to encourage you to carefully study Standing Order No.11 because if you are ordered by whoever is presiding to leave the Chamber, you resist and the Serjeant-at-Arms touches you, the consequences are that you may be suspended for periods in excess of not just eight Sittings, but 28 days. We intend to enforce these rules. In such a case, the concerned Member would be suspended from the service of the House for the remainder of the Session and forfeit the right of access to the precincts of Parliament and all other privileges that go with the service of a Member.

With regard to the incident that occurred last week on Thursday, 11th December, 2014, during the Afternoon Sitting involving the Mace in the Assembly, the video clip of what happened that day is currently under review. Since the Presiding Officer did not take appropriate action at the time, this matter will now stand referred to the Committee on Privileges. However, Members should take note that from now on, any person who tries to remove or tamper with the Mace, will be dealt with immediately on the spot. I wish to unequivocally state that I will not hesitate to suspend any Member from this House for the remainder of the Session and into the next Session.

From the foregoing and noting that today is a Special Sitting, with the House having adjourned until Tuesday, 10th February, 2015, you are cautioned that any Member suspended during this Special Sitting will automatically relinquish all privileges, immunities, access to parliamentary precincts, attendance of Committee Sittings and any allowances payable, including mileage, during the recess period.

Hon. Members, this August House has an obligation to espouse decorum, behaviour and deportment which bespeak of us, as honourable persons, and we owe this to those we represent and the society at large. We do not have a choice! I also wish to remind you that your Presiding Officers are your leaders; the face of your Assembly, who carry your image and dignity. I encourage you to respect them and to honour their decisions.

Just like in any other House, this Assembly is comprised of political parties, which represent divergent party views and positions on variety of matters. Once in a while, these issues are likely to be emotive during debate on the Floor of the House. My

duty, as the Speaker, is to facilitate this debate while acknowledging the dictum that: “*The Minority will have its say, but the Majority will have its way.*”

With this in mind, let us debate with sobriety and order knowing that the country is looking up to us for direction. Indeed, I want to assure all Members that we intend to allow all the Members, including those who may have minority views on each of the three items on our agenda today, to ventilate and advance those views without interruptions, except in accordance with the Standing Orders. However, you must all stay within the rules of relevance and decorum.

In closing, I wish to remind us that reference to ourselves as “Honourable Members” is not a title conferred on us by ourselves, but by others. It should, therefore, be a title that is continually earned and revered by those of us who, as we say in our Parliamentary Prayer: “Have been called upon to the performance of important trusts in this Republic”. Whatever issues Members may want to raise in the House, now and in the future, should be done with decorum, civility and in keeping with the stature of Honourable Members.

I wish to thank you, hon. Members, but also for the benefit of those who are making their way to the House, this will not be repeated. It is on record, but when we are in the Committee of the whole House, I expect that you understand that the Committee of the whole House is not an occasion for debate. It is not and it has never been. Our rules do not permit. Those who have proposals to make must be allowed to do so. Those who agree with those proposals have their chance to express themselves in the usual way in a democracy. Those who do not agree, similarly, will be allowed the opportunity to exercise their right to disagree, but it is not an occasion for debate.

Thank you.

Hon. Ababu: On a point of order, hon. Speaker, Sir.

Hon. Speaker: Who is this? Hon. Ababu, I hope you are on a point of order. I want now to begin administering our own Standing Orders. The point of order must not be on the Communication. It must be completely outside of that. It will never be a point of debate, certainly not when I am here!

(Hon. (Maj-Gen.) Nkaissery walked into the Chamber)

(Applause)

Hon. Ababu, what is your point of order?

Hon. Ababu: Thank you, hon. Speaker. It is tradition of this House not to challenge a ruling of the Chair. However, it is also a tradition of this House to make observations. Hon. Speaker, please allow---

Hon. Speaker: Certainly, no observations on the ruling. You are out of order! Resume your seat!

(Loud consultations)

Hon. Members, we will not entertain observations on a Communication. Hon. Ababu, there are no observations on the Communication. It must be on something different. I will allow you to talk, if you have something different.

Hon. Ababu: Hon. Speaker, please allow me to make an observation which I believe is important for the dignity of this House. It is true that this is a House of rules. It is a House of order and we cannot conduct business in this House in a state of disorderliness and without fidelity to the rules.

However, I also know that Chapter Eight of the Constitution that creates this House, and especially Article 94(2), indicates clearly that this House reflects the popular will of the people and represents their sovereignty. Therefore, my observation very briefly---

(Applause)

Hon. Speaker: Hon. Members, can I hear what hon. Ababu is saying? You may be excited about something that you may have pre-arranged. I do not know and I have not heard. So, like now, I do not know what is exciting those of you who are excited. What are you saying?

Hon. Ababu: Hon. Speaker, my observation, therefore, is that, yes, we must maintain fidelity to the rules of this House and be orderly. But this House must also be seen to be free and exercising the sovereign will of the people.

Hon. Members: Yes!

Hon. Ababu: Hon. Speaker, when we walked in here, this whole Parliament was surrounded by security forces. This gives an impression that we are becoming a police state. Therefore, when we see all signs of intimidation--- Hon. Members are being harassed while accessing the precincts of Parliament.

(Loud consultations)

Hon. Speaker: Order, hon. Members!

Hon. Ababu: Therefore, when we see what is happening outside the Chamber and we hear what amounts to an advance---

Hon. Speaker: Order, hon. Members! Hon. Millie Odhiambo!

Hon. Ababu: Hon. Speaker, let me finish. May I, please, conclude my observations?

Hon. Speaker: Resume your seats!

(Loud consultations)

Order, hon. Members! Hon. (Ms.) Odhiambo-Mabona, our rules are that when the hon. Speaker is on his feet, no hon. Member should be upstanding or, if you are standing, you must freeze! Not jumping around! So, hon. Members, if it is expected that what hon. Ababu is saying must be heard by the Speaker, then what you are doing is totally out of order! That is because I cannot hear. He is not in a public rally!

Hon. (Ms.) Odhiambo-Mabona is shouting from her seat in praise! Now, I do not know what she is praising. If I do not hear, how am I supposed to make any ruling? Therefore, allow hon. Ababu to make his point and when he is through, you can cheer him. Even then, it should only be for 10 seconds. You know the way it is done; not through shouting. I thought you claimed to do your second terms. How come the people who claim to be doing second and third terms are the ones who appear to be breaching and breaking the rules?

Hon. Members, allow hon. Ababu to make his point and I hear it, so that I am able to give a direction. If I do not hear because you are shouting in praise or in opposition, there is nothing. So, hon. Ababu, are you through with your point?

Hon. Ababu: Hon. Speaker, let me conclude. Hon. colleagues, the point I am making is important for the dignity and the freedom of this House. Whichever side of the aisle you sit, whether on the left hand side or the right hand side of the Speaker---

Hon. Speaker: Can you finish? Say it quickly!

Hon. Ababu: Hon. Speaker, let me conclude by saying that we must condemn, in the strongest terms possible, the attempt of any authority outside this House to intimidate, threaten and to attempt to control the debate in this House and the outcome of this House.

(Loud consultations)

I conclude by also saying that we respect the Chair, the rules and orderliness. However, hon. Members should also not be intimidated by what sounds like an advance punishment. That is because if we are going to commence debate on a premise where hon. Members are intimidated, and aware that they have already been condemned and punished---

(Loud consultations)

Hon. Speaker: Hon. Members, your very presence here is testimony that you have had free access into the precincts of Parliament.

Hon. Members: No!

(Hon. Outa stood up)

Hon. Outa, you actually should be the last person to even want to do what you are doing! I have no business allowing you to speak. Hon. Outa, you cannot engage in an argument with the Chair.

Hon. Outa: Hon. Speaker, I want to make a Statement.

Hon. Speaker: What statement? This is not a public rally!

(Hon. A.B. Duale and hon. Outa exchanged words)

Leader of Majority Party, what is this exchange between you and hon. Outa? Hon. Outa, do not be easily excitable. Do not allow yourself to be excited by things which are

not necessary! You came here to perform your functions as a Member of Parliament. You have no reason to be angry. Nothing has happened as yet.

Hon. Members, there is nothing out of order. No! No! There is nothing out of order. Hon. Nuh, what is your point of order? Which one? Hon. Members, I am also alive to something known as “filibustering”. So, those of you who might be assuming that this is the opportunity to filibuster; I want you to do your work which you are elected to do.

Proceed, hon. Nuh.

Hon. Nuh: Thank you, hon. Speaker. I stand under Standing Order No.29 (1), which says that:-

“Whenever during a session the House stands adjourned, whether or not a day has been appointed for the next meeting, the Speaker may, on the request of the Leader of the Majority Party or the Leader of the Minority Party, appoint a day for a special sitting of the House.”

Hon. Speaker, I am reading this together with Standing Order No. 29 (2), which says in:-

“The Speaker may allow a request under paragraph (1) if the Speaker is satisfied that the business proposed to be transacted relates to the matters specified under Standing Order No.61(Special Motions) or other urgent and exceptional business as the Speaker might allow.”

Hon. Speaker, I am raising this point of order in regard to the business we are engaging in, in the next Order, which is Order No.8. I believe this request was made by the Leader of Majority Party to you. If we interrogate this Standing Order, I do not believe that business is exceptional, urgent or special. This Parliament has passed many laws. Since we came to Parliament, we have passed almost 100 Bills. This is just any other Bill and there is nothing special about it that requires a Special Sitting. The Sitting we are going to have in the afternoon has most special issues of passing Maj-Gen. Nkaissery as our Cabinet Secretary for Interior and Coordination of National Government. That falls under urgent and special matter. But for this one, I do not see the urgency. I do not see the importance or exceptional business that it has.

(Loud consultations)

I would like to request you--- I know you are a man of intelligence and a man who adheres to the rule of law. I do not want you to leave this Chair before you make a ruling on my request. You must rule that this matter is not exceptional and I want to invoke Standing Order No.31 that this House adjourns until the afternoon session.

(Loud consultations)

Hon. Speaker, we are setting precedent in this Parliament under the new Constitution. We need to have Special Sitzings for special matters. If the Leader of Majority Party just writes a letter to the Speaker requesting for Special Sitting, tomorrow, he might have a wedding for a second wife and he might call us here for a special sitting. We will not allow this Parliament to be misused by the Leader of Majority Party by calling us here to do business that is not urgent or exceptional in any way.

Hon. Members: No!

Hon. Speaker: Order, hon. Members, including the hon. Member in *buibui*. Hon. Nuh, fortunately, these Standing Orders were adopted by the Tenth Parliament on 9th January. Both you and the Speaker were not part of the team that adopted them. In the wisdom of the Tenth Parliament, they stated that the discretion is only with the Speaker. So, the rest of you will not exercise that discretion in assistance or even complementary to the Speaker.

(Laughter)

Hon. Nuh, I wish to confirm to the House that on 11th December, 2014, I received a request from the Leader of Majority Party requesting that the House sits in a Special Sitting to debate the businesses indicated in the Gazette Notice. Having looked through what was indicated as the reasons for requesting the Special Sitting, I was satisfied - I am still satisfied - that the business proposed to be transacted was special and urgent. I, therefore, did gazette today's Sitting in the morning and in the afternoon. You will have to proceed to deal with the business in the best way you know. Hon. Nuh, it is unfortunate that you did not have the opportunity to propose a different way of dealing with a situation of this nature. But as it is, let us be satisfied; let us exercise our minds and do what we must do relating to the business before the House.

Hon. Members, let us proceed to the next Order.

(Hon. Ng'ongo stood up in his place)

Hon. Ng'ongo, what is your point of order? I will give you an opportunity to raise your point of order and it must be specific.

Hon. Members: No!

Hon. Ng'ongo: On a point of order, hon. Speaker. I am standing on a point of order on matters of constitutionality. I want to straightaway take you to Article 118 of the Constitution. Article 118(2) says:-

“Parliament may not exclude the public, or any media from any sitting unless in exceptional circumstances the relevant speaker has determined that there are justifiable reasons for the exclusion”. This flows from Article 118(1)(b) which says:-

Parliament shall facilitate public participation and involvement in the legislative and the business of Parliament and its committees.

As we speak, there are a number of my constituents - and I speak here on behalf of the people of Suba Constituency - who wanted to witness, sit and see how we are deliberating a matter of national importance - the Security Laws (Amendment) Bill.

(Loud consultations)

Looking at the Public Gallery, you can see there is no one. I want to know why my people have been stopped from accessing Parliament, whether this decision came from the Chair and what is this exceptional circumstance? This is a matter of the

Constitution and I am begging you because this Parliament is disadvantaging and disenfranchising the people of Suba Constituency who have---

(Hon. Simba Arati approached the Speaker)

Hon. Speaker: Hon. Arati, take your seat! Take your seat! Do not talk to me now!

Hon. Members: Sit down!

Hon. Speaker: Hon. Members, please, for the time being, I do not want to be consulted. I want to listen to what you are saying. When you come and stand all of you here--- That is why on Thursday certain things happened and because of these consultations, the Chair was not even aware of what was happening. Please, minimise the consultations.

Hon. Members, matters administrative may be raised here. But then you must leave the hon. Speaker to go and attend to those administrative matters. Hon. Ng'ongo and hon. Ababu, we have heard you in that respect, but that is not to say that the House will not proceed with business. Allow the administration of Parliament to address the issues you have raised. They cannot be addressed from the Chair here. It is good you raise them, but they will be addressed in the usual ways. Let nobody imagine that what you say here or elsewhere, everybody is at liberty or everybody hears you. Whatever plans or programmes anybody has must be addressed by the administration of Parliament for the orderly conduct of business. Remember the House can also decide to retreat into *camera*. Even that Article 118 is not absolute. The House can decide to retreat into *camera* depending on what business it wants to consider. We are not yet there. You have not made that decision to go into *camera*. So, allow the administration of Parliament to go and deal with the issues you have raised.

Next Order!

PAPERS LAID

Hon. A.B.Duale: Thank you, hon. Speaker. I beg to lay the following Paper on the Table of the House today Thursday, 18th December, 2014:-

The Third Report of the Committee on Appointments on the Vetting of a Cabinet Nominee.

(Hon. A.B. Duale laid the document on the Table)

Hon. Abongotum: Thank you, hon. Speaker. I beg to lay the following Paper on the Table of the House today Thursday, 18th December, 2014:-

The Report of the Departmental Committee on Administration and National Security on its consideration of the Security Laws (Amendment) Bill, 2014.

Hon. Members can collect this Report from Room 8.

(Hon. Abongotum laid the document on the Table)

Hon. Speaker: Let us have hon. Lessonet

Hon. Lessonet: Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Thursday 18th December 2014:-

The Report of the Select Committee on the Constituencies Development Fund (CDF) on its consideration of nominees for appointment to the CDF Board.

I thank you.

Hon. Speaker: Let us have hon. Chepkong'a.

Hon. Chepkong'a: Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Thursday December, 18th 2014:-

The Report of the Departmental Committee on Justice and Legal Affairs on the consideration of the Security Laws (Amendment) Bill, 2014.

Hon. Speaker: Very well.

Hon. (Prof.) Nyikal: On a point of Order, hon. Speaker.

Hon. Speaker: Hon. (Prof.) Nyikal, please, if you want to rise on a point of order, you need to put an intervention. You do not sit in your place and start yelling: "Point of Order!" Please, give him the opportunity.

Hon. (Prof.) Nyikal: Thank you, hon. Speaker. I rise under Standing Order, No. 127(5) regarding committee reports before debates on Bills. We have just laid on the Table two committee reports that relate to what we are going to discuss under Order No. 8 on the Order Paper. This is an extremely important Bill. It is an important matter for the country; I have raised this matter severally. Members should get the reports on time, but now the report has just been laid on the Table. We have not had time to look at them. We are being told to go and get them from wherever they are. Is it in order that we proceed with this discussion when we have not had the opportunity to look at what the committees have said? We are expected to see the reports and discuss the Bill at same time. On this Order, it is my proposal that we suspend debate on Order No. 8 until, probably, in the afternoon or later when we have had time to review and to read the reports.

It is for the sake of this country that every one of us must make a very clear decision on the laws that we are passing. You can only make a clear decision if you have had the Report and gone through it. I know there are many people who put information in the reports. I beg that you give us time. Give the people of this country time. Give the elected Members, the representatives of the people, the time to peruse these two reports. I am saying this for the good of this country. We cannot do it like this, hon. Speaker.

(Loud consultations)

Hon. Speaker: Order Members! Order, hon. Momanyi! You think you may not be seen because of your vertical challenge, but we can still see you!

(Laughter)

Now, hon. Members, if you consult so loudly you may not be able to follow what is being said. The hon. (Prof.) Nyikal has raised the issue of reports which have been tabled. However, hon. Members, if you just rewind to Thursday 11th December, 2014,

last week I gave a direction that any Member desiring to propose amendments to the Bill was at liberty to do that. Subsequent to that, many Members, in accordance to Standing Order No. 131, have appeared before the various committees. Standing Order No. 131 requires that if the amendments proposed are more than 10 then they must be harmonised. Several of you have appeared before the Committee to try and harmonise the various proposals for amendments.

The Bill was debated. You concluded the Second Reading on Thursday 11th December, 2014. What remained was for Members to propose amendments. I did extend the time for proposing amendments to as late as last evening. Many Members brought their amendments and they were referred to various committees, so that they could be harmonized. That exercise was the result of what you see on the Order Paper. The so called reports are merely what is on the Order Paper.

Those proposals, as a result, are just for harmonization exercise. It was not an opportunity to go and open debate. It was merely to harmonize. Are you proposing this or that? Can it be taken on board by this Committee, or do you still want to do it yourself? If you desire to proceed, you are allowed. That is why there are several Members whose names still appear proposing amendments. Therefore, there is absolutely nothing wrong.

There is no Report for you to go and--- In fact the Chairmen are sending you to go and read. It is what is attached to the Order Paper that you are going to proceed with. It is not debate. Somebody is proposing an amendment. What are the reasons? Give them out, one or two, then vote on it and proceed.

This attempt to try and derail this particular aspect of the sitting is obviously not going to be entertained. So, hon. (Prof.) Nyikal read through the proposed amendments. However, if you had any amendments to propose, you had the time between Thursday last week and last evening to appear before either the Committee on Justice and Legal Affairs, the Departmental Committee on Administration and National Security, or the Committee on Labour and Social Welfare, or any other Committee then propose the amendments. Nobody was denied the opportunity to do so.

Hon. (Prof.) Nyikal: Hon. Speaker.

Hon. Speaker: No! No! No Argument. We will proceed, Hon. Members

Hon. (Prof.) Nyikal: Hon. Speaker, that was not my point.

Hon. Speaker: It does not matter whether it was your point or not. Order Members!

Next Order!

NOTICES OF MOTIONS

ADOPTION OF REPORT ON VETTING OF HON (MAJ-GEN.) NKAISSERY

Hon. A.B Duale: Hon. Speaker, I beg to give notice of the following Motion:-

THAT this House adopts the Report of the Committee on Appointments on the vetting of the nominee for appointment as the Cabinet Secretary for Interior and Co-ordination of National Government

laid on the Table of the House on Thursday 18th December, 2014, and pursuant to the provisions of Article 152 (2) of Constitution approves the appointment of Maj-Gen. Nkaissery as the Cabinet Secretary for the Ministry of Interior and Co-ordination of National Government.

(Loud consultations)

Hon. Speaker: Order, Members! I have just made a communication. Hon. Members, we intend to go by the rules. Every Member has to be given a chance to be heard. This thing about interruption, I fail to understand why we have the Standing Orders. The hon. Member is giving notice of Motion.

Hon. Members, I fail to understand you, because you have the Standing Orders, and they talk about notice of Motion, yet some of you are ignorantly shouting: "Put the Question."

(Laughter)

It is never done that way. Go and look at your Standing Orders and know which question is put? However excited you may be about this, please let us allow him to finish. He has given notice of a Motion. It is as if you do not even want the Motion to be debated. This way, you will have an opportunity to make a decision, but not now, surely.

Hon. Lessonet, the Floor is yours.

VETTING OF NOMINEES TO THE CDF BOARD

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

THAT, this House adopts the Report of the Select Committee on the Constituencies Development Fund on the Vetting of Nominees for appointment as Board Members to the Constituencies Development Fund Board laid on the Table of the House on Thursday, 18th December, 2014, and pursuant to the provisions of Section 5 of the Constituencies Development Fund Act, 2013:-

(a) approves the appointment of hon. Elias Mbau as a Member of the Constituencies Development Fund Board, under Section 2(d); and,
(b) rejects the proposed appointment of Eng. Hillary James Nyaanga, Mr. Mike Iravo, and Dr. Margret Jepkirui Muthwii as Members of the Constituencies Development Fund Board.

Hon. Speaker: Very well.

Hon. Members, this is not a Statement. It is a communication which should be made before we go to the next Order. Before the House goes into Committee of the whole House, I wish to allow hon. Kajwang' to make a small Statement.

Hon. Kajwang': Thank you, hon. Speaker for allowing me to make an observation before we go to the next Order.

I want to thank hon. Members for the maturity which they have shown in debating issues before this House. The issue of security concerns all of us, as hon.

Members of this country. It is not every day that we should come to the National Assembly and every issue we discuss on the Floor of the House is wrestled upon. There comes a time when we have issues that we can debate soberly, and in a manner that draws us together.

Hon. Speaker, the business before us is an issue that we on both sides of the House must look at soberly. I attended the meeting that was called by the Leader of Majority Party. We did a lot of work in order to have amendments that could be presented on the Floor of this House. I also know that after that, the Leader of Majority Party called hon. Members who had amendments, so that we were able to harmonize them.

In my observation, the issue is that many hon. Members are today seeing the business appearing on the Order Paper this morning. As a matter of fact, it was not on the Parliamentary website at the time we expected it to be there.

Hon. Speaker, I know you have made an observation on it, but I plead with you because we have just seen the committee's amendments and the amendments proposed by hon. Members. There are many hon. Members, who may have wanted to propose further amendments, but because Standing Orders require that the amendments be in writing and that they get approved by the Speaker, I kindly ask that we get some more time to be able to pool people together. Those of us who may not have seen committee's amendments, or the amendments proposed by hon. Members, will see that many of the issues that they were talking about have been taken on board.

I request that before we go to the next Order, we have time to look at the amendments and see if we can come to some agreement. I beg that this Order does not go to the Floor in an acrimonious way; we can easily look at the same digit at the same time.

Thank you, hon. Speaker.

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

Hon. Speaker: Hon. Members, let me just tell you one thing; you, as individual hon. Members, have a right to propose amendments, but you must do so in accordance with the rules of the House. We have gone beyond that and allowed hon. Members to sit and propose amendments up to last night.

Surely, hon. Members who are claiming to be seeing amendments today, you know there is something called diligence. You are an elected hon. Member and a representative of the people. If you decided that after debate in the Second Reading you had nothing you thought you needed to propose as amendments for consideration, why should you find it surprising that amendments were proposed by your colleagues? If you choose indolence, you will have just to live with it

Hon. Members, this is not debate; this is not a public rally. I do not want to be told for the sake of this country. You have had all the opportunity to discuss that.

Hon. Midiwo, take one minute.

Hon. Midiwo: I thank you, hon. Speaker.

As said by hon. Kajwang' we are here for a matter of national importance. Let me begin by echoing your words, that we need not be excited. We need to be sober. This is a House of rules, again to echo your words. I know that as the Leader of Majority Party was reading the Motion to do with hon. Nkaissey, we on the CORD side were very excited because we produce brains and we hope he will help this country.

Hon. Speaker: Hon. Midiwo, what is your point of order?

Hon. Midiwo: Hon. Speaker, I am going to make my point of order. I am not excited. I just want to raise my issue, I beg you.

The issues raised by hon. Kajwang' and hon. Nyikal are pertinent and within the rules of this House. Last week, hon. Members from this side of the House did raise constitutional issues in the Bill that we are supposed to bring before the House. I would have liked to listen to your views about the issues we raised. Secondly, on the reports of committees, I know how you deal with committees' amendments and individual Members' amendments. I was here until ten o'clock last night, waiting for those committees' amendments, but I never saw them. I went home, searched the net, but I never saw the amendments. It is within our rules that, before we debate, and to avoid---

I think the Leader of Majority Party has done something that we ought to thank him for; he has tried to bridge the gap and to bring people together to look at the issues. Even if you look at them, most of the issues that may make somebody scared are proposals from the bi-partisan team. We do not know what they are. All we are asking you is to rule on the constitutional questions; we are also asking you to give us time.

Hon. Speaker, this is for all of us. It cannot be for the majority in the House. It must be for all of us. This Bill will become the law for Kenyans; it will not be for the Coalition for Reforms and Democracy (CORD) or the Jubilee Coalition. We need to be sober. It is good to yell and many Members yell. I like the way you have ruled on the issue of the Mace. We need to have order. However, you promised us, and we expect you to give us time to be heard. We must be heard on this. It is important and I respect you for that.

Hon. Speaker, I want to tell you that the only emergency here--- I want to disagree with my colleague who attempted to say that there is no need for this to be a Special Sitting. Indeed, there is need because security is an issue. Even yesterday, people were killed. This is a House that needs to work with the Government to sort it out. When we look like adversaries, then it is the beginning of anarchy. I want to plead with you that for us to make a good law that will rule this country for the next 100 years, give some of us, who are paid to do legislation, time to look at it. You have the powers. We can come back here on Tuesday, 23rd December, 2014 and deal with the same issue.

(Loud consultations)

Hon. Speaker, I plead with you. Lastly, I want to ask you to respond to the constitutional issues raised by Members of Parliament. That is how it works. It has worked for you and us. I beg you to use your office and give us proper guidance. I thank you.

Hon. Speaker: Hon. Members, there is no debate on this. This is going to be the final one.

Honestly, hon. Members, the hon. Midiwo either did not listen to my ruling of Thursday 11th November, 2014, or he might have gone to Arusha to play football. You are doing the country proud, nevertheless that matter has already been addressed in an earlier communication as to the issues of constitutionality of the Bill. That was communicated and put to rest.

Regarding today, you can say no because that may be your nature. However the matter is over.

(Laughter)

Hon. Members, I quite appreciate that there is need for you to consider laws that you pass for what they are meant to be. I communicated, when hon. Junet raised the issue, that, indeed, the Leader of Majority Party made a request and it was put in the *Kenya Gazette*. It may well be that people in far flung places in villages may not have read the *Kenya Gazette*, but I do not expect hon. Members of Parliament not to have read the *Kenya Gazette* Notice. You, therefore, knew well in advance, when you were coming here, the business you were coming to transact. It was within your power and right to propose any amendments. When you propose an amendment, you are given a chance - it is the practice of this House - to explain what your amendment is and convince your colleagues on both sides. If you do so, your proposed amendment is carried. If you did not convince them, you will not debate it because debate on the Bill ended on Thursday 11th December, 2014. You were able to express yourselves. You said what you needed to say about the Bill. Having done so, it was incumbent upon each one of you to then proceed to propose amendments, if you did not agree with any of the provisions. That is the period you had, that was since Thursday 11th December, 2014.

It is not even necessary for you to see the proposed amendments by your colleagues, except that our rules say that they must be approved by the Speaker 24 hours before the sitting and put on the Order Paper. You knew that you were coming here to consider the Committee of the whole House. You know what the Committee of the whole House is. So, I do not know what preparations you needed to make. Maybe you needed to visit some shrine to be prayed for. What preparations did you require to know that if you did not agree with a proposal, you were to propose an amendment? Several of you have done so and they are on the Order Paper; read them.

It is expected that you are sufficiently literate to be able to read and understand the proposed amendments by your colleagues and the committees. So, do not engage the Speaker in a situation of making decisions as to the suitability of clauses. The Speaker has no business in doing that. You finished debate.

Hon. Midiwo, you were at liberty, but I have not seen any proposed amendment from you. What are you saying you be given time to do? The time is over and the sitting is already gazetted. You are a leader on that side and of this House. You are a recognised leader of this House. Therefore, you are supposed to understand and follow the rules. If you needed to make any amendments, you must have done so, and they must have had my approval, whether you are a leader or not. You are not going to get the approval by seeking more time. Look at the Order Paper. You do not seem to be having a copy of it.

Hon. Midiwo, I know you to be an extremely diligent Member of the House. Why are you not reading the proposed amendments?

Hon. Members, I now rule that you came to proceed with the business listed in the *Kenya Gazette* Notice, which is Order No. 8. I, therefore, rule that the House proceeds to the Committee of the whole House.

(Loud consultations)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Chairlady (Hon. (Dr.) Laboso) took the Chair]

THE SECURITY LAWS (AMENDMENT) BILL

(Loud consultations)

Hon. Chairlady: Order hon. Members! The Chair is on her feet.

Hon. Mbadi, what is your point of order? Can the rest of you sit down, so that we hear the point of order? Hon. Mbadi, I have given you the Floor, what is your point of order? Can the rest, please, sit so that we hear the point of order?

Hon. Ng'ongo: Hon. Chairlady, we cannot allow this House to flout the Constitution of the Republic of Kenya.

Hon. Members: Yes! Yes!

Hon. Chairlady: Order, Members! Hon. Members, we cannot even hear the point that hon. Mbadi is making. Can the rest of you sit down, so that we hear what his point of order is? Hon. Members, we have just been told about decorum in the House.

*(Members from the CORD Coalition side stood up
in their places and sang Mapambano song)*

So, what is the meaning of standing up, hon. Members? Are you on a point of order?

(Loud consultations)

Hon. Members: No! No! No!

Hon. Chairlady: Order, Members!

Hon. Members: *Bado mapambano, mapambano, mapambano! Bado mapambano!*

Clause 1

Hon. Abongotum: Hon. Chairlady, I beg to move:-

THAT, Clause 1 be amended by inserting the words “and shall come into force upon publication” at the end thereof.

(Question of the amendment proposed)

(Question, that the words to be added be added, put and agreed to)

(Clause 1 as amended agreed to)

Hon. Members: No way! No way! No way!

Clause 2

Hon. Abongotum: Hon. Chairlady, I beg to move:-
THAT, Clause 2 be deleted.

(Question of the amendment proposed)

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

(Clause 2 deleted)

Hon. Members: No way! No way!

Clause 3

Hon. Abongotum: Hon. Chairlady, I beg to move:-
THAT, Clause 3 be amended by deleting paragraph (c).

(Loud consultations)

(Question of the amendment proposed)

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

(Clause 3 as amended agreed to)

Clause 4

Hon. Abongotum: Hon. Chairlady, I beg to move:-
THAT, Clause 4 be deleted.

(Question of the amendment proposed)

Hon. Members: No way! No way! No way! No way!

(Hon. Ng'ongo crossed the Floor, snatched the Order Paper from hon. Abongotum and tore it up)

(Several hon. Members stormed the Floor and tore up copies of their Order Papers)

(Senators Khalwale, Muthama, Wetangula and Orengo chanted from the Speaker's Gallery)

Hon. Chairlady: Order, Members! Let the Speaker come! Please, call the Speaker.

Hon. Members: No way! No way! No way!

(Several Members threw copies of the Order Paper on the Floor)

(Several Members continued chanting the Mapambano slogan)

(The House resumed)

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

Hon. Speaker: Order, Members! Serjeant-at-Arms, do you have officers? I need them to throw those Members out, one after the other!

(Loud chants)

(Loud consultations)

Order, hon. Members! Serjeant-at-Arms, I direct that the hon. Members in the Speaker's Gallery, who are waving, four of them, be ejected forthwith.

(Loud consultations)

Serjeant-at-Arms, that order must be implemented. They should be ejected. Serjeant-at-Arms, continue getting me all the names. Throw them out. Those are strangers. They must get out. Get them out. The strangers must leave the Speaker's Gallery.

(Loud consultations)

Hon. Members, the sitting is suspended for a period of 30 minutes and will resume at exactly 11.35 a.m.

(The sitting was suspended at 11.05 a.m.)

(The House resumed at 11.35 a.m.)

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

ADJOURNMENT

Hon. Speaker: Order, hon. Members!

(Hon. Ochieng and hon. Keynan consulted loudly)

Order, hon. Ochieng! Order, order, hon. Kenyan!

(Hon. Ababu consulted loudly)

Order, hon. Ababu!

Hon. Members, this is going to be the direction. In accordance with our own Standing Orders, since the House has degenerated into total chaos, the proceedings of this morning sitting are hereby adjourned until 2:30 p.m. this afternoon.

The House rose at 12.03 p.m.