

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 9th July 2015

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

Hon. Speaker: Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House today Thursday, 9th July 2015:-

The Report of the Committee on Agriculture, Tourism and Natural Resources of the East African Legislative Assembly (EALA) on the On-Spot Assessment of the Lake Victoria Water Supply and Sanitation Programme II.

The Report of the Committee on Accounts of EALA on the On-Spot Assessment of the Internal Audit Systems of Lake Victoria Basin Commission.

The Report of the Committee on General Purpose of the EALA on the EAC Annual Report for the period 2012/2013.

The Report of the Committee on General Purpose of the EALA on the EAC Budget for the Financial Year 2015/2016 and the Assembly Resolutions on the Budget.

The Report of the Auditor-General on the Financial Statements of *Uwezo* Fund Oversight Board for the two months period ended 30th June, 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements on the Revenue Statement – Ministry of Information, Communications and Technology - for the year ended 30th June, 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Kenya Slum Upgrading, Low Cost Housing and Infrastructure Trust Fund (KENSUF) for the year ended 30th June, 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the National Environment Management Authority (NEMA) for the year ended 30th June, 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Agricultural Settlement Fund Trustee for the year ended 30th June, 2014 and the Certificate of the Auditor-General therein.

Thank you, Hon. Speaker.

Hon. Speaker: On the various reports from EALA, starting from No.1 – 4, are referred to the Committee on Regional Integration for consideration and report to the Plenary.

The Chairperson, Departmental Committee on Health, Hon. (Dr.) Pukose, do you have a Report? There is a Report which I remember approving this morning on the irregular registration of a private eye clinic – Eye and U Kenya. That is the Report you are supposed to Table.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:-

Report of the Departmental Committee on Health on the matter of Irregular Registration of a Private Eye Clinic – Eye and U Kenya.

Thank you, Hon. Speaker.

Hon. Speaker: Very Well. The Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, with your indulgence, I will read my Statement later, not anticipating debate that the Calendar of the House shows that we can go on Recess today.

Hon. Speaker: Very well.

BILL

Second Reading

THE POLITICAL PARTIES (AMENDMENT) BILL

Hon. Speaker: Members making their way in, please take your seats. Debate on this Bill was concluded and what remains is for the Question to be put.

(Question put and negatived)

The Noes seem to have it.

Hon. Members: Division! Division!

Hon. Speaker: Those who may wish to claim for a division, stand up.

(Hon. Members stood up in their places)

Order, Members! Hon. Mutava Musyimi! Who are those Members up-standing? Order Members! Those up-standing, I believe, are in support and claiming for a Division.

Hon. Members: Yes.

Hon. Speaker: You have the requisite number. Ring the Division Bell.

(The Division Bell was rung)

(Loud consultations)

Hon. Speaker: Order, Members! Serjeant-at-Arms, draw the Bars and close the doors. Hon. Members take your seats. Order, Members! Can everyone log out? If you want me to repeat for avoidance of doubt like it happened yesterday. In an earlier Communication, I indicated that from the date of that Communication, voting in the National Assembly shall be electronic. Those of us that have formed a habit of walking on their two feet without their cards or those who may have misplaced them, unfortunately for now, will have to do with just observing the process so

that you can get more enthusiastic in the future. So, voting will be done electronically. You will have 60 seconds to log in. So, please, do so.

(Loud consultations)

Hon. Opiyo Wandayi, I have a feeling that you may not quite appreciate the plenary of the National Assembly. When the Speaker is on his feet, you are not permitted to do the kind of gestures that you are doing. We are going on Recess and we may wish to do that in the constituency. We will also be happy if you invite us to come and enjoy that engagement. Hon. Members, you may vote now.

The Question is that the Political Parties (Amendment) Bill, National Bill, No. 5 of 2015, be now read a Second Time.

(Loud consultations)

Hon. Speaker: Hon. Members, these are the results of the electronic voting. Those saying AYES are 51, those saying NOES are 48 and Abstention is one. The total is 100. The AYES have it.

(Question carried by 51 votes to 48)

AYES: Messrs. Njagagua, Mukwe, Prof. Nyikal, Ms. Machira, Ms. Wanyama, Messrs. Gimose, Wakhungu, Omagwa, Ms. Katana, Dr. Simiyu, Ms. Abdalla, Messrs Wekesa, Were, Moindi, Wangwe, Wa Kabando, Mohamed Abass, Momanyi, Muluvi, Lomunokol, Onyura, F.K. Wanyonyi, Shinali, Injendi, Mati, Mwamkale, Gaichuhie, Nyenze, Aluoch, Musimba, Wangamati, Ms. Tobiko, Ms. R.K. Nyamai, Bishop R. Mutua, Messrs. Otaalo, Oyugi, Kinoti, Theuri, Mung'aro, Mule, Kariuki Stephen, Ms. Chebet, Messrs. Chea, Dukicha, Ms. T. G. Ali, Mr. Wamunyinyi, Ms. Chepkwony, Messrs. Kisang, Chanzu, Ms. Chidzuga and Mr. Mustafa.

NOES: Messrs. Elmi, Midiwo, Katoo, ole Kenta, Gethenji, Baiya, J.O. Omondi, P.E.O. Anyanga, Wandayi, A.B. Duale, Dido, A.T. Anyanga, Washiali, Otsiula, Bowen, Ochieng, J.K. Chege, Ngare, Waititu Ferdinard, Nderitu, Njenga, Outa, Ogalo, Kiptanui, Ms. Teiya, Messrs Olum, Kihagi, Kariuki Ndirangu, Koyi, M'uthari, Manje, Magwanga, Njomo, Kanini Kega, Murungi, Mohamed Abdi, Cheboi, Musyimi, Eng. Gumbo, Messrs. Letimalo, Mwaita, Chepkong'a, Ndiritu, Karani, Mwadeghu, Bosire, Dr. Otichilo and Mr. Opore.

ABSTENTION: Hon. Kubai Iringo.

Hon. Speaker: Open the doors and the Bars as well. The Bill will be read a Second Time. Hon. Members, I wish to give the following direction:-

Business appearing as Order No. 9 is to be skipped temporarily so that the House will determine businesses listed as Nos. 10 and 11 after which, we shall revert to Business appearing as Order No.9 - that is the Committee of the whole House. For now, the next order should be Order No. 10.

Hon. Speaker: Before we proceed, I wish to recognise students from the following institutions:-

(Hon. Gichigi crossed the Floor without bowing)

Hon. Gichigi, you know this is not Kipipiri! Go to the Bar and bow. Do what you have been ordered to do and no other stories.

(Hon. Gichigi went to the Bar and bowed to the Chair)

Exactly! Now you can cross.

I want to recognise the following institutions in the Speaker's Gallery:-

- 1) Thorn Tree Academy Primary School, Kajiado North Constituency, Kajiado County
- 2) Muthambi Boys High School, Maara Constituency, Tharaka Nithi County.

In the Public Gallery are:-

- 1) M.M. Chandaria Primary School, Ruaraka Constituency, Nairobi County.
- 2) Inkoirentio Primary School, Narok East Constituency, Narok County.

Welcome to the National Assembly and Parliament.

(Applause)

There was an intervention by Hon. Jakoyo Midiwo. What is your point of order?

Hon. Midiwo: Sorry, hon. Speaker. We were discussing the problems the problems in---

Hon. Speaker: Is it about this? Are you on a point of order?

Hon. Midiwo: Yes, I am on a point of order, hon. Speaker.

Hon. Speaker: Which issue are you rising to?

Hon. Midiwo: I am rising on an issue that relate to the happenings of the day. I had come to consult you but I knew you were on an important national function. It is not a small issue. I thought I should bring it to your attention if you allow me.

Hon. Speaker: Later or now?

Hon. Midiwo: Now, hon. Speaker. It is important.

Hon. Speaker: Is it connected to anything that is---

Hon. Midiwo: No, hon. Speaker. That is why I was trying to catch your attention. I am going to raise another point of order connected to this Motion which has been called.

Hon. Speaker, there is a matter of grave national importance that I just want to bring to the attention of the House.

Hon. Speaker: I do not understand. Matters of grave national importance are not raised as points of order. They are raised under Standing Order No. 33.

Hon. Midiwo: Hon. Speaker, Standing Order No. 33 could also be under a point of order.

Hon. Speaker: No! No! A matter of grave national importance would be the one in which you would want the House to even adjourn.

Hon. Midiwo: No, hon. Speaker. This is just a small one I wanted us to engage in. I beg you, hon. Speaker. It is important.

Hon. Speaker: I do not understand. Points of order must talk on something that is out of order.

Hon. Midiwo: Yes, hon. Speaker. There is something out of order and if you let me say it, then you will make---

Hon. Speaker: Please, go ahead.

Hon. Midiwo: Hon. Speaker, I rise on a point of order. Sorry for ambushing you. As we are going on recess, this is an issue I thought this House must address itself to. Hon. Speaker, in

the last couple of days, there has been “noise” about a Member of this House telling Kenyans to get ready to cut each other with *pangas*.

Hon. Speaker, I tried to come to your office just for a discussion as our father so that you could even address it on your own. I am in the know that the comments associated with Hon. Moses Kuria are causing a lot of anxiety in the areas where we are, with members of his community. I thought the Floor of this House is well placed to address the issue so that Kenyans can continue to live in peace as we have been living since 2008.

I know that Hon. Moses Kuria is a new Member of this House.

Hon. Speaker: You see now, if we allow you to begin discussing another Member otherwise than through a Substantive Motion, I will be allowing you to break the Standing Orders.

Hon. Midiwo: Hon. Speaker. I am not discussing the Member. I am only discussing the substance of what is out there.

Hon. Speaker: But to the extent that you are naming him. I can hear some excitement about the mentioning.

Hon. Midiwo: I have withdrawn his name, Hon. Speaker.

Hon. Speaker: You can say something about a Member who is saying something.

Hon. Midiwo: Yes, I am advised. Hon. Speaker, the point I was trying to bring to the attention of the House and to the nation at large is this: We have been living together in this country. The issues of how we are supposed to live are well addressed in the new Constitution. Utterances by politicians or even imagination that members of this country can be allowed outside the law to cut each other with *pangas* over political sentiments is something we need to run away from.

I know and I have been informed by members of the public. I have received calls from Eldoret, Busia and Kisumu from people who are concerned about this *panga* issue. Less than ten years ago, there was the much talked about 41 against one. We cannot let this country go that direction because that one is part of us. When the sentiments come from one, whom the law was trying to protect, the anxiety is one that this House ought to disassociate itself from.

The respective arms of law and organs charged with enforcing the law need to act. I said it here two days ago when we discussed the crackdown on alcohol. I cautioned our colleagues not to be lawless and try to let the arms of Government do their work. We have been treated to very interesting events for about a week now.

Hon. Speaker: You see now, it is becoming a debate which I do not know where it is ending.

Hon. Midiwo: Hon. Speaker, I am only saying that since a reminiscent of the post-election violence is the one this House and Members need to run away from, what is being done by unnecessary and reckless utterances from us is causing very unnecessary anxiety amongst Kenyans. I just thought that, as we pass the Motion to go on Recess, Members need to watch their tongues for the sake of our country. That is what I wanted to bring to the attention of the House.

Hon. Speaker: Very well. That obviously would have come in appropriately at the Adjournment Motion. But even a clear reading of Article 157 of the Constitution regarding the Office of the Director of Public Prosecutions (DPP), in the exercise of his or her duties, whenever there is such a problem, he or she is not subject to the direction and/or control of any other person, body or authority.

I would expect that those charged with responsibilities to enforce the law should be doing it without necessarily waiting to be prompted from the House. That is the best we can do. The rest, as you have rightly pointed out, we all have a responsibility to watch our tongues.

Those of you, who may not have been very young, like Hon. Olago Aluoch, will recall some cartoon that was once drawn around the time of the unfortunate death of the late Bishop Alexander Kipsang Muge. There was a cartoon that came out with a long tongue of a politician. I am sure Hon. (Prof.) Nyikal remembers that cartoon.

(Several Members nodded in agreement)

I can see there are fairly many people who can recall it.

The point made by Hon. Midiwo is quite valid. Let us be careful with what we say. We have a responsibility and duty to act within the values clearly enumerated in Article 10 and what the 10th Parliament gave us in the Leadership and Integrity Act. But I can tell you that we too, as a Committee charged with powers and privileges, are looking at standards of behavior and trying to see what the best practice is around the world so that we can bring some proposals here, so that you can express yourselves on how it is that those of us in leadership should behave, both in and outside the precincts of Parliament. There are certain minimum behaviors and conduct expected of us.

We move to the Motion - the Chairperson of the Committee on Selection.

MOTIONS

ESTABLISHMENT OF JOINT COMMITTEE ON CATERING AND HEALTH CLUB SERVICES

Hon. A.B. Duale: Thank you, Hon. Speaker. I beg to move the following Motion:-

THAT, aware that the Parliamentary Service Commission, during its 211th meeting on 15th June 2015 resolved to reconstitute the National Assembly Catering and Health Club Committee into a Joint Committee of Parliament incorporating Members of the Senate in view of the fact that catering and health services are joint services in a bicameral Parliament; further aware that with the establishment of the Parliamentary Fund, the Catering and Health Club Fund, currently under the National Assembly Catering and Health Club Committee, ought to be wound up and the sums therein paid into the Parliamentary Fund; therefore, this House resolves:-

(i) to dissolve the National Assembly Catering and Health Club Committee and pursuant to Article 124 (2) of the Constitution, Standing Order 213 and Rule 9(1)(c) of the Houses of Parliament (Joint Sittings) Rules, establish a Joint Parliamentary Committee on Catering and Health Club Services to look into and advise on matters of catering and health club facilities; and,

(ii) to appoint the current twenty nine (29) Members of the National Assembly Catering and Health Club Committee to the Joint Parliamentary Committee on Catering and Health Club Services.

Hon. Speaker, having read the Motion and owing to the fact that Parliament is composed of two Houses, it is necessary to bring on board the Senate and the National Assembly to form a Joint Parliamentary Committee on Catering and Health Club Services.

The Committee on Selection has taken an honest decision to re-appoint the current 29 Members of the National Assembly Catering and Health Club Committee to the Joint Parliamentary Committee on Catering and Health Club Services. As such, the Senate will be required to appoint their side of their Members to this Committee. This is pursuant to Standing Order No.213 that requires Joint Committees to be comprised of a number of Members of equal measure. The Senate will also appoint 29 Members. That will be the largest Committee of any House knowing that the Chair of the Budget and Appropriations Committee had the highest number at 54 Members.

Members of the new reconstituted Parliamentary Catering and Health Club Services from the National Assembly are as follows:-

1. Hon. Janet Nangabo Wanyama, MP
2. Hon. Elijah Lagat, MP
3. Hon. (Ms.) Mary Njoki Mbugua, MP
4. Hon. Francis Munyua Waititu, MP
5. Hon. (Ms.) Jane Machira, MP
6. Hon. John Njoroge Chege, MP
7. Hon. Benjamin Washiali, MP
8. Hon. Daniel Wanyama, MP
9. Hon. Boniface Gatobu Kinoti, MP
10. Hon. Mwinga Gunga, MP
11. Hon. (Ms.) Hellen Chepkwony, MP
12. Hon. Harrison Kombe, MP
13. Hon. Joseph Kiuna, M. P.
14. Hon. (Ms.) Susan Chebet, MP
15. Hon. Oscar Sudi, MP
16. Hon. Gideon Mwititi, MP
17. Hon. Hassan Dukicha, MP
18. Hon. Stephen Wachira, MP
19. Hon. Jakoyo Midiwo, MP
20. Hon. Mwahima Maasud, MP
21. Hon. Suleiman Murunga Kasuti, MP
22. Hon. (Dr.) Gesami James, MP
23. Hon. (Ms.) Ibren Nasra Ibrahim, MP
24. Hon. Otaalo Raphael Milikau, MP
25. Hon. Joseph Aduma Owuor, MP
26. Hon. (Ms.) Halima Duri Ware, MP
27. Hon. (Ms.) Nyiva Mwendwa, MP
28. Hon. Stephen Mutinda Mule, MP
29. Hon. Geoffrey Odanga, MP

The Member of Parliament of “yesterday” – is a very famous Member for Matayos. That is the Motion, if hon. Linturi can give him a chance to speak. I ask my colleague and the Minority Whip, Hon. Mwadeghu, to second.

Hon. Mwadeghu: Ahsante sana Mhe. Spika. Ninasimama kuunga mkono Hoja hii vile ilivyopendekezwa na Mheshimiwa ambaye anaongoza upande wa Serikali. Tukiangalia sheria zetu, zinaturuhusu kuangalia kama Kamati zinaweza kuunganishwa ili tuwe na Kamati moja ambayo ina upande wa Seneti na upande wa National Assembly. Ni jambo ambalo limefikiriwa

na tunaomba Waheshimiwa walikubali ili tupate kuona kuwa maslahi ya Waheshimiwa wa Seneti na wa Bunge la Kitaifa yanatimizwa.

Kwa hayo machache, naunga mkono Hoja hii. Ahsante.

(Question proposed)

Hon. Members: Put the question!

Hon. Speaker: Hon. Midiwo, do you want to contribute? What is your contribution? He is a Member of the Committee.

Hon. Midiwo: Hon. Speaker, I stand to oppose this Motion. I want to reason with the House and the Leader of the Majority Party who has moved it because there is so much which is not understood about this Motion. This is the National Assembly of Kenya - it is not the Senate. We are not their children and their wishes cannot just come here the way they wish. You have rightly said that I am a Member of the Committee on Catering and Health Club Services. As you remember, from old days, it was a Committee that Members never wanted to join. They said that it was for cooks. You were here when a Member of Parliament was appointed to this Committee and he almost killed the then Speaker, Hon. Francis ole Kaparo. Then, we changed the mandate of the Committee to be about the general management of health and other issues of Parliament.

At the outset, that particular Committee is “supposed to” manage the monies that are deducted from Members’ payslips every month for services rendered to Members of Parliament. I was in the Committee today. The Committee of Catering and Health Services is not opposed to have a joint Committee with the Senate because we are all served. So, we begin from there. We want the Senators to participate where catering services are being offered. We also want the Senators to participate where the health services and sports facilities are.

This Motion as drafted seems to suggest that there is going to be an additional 29 Senators to join the Committee. This is what the Motion is suggesting. If it is management of Members’ funds, you begin by questioning first. There are 349 Members of the National Assembly and 67 Senators contributing. There cannot be equity. It cannot be equal numbers. So, this is a wrong Motion.

Secondly, Members need to be advised that a letter - which I am going to table - was sent to the Committee by the so-called senior management of Parliament. This is a fund for Members of Parliament. The Catering Department, be it the restaurant, the bar or the gym, is a private Members’ club by these Members of the National Assembly. Some staff went and sat somewhere and saw sense to wind up a Committee chosen by Members of Parliament to manage Members of Parliament. In itself, it is absurd. This is a letter that is meant to subordinate Members of Parliament. They cannot write to us. They can come and present their wishes to a Committee of Members of Parliament.

Hon. Speaker: Hon. Midiwo, could you, for the benefit of Members, read the contents of the letter?

Hon. Midiwo: This is what the letter from the Clerk says:-

“RE: PROPOSED JOINT MEETING BETWEEN THE COMMITTEE OF COMMISSION ON MEMBERS’ WELFARE AND NATIONAL ASSEMBLY CATERING AND HEALTH CLUB SERVICES COMMITTEE.

During a special meeting held on 26th March 2015, the Committee of the Commission on Members’ welfare met with the *Ad Hoc* Committee on Members’ welfare of the National Assembly and discussed the poor quality of food, the poor

state of infrastructure, staff engaged on temporary terms and high turnover of specialised staff in the catering department. The meeting was informed that the Catering and Health Club Services Committee had held a retreat in Kisumu on the date and the Committee of the Commission on Members' welfare recommended a joint meeting between the Catering and Health Club Services Committee be held to deliberate on the issue."

If you can see, the issues raised by the Members of the Catering Committee are high turnover of specialised staff, bad food, poor infrastructure *et cetera*. What this letter does not tell you is that the Members of the Catering Committee as per their mandate questioned what the money that they contribute does?

Hon. Speaker, it was because of the accounting of the money that the Committee was questioned. It, therefore, means, without casting unnecessary aspersions, that somebody was tickled by the questioning on Members' money. When you eat in this restaurant, you pay Kshs600 for that food. I have not met you there lately, Hon. Speaker. The food is despicable! It is not worth Kshs200. Somebody went somewhere and put that price. What the Members are asking is: "How is it that, that kind of money is paid for that kind of food and where does the money go?" That is what the Committee is asking. So, you cannot dissolve a Committee because it is questioning those issues. Its mandate is to manage the Fund. If you ask these Members how many of them now do not go to that restaurant because of the quality of food, you will get 90 per cent. They are not interested. What we are being confronted with is unnecessary. We can bring the Senators on board but this is a Motion that needs to be stood down.

Under your chairmanship, the issue of the mandate--- What is tickling people is the management of the Fund where almost 1,000 people eat per day at Kshs600. Do your own maths and you can see where the interest is. You can see that members of the Committee should have been consulted. They should have been asked: "In your own investigations as per your mandate, what have you found out because things have been found out?" So, I want to plead with the Mover of the Motion that before we go on with this debate, we stand down this Motion so that it does not lapse and we come back six months later. The Committee has been consulted. We sent our Chairperson to you and a couple of other members so that we can know what the issue is. It is your responsibility, as our father, to make sure that there is quality and no plunder and theft in Parliament. We beg you. I want to plead with Hon. A.B. Duale to be magnanimous because I knew those issues were not known. It is not even a controversial issue but the Senate cannot ask us to have equal numbers in a Committee where they are minimally contributing to manage a Member's Fund. Money killed Jesus and it was only three pence! So, we have appointed you to manage our money and we are trying to get to the bottom of it. I ask you to withdraw it.

Thank you.

(Laughter)

Hon. Speaker: Hon. Chepkong'a.

Hon. Chepkong'a: Thank you, Hon. Speaker. I have listened with a lot of interest. I had dismissed Hon. Jakoyo Midiwo and my good friend here. I have listened to them and they are raising very pertinent and significant matters that ought to be inquired further beyond here. This is not a matter that we can sort out.

I rise pursuant to Standing Orders No.83 and 96 with regard to adjournment of debate. I move that the debate be now adjourned to enable further consultations before this matter comes back.

I thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Hon. Members, what I think Hon. Midiwo did not also say is that he is a member of the *ad hoc* Committee. So, he has much more information since his Committee met the Commission's Sub-committee on Members Welfare chaired by Senator Leshore. Everybody has listened to the issues that Hon. Midiwo has raised and has heard what Hon. Chepkong'a has raised, which is that debate on this Motion be adjourned to allow for further consultations.

(Motion withdrawn)

Debate on the Motion is adjourned. So, we go to the next Order.

APPOINTMENT OF COMMITTEE MEMBERS TO JCPM

Hon. Speaker: Leader of the Majority Party.

Hon. A. B. Duale: Thank you, Hon. Speaker. I beg to move:-

THAT, pursuant to the provisions of Standing Order No.213(3) and Rule 9 of the Houses of Parliament (Joint Sittings) Rules (Fourth Schedule), this House approves the appointment of the following Members to the Joint Committee on the Presidential

Memoranda on the Public Procurement and Asset Disposal Bill, 2014, and the Public Audit Bill, 2014:-

- (i) Hon. Jakoyo Midiwo;
- (ii) Hon. Samuel Chepkong'a;
- (iii) Hon. Mary Emaase;
- (iv) Hon. Johnson Sakaja; and,
- (v) Hon. Abdikadir Aden.

This is a small matter following your Communication and the subsequent Communication that you received from the Senate Speaker. The Committee on Selection, in its Sitting, decided to appoint the five Members to that Committee. I ask the Minority Party Whip to second.

Hon. Speaker: Hon. Mwadeghu.

Hon. Mwadeghu: Hon. Speaker, I second.

(Question proposed)

Hon. Members: Put the Question.

Hon. Speaker: It seems to be the desire of the House.

(Question put and agreed to)

Hon. (Eng.) Gumbo: On a point of order.

Hon. Speaker: Hon. Members, before we listen to the point of order by the Chairman of Public Accounts Committee (PAC), let me take this opportunity to introduce, seated in the Public Gallery, pupils and students from the following two institutions:-

- (i) Longisa Primary School, Bomet East Constituency, Bomet County
- (ii) Mutomo Mixed Secondary School, Kitui County.

They are welcome to Parliament. Yes, Hon. (Eng.) Gumbo.

Hon. (Eng.) Gumbo: Hon. Speaker, as much as we have passed the Motion under Order No.11, I would like to request the House that, when we are doing something like this, to also rely on history. Some of us have proposed so many amendments. Some of the amendments that are the subject of the memoranda were proposed by us. In the Public Audit Bill, I had over 70 amendments.

Hon. Speaker: Hon. Gumbo, in fairness, what you are raising is not a point of order. You should have said that you wanted to oppose the nominations which came from the Committee on Selection. That is not a point of order. There is nothing out of order.

Hon. (Eng.) Gumbo: Just to enrich the discussion, Hon. Speaker.

Hon. Speaker: No! That is not a point of order. You cannot stand there and claim that, that is a point of order. It is not. I rule you out of order. Merely because you introduced amendments to a Bill, now you think that entitles you to belong to the Mediation Committee. That issue of history should not be raised here. Raise it with the Committee on Selection.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Deputy Chairman (Hon. Cheboi) took the Chair]

THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL

The Temporary Deputy Chairman (Hon. Cheboi): Order Hon. Members. We are now in the Committee of the whole House to consider the Ethics and Anti-Corruption Commission (EACC) Amendment Bill, National Assembly Bill No. 33 of 2015. We will be moving pretty fast. Let us be keen so that we can dispose of this matter so quickly.

We have a few amendments. Hon. Jakoyo Midiwo, do you want to move your amendment? Let us confirm first. Yes, you have an amendment to that particular one. You are the one proposing the deletion. I hope you are prepared.

Clause 2

Hon. Midiwo: Yes. Hon. Temporary Deputy Chairman, I beg to move:-
THAT, the Bill be amended by deleting Clause 2.

We have been telling Kenyans that we want to save on the wage bill. The Committee has never convinced us on why we should increase the number of Commissioners of EACC from three to five and, at the same time, employ them on part-time basis. I want to support that they be part-time. However, this House must help the country and the Government on the issue of wage bill. To tell people that they will be commissioners and they will work part-time is not good. They will go and not work effectively.

I want to convince the House that there is no real reason. I hope I am making sense. We need our monies to construct roads, build hospitals and do other things. In many commissions around the world, the commissioner is always one person. We have said it here and again that going forward, we may have no commissioners or just one commissioner. Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Chepkong'a. The only thing that I want Hon. Midiwo to clarify is that he is proposing a deletion and, therefore, the membership will remain three and part-time. Is that your position? It did not come out very clearly. It is good when Members are with you, before I give Hon. Chepkong'a a chance.

Hon. Midiwo: My interest is in the numbers and the wage bill. I do not mind them being full-time. My interest is in keeping the wage bill in EACC as low as we can afford. By deleting that Clause 2, what you remain with is the original position in the Constitution that says: "Not less than three and not more than nine"

The Temporary Deputy Chairman (Hon. Cheboi): So, they will remain full-time?

Hon. Midiwo: Yes. That, I do not mind. Unless somebody wants to move an amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Chepkong'a had requested for a point of order and I am giving it to him now.

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I sympathize with the position taken by Hon. Jakoyo Midiwo. You know that I have a lot of respect for him but on this matter, I beg to disagree with him for very good reasons.

The Committee considered that position of retaining two commissioners. The Committee felt that it is unacceptable to have two commissioners just to form a quorum of a serious commission like that one. Today, if you say that Hon. Jakoyo Midiwo and I will form a quorum of a serious commission like that, certainly, there will be collusion.

Secondly, the other issue that we considered is that, if you have one person who is strong among the three - as was the case of the outgoing commission--- Mr. Matemu was very strong. The other two were just being "towered" around. They had no idea where they were and they did not know what they were doing.

The other concern is that if he looks at the Bill, we considered the question of additional expenditure in the Commission. We found out that we are removing the four by 4WD vehicles that they have been driving. We are not paying them a salary. They will be paid a sitting allowance. When we calculated all that, we ended up stating in the Bill:-

"The enactment of this Bill shall not occasion additional expenditure of public funds".

It will not at all. It is going to reduce further because those commissioners are going to be part-time. They are going to earn a sitting allowance just like any other board - like the Salaries and Remuneration Commission (SRC). We totally agree with Hon. Midiwo. It has been his philosophy that we need to make all commissions part-time. The only problem is that if you have only three, the chances of collusion are very high with two. So, I beg him to agree with me - as he always has. He is a fairly reasonable and impartial person. Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Let us have Hon. Shakeel Shabbir. Just a moment! Since Hon. Chepkong'a was on appoint of order. I will propose and give you the opportunity to speak.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Shakeel Shabbir. I will give four Members a chance to speak.

Hon. S.S. Ahmed: Hon. Temporary Deputy Chairman, I oppose the proposal by my dear friend, Hon. Jakoyo. I support the Chairman. We are reducing the wage bill. In the EACC, the commissioners were working full-time. They took over the roles of the Secretariat. There was a great amount of tug of war and nothing much was accomplished. A number of them were earning big salaries and a number of other privileges. It is my proposal that we oppose the amendment and we allow them to be four and work part-time. The members of the Commission should be people whose reputation is so good that they cannot afford to spoil it by getting involved in small issues of corruption.

Some of the important people that we know - such as the captains of industries - should be part-time commissioners there. I do not want to give names but we think that, that is the way it should be.

So, I oppose.

The Temporary Deputy Chairman (Hon. Cheboi): That should be fine. Let us not get into debating now. I can see Hon. Midiwo. What is it? You have just had an opportunity. You are rising again on a point of order.

Hon. Midiwo: I am convinced by the two speakers, especially the part that it will not occasion additional expenditure on public funding. I know the Committee must be held to account when they say that there will be no high wage bill. I withdraw.

*(The proposed amendment to Clause 2
by Hon. Midiwo withdrawn)*

The Temporary Deputy Chairman (Hon. Cheboi): Okay, if that is the case then Hon. Members, I do not think that we will pursue that one any further. We will, therefore, put the Question.

(Clause 2 agreed to)

(Clause 3 agreed to)

Clause 4

The Temporary Deputy Chairman (Hon. Cheboi): I see we have an amendment by Hon. (Ms.) Abdalla. Hon. (Ms.) Abdalla, you seem to be having a problem with that specific microphone.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 4 of the Bill be amended by deleting Clause 4 and inserting the following new clause:-

Repeal and replacement of section 10 of No. 22 of 2011.

4. The principal act is amended by repealing section 10 and replacing it with the following new section—

Filling of vacancy.

10. Where a vacancy arises in the membership of the Commission, the Public Service Commission shall, following the procedure set out in section 6, shortlist three qualified applicants for each vacancy and forward the names of the applicants so qualified to the President for appointment in accordance with that section.

The import of this amendment is that the recruitment of the commissioners will move from a panel back to the Public Service Commission (PSC). The issue of panels was a relic of the coalition government in which some of the coalition partners did not trust the existing institution to do the job and so, they chose to form panels that had the representatives from the Judicial Service Commission (JSC) and several other commissions, including Agenda Four Commissions.

In essence, they were taking the job of the Executive to recruit their people and giving it to different commissions which they felt that they trusted. The commissions were mainly the Agenda Four commissions. Now that there is no coalition arrangement, we should give the rightful institution the role of interviewing members to commissions. That is the import of this amendment.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give the first opportunity to Hon. Wamalwa.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairman. I did not want to oppose my friend, Hon. Amina Abdalla, but in this case, I rise to oppose the amendment. I oppose it because when you read Article 249 (b) of the Constitution, it says that those bodies must be independent. Remember they are fighting issues to do with corruption. Their terms as they come cannot be renewed. In case of a vacancy and we give the job of appointing to PSC, there is likely to conflict of interest. We must retain it to be independent because they will be the same people looking at the issues of corruption in the Public Service. That is the concern I have.

I oppose the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): I now give a chance to Hon. M'eruaki. Are you on a point of order or do you want to contribute? If you want to contribute, then Hon. M'eruaki is ahead of you, Hon. Baiya.

An Hon. Member: He left his card in the slot!

The Temporary Deputy Chairman (Hon. Cheboi): That is unfortunate. I will give a chance to Hon. Gichigi. Did you also leave your card?

Hon. Gichigi: No.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Proceed.

Hon. Gichigi: I am here. Hon. Temporary Deputy Chairman. I stand to support this particular proposed amendment. This habit that we have formed, of creating selection committees all over, is not good. Every time there are officers to be appointed by the State, we create a selection committee. In my opinion, it is something that we should stop. We are talking

of reducing the wage bill. The best thing to do is to leave the people who have the permanent job of coming up with the names; namely, the PSC, to do their job.

I support the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. Let us have Hon. Oyoo of Muhoroni.

Hon. Oyoo: Thank you very much, Hon. Temporary Deputy Chairman. I stand to oppose the amendment, although I have a lot of respect for the lady because of her high brilliance. I mean Hon. Amina Abdalla. Out of experience, I have seen committees where names for appointment have been floated for people who have not actually applied for those jobs. This is a very serious job. We want to move the country forward and fight the dragon called corruption. We must have a very serious panel that will interview those people, but which is not PSC that takes instructions from the Executive. It is my view that those selection panels be formed by serious individuals such as people from the church, the business community and people of high integrity - but not PSC.

The Temporary Deputy Chairman (Hon. Cheboi): Let us be precise because I can see that there is a lot of interest. We have 22 requests. I am not sure whether they are specific to this amendment. If I go by the list, the top two are Hon. Mithika Linturi and Hon. Nicholas Gumbo. Then I will come to the Chairman of the Constitution Implementation Oversight Committee (CIOC) who is not actually ranked here. I am only going to give you a chance on the basis that you are the Chairperson of CIOC. However, in terms of this list, you are not even on the top-ten. I can see you are fairly agitated because you are very low on my list. Let us have Hon. Linturi followed by Hon. Gumbo and then, probably, I will give a chance to two other Members. That is because I can see there is a lot of interest in this amendment. Let us proceed. Hon. Linturi is not there? You are there, Hon. Linturi?

Hon. Linturi: Thank you, Hon. Temporary Deputy Chairman for giving me this opportunity. Having heard, looked very briefly at the amendment and understood what my friend Amina Abdalla's amendment is seeking to do, I am persuaded to oppose her amendment. I am persuaded to oppose her amendment because institutions of this nature are supposed to be completely independent. They are not supposed to be under the influence of anybody. When we open up those institutions to other people, other than the commissioners themselves, we will create a situation where people will always be telling them what to do. They will expect some offers to be extended to them and the like. In my view, the best way to go about this hon. Amina – and it is with all due respect because you know we have come from far, from our time in KANU together – is to kindly drop this amendment and then we proceed.

The Temporary Deputy Chairman (Hon. Cheboi): Let me give a chance to Hon. Gumbo. I will give chances to two more Members other than the Chairperson. Proceed.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Chairman. I do not want to say that it is not a good day for my sister but, like my colleagues before me have done, I have to oppose this amendment. We are looking for an anti-corruption agency which is independent and completely removed from encumbrances by allowing the PSC to be the one recruiting the Chairperson of the Commission. The Commissioners shall be indebted to PSC and the PSC is one of the bodies that those commissioners may be required to go after. To safeguard the independence of the Ethics and Anti-Corruption Commission (EACC), we need to remove them from this kind of approach where PSC is employing the commissioners.

I oppose the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Baiya and then I will mention the two other Members.

Hon. Baiya: Thank you, Hon. Temporary Deputy Chairman. I support the amendment by Hon. Amina. In addition to the reason Hon. Amina gave, the experience of the Tenth Parliament was that, at the time when Parliament resorted to this mechanism of appointing panels, there were two partners in the coalition Government who did not trust each other and needed to participate in the appointment of those panels. However, in the current system, we have one unitary Government. Another factor at that time was that the PSC was one of the bodies which also needed to be vetted. Ultimately, before it was vetted, nobody trusted it to actually carry out the appointment process.

Hon. Temporary Deputy Speaker, the Public Service Commission (PSC) body has already been vetted and its members approved by this House. When it comes to independence, to say that the panel will be independent relative to the PSC is a fallacy. The PSC itself is independent having been vetted and more suited to bring in independent candidates for purposes of appointment.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Elmi.

Hon. Elmi: Thank you, Hon. Temporary Deputy Chairman. I stand to support the amendment. The PSC is envisaged as an independent body, and whether individuals within the PSC behave otherwise, does not mean it is not independent. We want to strengthen institutions. Recently, the long process of constituting the vetting and recruitment committees delayed a lot of things. The earlier we go away from them and move to a very well-known commission that is independent - like the recruiting agency - the better.

Hon. Temporary Deputy Chairman, I support.

The Temporary Deputy Chairman (Hon. Cheboi): Very well.

Hon. Lati.

Hon. Lati: Thank you, Hon. Temporary Deputy Chairman. I think we formed a habit where we narrow the scope of what is independent. In my view, our laws envision independence not in that strict and narrow view that those constitutional commissions can be independent, if they do everything for themselves. In my opinion, commissions are more independent in their civic duty, but staff working in those commissions need independence from those commissions. Therefore, by having members of the Commission recruited by PSC, we will be enriching the independence of those commissions.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, you will, therefore, make your decision.

What is your point of order, Hon. Chepkong'a?

Hon. Chepkong'a: (*off record*)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Chepkong'a, it is neither here nor there. I am inclined but make your point of order very quickly and no discussions on it.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Chairman. When Hon. Amina approached me, I was skeptical. But looking at the law, if you look at the persons that are referred to forming the selection panel, some are nebulous. For instance, we have the Joint Forum of Religious Organisations which is comprised of Supreme Council of Kenya Muslims (SUPKEM), Kenya Episcopal Conference (KEC), National Council of Churches of Kenya (NCCCK), Evangelical Fellowship of Kenya and the Hindu Council of Kenya. Now, who is going to attend?

Hon. Member: (*off record*)

The Temporary Deputy Chairman (Hon. Cheboi): Order!

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, that is not true. Secondly, the other memberships include members of the Kenya National Commission on Human Rights (KNCHR), the Judicial Service Commission (JSC) and the Gender and Equality Commission. Those are commissions which are at par with the Ethics and Anti-Corruption Commission (EACC) and yet, they are interviewing their own colleagues.

Hon. Temporary Deputy Speaker, the only institution that is charged with the responsibility of employing civil servants or State officers is PSC. They have been recommending Principal Secretaries (PSs) to the President. That is their job.

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

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 4 as amended agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Do we have any amendment to Clause 5? Hon. Members, give us a few moments to consult. Hon. Members, we have disposed of the Bill. We are now going to the New Clauses being introduced. We will start with new Clause 5.

Hon. Wamalwa! Hon. Members, as Hon. Wamalwa executes his issue, we have three new Clauses 5 proposed. We will start with the one by Hon. Wamalwa, then by Hon. Oner and the last one by Hon. Ochieng. Please proceed, Hon. Wamalwa.

New Clause 5

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Chairaman. I would like to move this amendment. I have had a lot of pressure to withdraw it, but I did not. Let it get defeated on the Floor of the House.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Wamalwa, you need to move the new cause to get a second chance to speak.

Hon. Wakhungu: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 4-

- Transitional provision. 5. (1) The offices of the Secretary and the Deputy Secretary to the Commission shall become vacant upon the commencement of this Act
(2) Until the new members of the Commission are appointed, the Secretary and the Deputy Secretary shall continue to hold office in an acting capacity.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Wamalwa, you can say that the New Clause be read a Second Time. That would be better so that we can proceed.

Hon. Wakhungu: Hon. Temporary Deputy Chairman, I beg to move that the new Clause 5 be now read a Second Time.

Hon. Temporary Deputy Chairman, Clause 5 (i) is intended to insert the following clause after Clause 4:-

“5(1) The offices of the Secretary and the Deputy Secretary to the Commission - who are the current bosses - shall become vacant upon the commencement of this Act.”

That is until the new members of the Commission are appointed. The Secretary and the Deputy Secretary shall continue to hold office in an acting capacity. Corruption is a big problem in this country. We know we will have the new commissioners. If you read the Constitution, Article 249, it states that there shall be the Secretary who is the CEO. That is a very important person. We have just passed an amendment which says that the commissioners are going to be on part-time basis and in that case, my proposal is that those who are currently there be on an acting capacity. When the new commissioners come in, they need to employ the new secretary. The ones who are currently there are eligible to apply so that there is confidence. The level of corruption in this country is very high, going by the recent list that was brought here by His Excellency the President. We have seen the outcry that has been there and the rivalry between the Director of Public Prosecutions (DPP) and EACC. The level of investigation is very low. Therefore, it is important for the public to have confidence in the current secretariat which is going to perform on part-time basis. It is important that as they get riveted, they apply to increase the confidence level. Therefore, as the new commissioners come in, my request is that the seats should become vacant and those who are there to continue on an acting capacity until the new ones are appointed. This will help us to increase the confidence level as far as the secretariat is concerned. I call upon Hon. Bowen to second.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Bowen, please proceed briefly. We are having problems because there is quite a lot of interest. We cannot even locate Hon. Bowen. Just hold on Hon. Bowen. You will get it. Have you placed it anywhere?

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Hon. Bowen spoke off record)

Hon. (Eng.) Gumbo: Yes.

The Temporary Deputy Chairman (Hon. Cheboi): Maybe you will speak from the Dispatch Box because we cannot locate you from here.

(Hon. (Eng.) Gumbo stood up in his place)

No. Hon. Gumbo, we have not---

Hon. (Eng.) Gumbo: I want to second, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): No. Hon. (Eng.) Gumbo, no. I mean they have made an agreement. Let us have Hon. Bowen.

Hon. (Eng.) Gumbo: I am really willing and capable of seconding.

The Temporary Deputy Chairman (Hon. Cheboi): No. Let us have Hon. Bowen, please, Hon. (Eng.) Gumbo.
Proceed, you can---

(Hon. Bowen moved to the Dispatch Box)

You see it is because you brought in some confusion. You did not place your card anywhere. Can you go and speak from that one behind you. The one that is just behind you; you are going far. Hon. Bowen there is one there and then you must save time, because you have wasted enough of it.

(Hon. Bowen moved to his place)

Hon. Bowen: Thank you, Hon. Temporary Deputy Chairman. I want to second this amendment by Hon. Wamalwa. This is a very good amendment for the country and for the Government. Remember we are bringing in new commissioners to the Ethics and Anti-Corruption Commission (EACC). We have had problems at the EACC and the current secretariat of the EACC is part and parcel of the problems that rocked the EACC. That is why we are here today with the issue of new commissioners.

To have a new beginning in the EACC, we need to also have a new secretariat. It will be very difficult to have the same secretariat in the EACC with new commissioners. If we want to create harmony in the EACC, we need to have the new commissioners recruit a new secretariat.

I second.

The Temporary Deputy Chairman (Hon. Cheboi): All right. You have seconded.

Hon. Members, I see quite an immense interest and I will, therefore, give some leeway. I will give four Members from either side of the House, that is eight of them, but it is important that they be as brief as possible. I will start with Hon. Kisoi.

Hon. Gichigi: On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): What is your point of order, Hon. Gichigi? Hon. Kisoi, let us hold it. You will have your chance. What is your point of order, Hon. Gichigi?

Hon. Gichigi: On a point of order, Hon. Temporary Deputy Chairman. I rise on a point of order. Standing Order No. 49 says that no Motion may be moved which is the same in substance as any question which has been resolved, either in the affirmative or in the negative, during the preceding six months in the same Session.

Just about three months ago, we were here debating this issue of the EACC. During the disposal of the Petition, one of the issues that was brought by Hon. Maanzo---

The Temporary Deputy Chairman (Hon. Cheboi): Now, Hon. Gichigi, even as you do that---

Hon. Gichigi: Let me complete. Let me finish.

The Temporary Deputy Chairman (Hon. Cheboi): Even as you do that, for purposes of saving time, this is a Bill. So, even seeing the direction you are going---

Hon. Gichigi: Can I?

The Temporary Deputy Chairman (Hon. Cheboi): No. It is of no use for you to proceed when we know the ultimate result, Hon. Gichigi. We will be simply wasting time of the House.

Hon. Gichigi: Can the Hon. Temporary Deputy Chairman just let me complete? The position is this: It is very clear what “is the same in substance” whether it was a Motion or a Bill--

The Temporary Deputy Chairman (Hon. Cheboi): No. You remember, previously, when somebody wanted to bring in that kind of thing when we were doing a recommendation? That was carried then because it was basically a recommendation, but this is a Bill. So, let us proceed. Hon. Kisoi. We will have our time to make a decision. Please, let us not use technicalities.

Hon. Kisoi: Thank you, Hon. Temporary Deputy Chairman. I humbly beg to oppose because this issue of trying to create harmony is just hoodwinking the public that there is some kind of integrity in the transition period. If we mean to recruit new commissioners, then we do not have any business to do with members of the secretariat who are there. These are the people who misadvised the President, in the first place. Let them go. Let us have a new team. Let us get to work.

Hon. Members: You are supporting?

Hon. Kisoi: I am supporting, sorry.

The Temporary Deputy Chairman (Hon. Cheboi): Well, there is some confusion from your end, but we will proceed, anyway. You have said you are opposing but you proceeded to propose.

Hon. Kisoi: Hon. Temporary Deputy Chairman, can I correct myself? I support.

(Loud consultation)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, for purposes of good order, I have said I am going to give a chance to about eight Members. I will try as much as possible to go as per the request list here. Top on the list here now is Hon. Kabando of Mukurweini, and then we will come to this other side. I understand, if there is a Member who will be given an opportunity, and does not want to contribute on this, let them notify us and we will be able to---

Hon. Kabando wa Kabando: Thank you, Hon. Temporary Deputy Chairman. We have said on the Floor of this House that the delivery and confidence levels of the EACC, be it the commissioners or the secretariat have been at the lowest. It is a catalogue of disappointment unless we are saying we want to group ourselves in order to save some conclaves in our villages in order to fight national battles; if we want to be very sincere, let us have a clean start. If those who hold those positions are qualified, they will have an opportunity to reapply; let us not have drama.

(Applause)

The Temporary Deputy Chairman (Hon. Cheboi): I see the Hon. Member for Isiolo County is strongly agitated.

Hon. (Ms.) T.G. Ali: On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): What is your point of order, Hon. Tiya?

Hon. (Ms.) T.G. Ali: On a point of order, hon Temporary Deputy Chairman.

Hon. Kabando wa Kabando: I strongly support Chris Wamalwa’s amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Just a minute.

Hon. Kabando wa Kabando: I ask my friends who are on this side to see beyond the bridge. We are one nation.

I support.

Hon. Members: Yes.

Hon. Kabando wa Kabando: I do support.

Hon. Members: Yes.

Hon. Kabando wa Kabando: Indeed, I support.

Hon. Members: Yes.

Hon. Kabando wa Kabando: Absolutely I support.

Hon. Members: Yes.

The Temporary Deputy Chairman (Hon. Cheboi): I want to give some direction. Let us have the Hon. Member for Eldas.

Hon. Keynan: Thank you, Hon. Temporary Deputy Chairman. I rise to oppose this amendment with the following reasons. We do not enact just to achieve a specific short-term goal. We legislate for posterity. Creating a vacuum in a commission that all of us require at this stage is not proper. More so, the work of a commission is to employ the secretariat. The secretariat actually serves the commission. What we are purporting to do now here is to usurp the functions of an independent commission and this does not require legislation. The EACC as clearly spelt out in the Constitution is under Chapter 15, and its functions are those of independent commissions. Therefore, I do not want to believe my colleagues here. Let us not politicise this. Let us not trivialise the function of this very important commission. We will require it and all of us require it.

I oppose this amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Well. As per the Standing Orders, you know the priority goes to the leaders on both sides. So, let us have Hon. Duale. I might even add a few more chances because I know---

(Several Hon. Members raised their hands)

No. Do not put your hands now. I am just saying that I am going to add a few more chances. Let us proceed. Let us have Hon. Duale, and let us be brief, so that Members can get an opportunity.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, the decision ultimately lies with the House. If you look at the Ethics and Anti-Corruption Commission Act, the secretary to the commission is always appointed with the approval of this House. The 10th Parliament approved the current Chief Executive Officer (CEO). That was after the commission had interviewed him. Today we are dealing with the composition of a commission in which we are increasing the number of commissioners to five. If this House uses its legislative role to sack and reappoint commissioners, then the mandate of the commission will still be there.

Hon. Kajwang': On a point of order, hon. Temporary Deputy Chairman.

Hon. A.B. Duale: I am on a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Now, Hon. T. J. Kajwang', what is your point of order? You know there are no Legio Marias present here.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, why can I not finish?

The Temporary Deputy Chairman (Hon. Cheboi): Hon. T. J. Kajwang, allow Hon. Duale to finish and I will give you a chance. Let me give Hon. T. J. Kajwang a chance. Let me hear what his point of order is. I can see he is very agitated. Hon. T. J. we are having a major problem here.

Hon. Kajwang: Thank you, Hon. Temporary Deputy Chairman. I have heard the Leader of the Majority Party saying the appointment of the Secretary to the Commission requires the approval of the House. Is he in order to mislead the House? Sections 16 and 17 of the Act read together, make the Secretary an appointee of the Commission and, although he heads the secretariat, he needs no approval whatsoever of the National Assembly? Can he read sections 16 and 17 and tell us if that is the case?

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Duale, respond to that as I also look at the specific sections which Hon. Kajwang has referred to.

Hon. A.B Duale: Hon. Temporary Deputy Chairman, today I am a lucky man. I served in the last Parliament. You can look at the Act. One, Halakhe Waqo was approved by this House. On that I can stand anywhere to be challenged. I want you to give us 10 minutes to check and shame Hon. T.J Kajwang. He did not serve in the last Parliament. Halakhe Waqo was approved by this House.

The Temporary Deputy Chairman (Hon. Cheboi): Just proceed, Hon. Duale. Since we have not sustained the point of order, I want you to finalise.

Hon. A.B Duale: Hon. Temporary Deputy Chairman, I can take that to the bank. Let me read the section. I have the Act here. Can I read the section?

The Temporary Deputy Chairman (Hon. Cheboi): Yes, I am listening.

Hon. A.B Duale: When we come to the House we are serious people who read. Section 16(1) of the EACC Act says:

“The Commission shall, through an open, transparent and competitive recruitment process, and with the approval of the National Assembly, appoint a suitably qualified person to be the Secretary to the Commission.”

(Applause)

I might not be a lawyer, but I am a very good legislator. Halakhe Waqo was approved by this House. Shame on Hon. T. J.

The Temporary Deputy Chairman (Hon. Cheboi): If Hon. T. J is satisfied, then you need to wind up, so that we can have more Members speaking.

Hon. A.B Duale: Hon. Temporary Deputy Chairman, this House has passed the Fair Administrative Action Bill prepared by the Departmental Committee on Justice and Legal Affairs. That law which was passed barely two months ago says that to remove a public servant from office, you must accord him fair administrative justice. You cannot remove the Chief Executive Officer (CEO) and his deputy through mob justice. This is a House of rules.

Hon. Wakhungu: On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): When the owner of the proposition is on a point of order, we are inclined to hear from him.

Hon. A.B Duale: Hon. Temporary Deputy Chairman, we have listened to the Mover of the amendment. He must listen to us.

This House passed the Fair Administrative Action Bill, which has been assented to. If we do what we want to do today, the CEO and his Deputy will go to court and the court will reverse the action. So, I oppose.

(Loud consultations)

The Temporary Deputy Chairman (Hon. Cheboi): Order Members. Hon. Members, so that nobody becomes very anxious, looking at the mood of the House, we will proceed by giving more Members an opportunity to contribute.

Hon. Keynan: On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Let us forget about points of order, Member for Eldas. Let us have Hon. Mulu. Let us give one another an opportunity, convince one another, and then we make a decision.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairman, for giving me this chance. If my memory serves me well, and it has never failed me, the last time we debated the Motion on Matemu my own assessment was that the Commission was sick. The commissioners were in the Intensive Care Unit (ICU), and the Secretariat was in the High Dependency Unit (HDU), meaning that this Commission needs to be changed. This is the time this House has to do what Kenyans want to be done.

Hon. Members: Yes.

(Applause)

Hon. Mulu: Hon. Temporary Deputy Chairman, I do not want this House to personalise this amendment. This amendment is for Kenya. We are cleaning the Commission, so that the war against corruption in this country can be won. On that basis, I support this amendment. Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): I will give a chance to Hon. Rasso, who is top on the request list.

Hon. Dido: Thank you very much, Hon. Temporary Deputy Chairman. I oppose this amendment on the ground that it is in bad taste. We are going to use the Floor of this House to settle scores. We are here to push the legislative agenda of this country. This is not a new Act. It is just an amendment to an existing Act. The new Clause 5A says “as soon as the commencement of this Act.” This is not an Act, it is just an amendment to the Act. Does it change the principal Act? It does not.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Waluke.

Hon. Koyi: Thank you, Hon. Temporary Deputy Chairman. I support that these people must go home, because last time they were the ones who misled the President. Again, the way this debate is going shows that the north eastern people have interest in the secretariat. So, the whole team should go home.

The Temporary Deputy Chairman (Hon. Cheboi): I will give a few more Members an opportunity. Please, do not rush me to put the Question. This is something on which we need to listen to all sides of the House. These points of order are disrupting debate. I want to give Members opportunities. If you push me too hard then I will give you an opportunity to make your decision.

(Loud consultations)

Order Members. Can you listen to me? Let us relax. You will make your decision. Let us avoid these points of order. I would rather give more Members an opportunity to speak. You can convince each other in a good manner. I will give a few more Members a chance, but they should be very brief. I will be very reluctant to allow any point of order. These points of order are really disruptive. I am trying to balance between both sides of the House. I will have the Member for Bureti. There is a problem again, Member for Bureti. Have you removed your card?

Hon. Sang: Thank you, Hon. Temporary Deputy Chairman. Before I contribute on this amendment, I want to recognise the presence of students from Tengecha Boys Primary School seated in the Public Gallery.

The Temporary Deputy Chairman (Hon. Cheboi): It is not your business to recognise people. I will recognise them at the right time. Just proceed to the debate.

Hon. Sang: I oppose this amendment because it is intended to get rid of very few individuals in the Commission. We should make law for posterity. So, I oppose. Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Fatma, Member for Wajir.

(An hon. Member stood up in his place)

Why are you standing? I have given an opportunity to Hon. Fatma.

Hon. (Ms.) F.I. Ali: Thank you, Hon. Temporary Deputy Chairman. I stand to oppose this amendment.

(Loud consultations)

The Temporary Deputy Chairman (Hon. Cheboi): We cannot all speak.

Hon. (Ms.) F.I. Ali: Hon. Temporary Deputy Chairman, on a point of clarification. The Secretary of the Ethics and Anti-Corruption Commission (EACC) is from Marsabit County. He is not from north eastern. He is from the former Eastern Province.

(Loud consultations)

An hon. Member: He is a Kenyan!

Hon. (Ms.) F.I. Ali: I want to confirm that the moving of this amendment is a follow up to what happened in the last report. In the Report of the Departmental Committee on Justice and Legal Affairs, there was a proposal to remove the CEO, Mr. Halakhe. There was also a move to remove the Deputy Secretary. This is a group of people who are against a certain region. There is xenophobia in this House. I oppose the amendment. I think it is being driven by Western and Nyanza regions. They are targeting communities who are marginalised and minorities in this country.

(Loud consultations)

We will not agree to that. We suspect it is a cartel in this House supported by central Kenya to curtail the---

The Temporary Deputy Chairman (Hon. Cheboi): Okay, you have made your point. Now, so that I am not accused of being anti one gender, I am giving the chance to Hon. Mbalu then I will come to this side.

Hon. (Ms.) Mbalu: Thank you, Hon. Temporary Deputy Chairman. I stand to support. I support the Office of the Secretary and Deputy. I want to make peace with the Leader of the Majority Party today if we pass this amendment, and if this is going to show support to the President in the fight against corruption. I must also appreciate the unity we have with the people of north eastern. They fought when we were removing Mr. Matemu. We want to be supported. This is going to give us time to relook at the secretariat.

The Temporary Deputy Chairman (Hon. Cheboi): I do not want you to go that direction.

Hon. (Ms.) Mbalu: The Secretary and the Deputy Secretary's Office should be vacant upon commencement of this Act. I can be a very good friend to the Leader of the Majority Party and the Chairperson of the Departmental Committee on Justice and Legal Affairs.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Now let us have Hon. Manoti, Member for Bobasi.

Hon. Manoti: Thank you, Hon. Temporary Deputy Chairman, for the opportunity.

(Loud consultations)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members. On this one we will have to proceed in this manner.
Proceed.

Hon. Manoti: We are talking about commissioners. I do not see why we are dragging the name of the secretariat to this issue. To me, we have to leave those people in the office and deal with only commissioners. So, I oppose the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Now, what is your point of order, Member for Nakuru Town East? What is your point of order?

Hon. Gikaria: On a point of order, Hon. Temporary Deputy Chairman, I just need your guidance. I left my card here. I want to contribute but I cannot. All I am saying---

The Temporary Deputy Chairman (Hon. Cheboi): You are totally out of order. I do not think you want me to look around for your card. I cannot be an excuse for your carelessness.

Hon. Gikaria: Sorry. Give me an opportunity to contribute. Please, I beg you.

The Temporary Deputy Chairman (Hon. Cheboi): You have the microphone. Instead of prosecuting your point of order---

Hon. Gikaria: Thank you, Hon. Temporary Deputy Chairman. I stand to oppose this amendment. I oppose it because if you look at Clause 17 of the Bill, it stipulates how the officer can be removed.

Secondly, I know that the other side has been claiming that the Executive is not willing to fight corruption. Already commissioners are not there. By removing the Secretary and the Deputy---

The Temporay Deputy Chairman (Hon. Cheboi): Please, be very precise. Having been assisted in that manner, you should be brief.

(Loud consultations)

Hon. Gikaria: Hon. Deputy Chairman, I totally oppose this amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, I can see that you are beginning to canvass. So, it is pointless for me to give you more time to discuss. You are already canvassing. So, I am putting the Question and be prepared in one way or the other; whichever decision I make you know you will have the opportunity to cause a Division if you wish. It is up to you. I do not want Members to be policing the Chair, and expect me to make a decision just because they believe they were shouting the loudest. I will make a decision here and you will decide on your own.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

The Temporary Deputy Chairman (Hon. Cheboi): You can make a decision.

Hon. Members: Division! Division!

The Temporary Deputy Chairman (Hon. Cheboi): Clearly, you have the numbers.

(Loud Consultations)

Order Members! You have the numbers. It does not matter which side you are standing for. You will make your decision. I order the Bell to be rung for 10 minutes.

(Division Bell was rung)

The Temporary Deputy Speaker (Hon. Cheboi): Order, Members! Order! Can the Bars be drawn and the Bell be stopped. Members, resume your seats.

(Loud Consultations)

Order, Members! Hon. Kabando, order!

(Loud Consultation)

Order, Members! Hon. Baiya, Hon. Member for Nyeri and Hon. Ngeno, Order! We will proceed in our normal way. Hon. Members, that is it. Hon. Wamalwa, Hon. K'Oyoo, Hon. Kabando, Hon. Langat, Hon. Kangata and several Members to the right of the Chair.

(Loud Consultation)

We will go through the normal process of voting. For clarification of Members, the Question will be that the New Clause 5 be now read a Second Time. Can all the Members remove their cards. Hon. Winnie Karimi, I can see you still have your card in there. Remove your cards. Those Members who do not have their cards, will not participate in the voting, but you can easily participate in the cheering but in the normal and ordinary manner, and not cheering like people at a football match. Hon. Winnie Karimi, Member of Kirinyaga, can you remove your card. You have now all removed your cards. We will go through the normal

procedure. Can you now log in. The NOES and AYES will tell me their stand through their cards. I do not want to listen to any shouting of NOES and YES. This is specific to Hon. Chris Wamalwa's proposal. Order, Hon. Member for Homa Bay. If there is a card that is not functioning, unfortunately, we are not going to entertain that one. So, we will proceed. You are now logging in.

(Loud Consultation)

For the NOES and AYES, you will direct yourselves using the cards. We really do not have to raise our voices anymore. The cards will work. We still have a problem with the process up there, but shortly we will be having an opportunity. Can you log in. It is now counting. Let us wait patiently. In the next few minutes we will be voting because you are still logging in. Well, if your gadgets direct you that you vote, you can proceed and actually vote but I do not think it is time yet.

(Loud Consultation)

You can now vote. You have nine seconds to go. Actually six seconds. Proceed and vote.

(Question put and the House divided)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, these are the results: AYES, 66; NOES, 36 and Abstentions, 1. So, the Ayes have it.

(Question carried by 66 votes to 36)

AYES: Ms. Wahome, Messrs Kilonzo, Nderitu, Nyenze, Ogalo, G.W. Omondi, Kariuki Stephen, Mungaro, Ms. Kipchoim, Messrs Oyoo, Simba, Murgor, Prof. Nyikal, Ms. B.N. Nyaga, Mr. Opiyo, Ms. Mbalu, Messrs Mulu, Kipyegon, J.M. Nyaga, Koyi, Mlolwa, J.K. Ng'ang'a, M'uthari, Oyugi, Magwanga, B.K. Bett, Kinoti, Wa Kabando, Ms. Mbarire, Mr. Sang, Ms. Keraa, Messrs Onyura, Kisoi, Linturi, Njagagua, Wakhungu, ole Sakuda, Ms. Ombaka, Eng. Gumbo, Dr. Oginga, Messrs Musimba, ole Ntutu, Omulele, Ms. R.K. Nyamai, Messrs Alfred Keter, Otaalo, Anyango, Bowen, Ms. Nyamunga, Messrs Sambu, Ochieng, Ndiritu, Losiakou, Ogari, Mule, Midiwo, Kaluma, Mwadeghu, Bosire, J.K. Chege, Dr. Munyaka, Dr. Ottichilo, Ms. W.K. Njuguna, Mr. Cheruiyot, Ms. Ngeny and Ms. Kering.

NOES: Dr. Simiyu, Messrs Elmi, Katoo, K.K. Kinyanjui, Lati, Gethenji, Baiya, A.O Ahmed, A. B. Duale, Dido, Ms. Abdalla, Messrs Kangara, Wambugu, Karithi, Wekesa, Ms. F.I. Ali, Messrs Dukicha, Banticha, Ms. Teiya, Mr. Omagwa, Dr. Laboso, Messrs Nuh, Keynan, M.D. Duale, Mohamed Abdi, Dr. Shaban, Ms. Kanyua, Ms. Shebesh, Mr. Duba, Dr. Pukose, Messrs Chepkong'a, Gichigi, Ms. Gure, Messrs Manoti, Wetangula and Oporo

ABSTENTION: Mr. Manje.

The Temporary Deputy Chairman (Hon. Cheboi): Order, hon. Members! We will proceed to the second stage. It is not over yet. We have to put the Question that this particular clause be part of the Bill. So, we will go back again to the same Division. We will proceed and

do that. Hon. Members, you can even overturn it at this point. So, hon. Members, it is really up to you. So, I put the Question that the New Clause 5 by Hon. Chris Wamalwa be part of the Bill.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be
added to the Bill, put and agreed to)*

Hon. Members: Division! Division!

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, you have the numbers. This time, the Division Bell will not be rung for 10 minutes. It will only be rung for two minutes. Open the Bars.

(The Division Bell was rung)

The Temporary Deputy Chairman (Hon. Cheboi): Order, hon. Members! The two minutes are over. Can you close the Bars now? Draw the Bars. Remove your cards. Hon. Gumbo and Hon. Pukose, remove your cards. We are starting the process again and the Question is that the New Clause 5 be added to the Bill.

I am sure you are now familiar with the process. Log in now. Hon. Members, put your cards in and log in. Hon. Members, please log in. We are at the 40th second. 10 seconds to go. You can now vote. We have 20 seconds to go, and any Member who has not voted should vote now.

(Question put and the divided)

Hon. Temporary Deputy Chairman (Hon. Cheboi): Well, the process has ended and these are the results of the Division. Ayes 70; Noes 39, Abstentions 1. The total numbers of Members who have votes are 110. Therefore, the Ayes have it.

(Question carried by 70 votes to 39 votes)

AYES: Messrs Nderitu, Messrs Kilonzo, Nyenze, Ogalo, G.W. Omondi, Kariuki Stephen, Mungaro, Ms. Kipchoim, Messrs Mwanyoha, Midiwo, Oyugi, Murgor, Oyoo, Simba, Murgor, Prof. Nyikal, Ms. Machira, Messrs Simba, Opiyo, Ms. Mbalu, B.N. Nyaga, Messrs Kipyegon, Waluke, Mlolwa, Messrs J.K. Ng'ang'a, M'uthari, Manje, Magwanga, Mulu, Alfred Keter, Wa Kabando, B.K. Bett, Sang, Ms. Keraa, Ms. Munene, Messrs Onyura, Kisoi, Ms. Odhiambo- Mabona, Messrs Linturi, Kinoti, Ms. Mbarire, Messrs Ole Sakuda, Njagagua, Eng. Gumbo, Dr. Oginga, Musimba, Wakhungu, Ms. Ombaka, Ms. R.K. Nyamai, Messrs Omulele, Otaalo, Sambu, Anyango, Ms. Nyamunga, Messrs Bowen, Ochieng, Losiakou, Ogari, Mule, Eng. Kiragu, Kaluma, Mwadeghu, Bosire, Ms. Ngeny, Ms. Wahome, Dr. Munyaka, Dr. Ottichilo, Ms. M.W. Njuguna, Cheruiyot, Ms. Kering.

NOES: Dr. Simiyu, Messrs Elmi, Katoo, K.K. Kinyanjui, Lati, Gethenji, Baiya, A.O Ahmed, Nooru, A. B. Duale, Dido, Ms. Abdalla, Messrs Kimaru, Kangara, Wambugu, Wekesa, Ms. F.I. Ali, Messrs Dukicha, Banticha, Ms. Teiya, Mr. Omagwa, Dr. Laboso, Messrs Nuh, Keynan, M.D. Duale, Mohamed Abdi, Dr. Shaban, Messrs. Ole Ntutu, Ms. Kanyua, Ms. Shebesh, Mr. Duba, Dr. Pukose, Messrs Chepkong'a, Gichigi, Isaack, Ms. Gure, Messrs Manoti, Ms. T. G. Ali, Messrs Opore

ABSENTION: Mr. Wetangula.

Now the doors should be opened. We will proceed to the next new Clause.

New Clause 5

Hon. Ogalo: Thank you, Hon. Temporary Deputy Chairman. I beg to move:-

That, the Bill be amended by inserting the following new Clause immediately after Clause 4 —

Amendment
of section 13
of No. 22 of
2011.

5. The principal Act is amended in section 13 by inserting the following new subsection immediately after subsection (2) —
(3) Notwithstanding the provisions of subsections (1) and (2), the members of the Commission and the staff of the Commission shall ensure privacy, and maintain the dignity and reputation of Kenyans including those under investigation.

(Loud consultations)

Hon. Temporary Deputy Chairman, the import--- Hon. Temporary Deputy Chairman, protect me, the consultations are too high.

(Hon. Kang'ata consulted loudly)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, Hon. Member for Kiharu. You are extremely loud; you can be heard from any part of this House. Order Member!

Hon. Ogalo: Thank you, Hon. Temporary Deputy Chairman. The import of this amendment is to bring sanity to the power of Ethics and Anti-Corruption Commission (EACC). The EACC is a body that can make or break careers of Kenyans, companies and of State organs. This power must be used responsibly. The amendment says that, notwithstanding the provisions of Sub-Sections 1 and 2 of Section 13, the Members of the Commission and the staff shall ensure privacy and maintain dignity and reputation of Kenyans, including those under investigation. The import of this is we would like the EACC before mentioning anybody's name in the media, carries out thorough investigations so we do not end up with people's dignity and reputation being soiled by EACC without any reason. We have seen very many people mentioned by EACC but upon investigation, the EACC ends up with no evidence at all to charge those people in court. By that time, all those parties who have been mentioned have had their reputation soiled.

In this country, if you are mentioned in corruption, your career ends. There is no way you will ever rise over and above an accusation of corruption. This is a very important amendment to ensure that the EACC, when carrying out their duties and functions, take care of privacy of Kenya citizens. They should not go to anybody's House with the media, even before

they verify any accusation against you, and make one be a villain in this country for no reason, but just because somebody has complained about you to EACC, you become a barrier in this---

The Temporary Deputy Chairman (Hon. Cheboi): I think you have made your point, Hon. Oner. You have moved it well.

Hon. Ogalo: Hon. Temporary Deputy Chairman, I would like Hon. Ochieng to second my amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have your Seconder, Hon. Ochieng. You have been here for some time Member for Suna East. Proceed Hon. Ochieng. You know Ochieng is a fairly tall fellow, so I have to see him, from where I am.

Hon. Ochieng: Hon. Temporary Deputy Chairman, this particular Bill is very important, and the Clause by Hon. Oner is meant to shield Kenyans from witch-hunt, being fought in the media and to shield Kenyans from what we saw two weeks ago, where people were summoned through the media then they respond through the media, and went to the EACC with a number of people to support them. Investigations by the EACC should be the business of the EACC and should only come to the public when there is evidence. The idea of going to the public to say I am investigating so and so, we have big names we are following gives false hope to us.

Hon. Temporary Deputy Speaker, I second and support.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give chances to very few Members on this particular one. I can see the interest is fairly low. We will start with Hon. (Dr.) Pukose, who is top on the list.

Hon. (Dr.) Pukose: Thank you, Hon. Temporary Deputy Chairman. I want to support the amendment by Hon. Oner. This is a good amendment. It ensures that EACC does not engage in activism, but in serious business. It also protects, because the Constitution provides that the dignity and privacy of every citizen be ensured. So they should be able to follow the Constitution and carry out their duties within their mandate.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. Let us hear the Member for Mathare, Hon. Kariuki.

Hon. Stephen Kariuki: Thank you, Hon. Temporary Deputy Chairman. From the outset I would like to support this Motion by my colleague Hon. Oner. Unfortunately, the media in this country loves negative publicity. You could be innocent until these guys come to your house with the media, and when the investigate they find you guilty. Kenyans will remember that you were innocent from the beginning. I think this Bill will protect Kenyans from situations.

Thank you, Hon. Temporary Deputy Speaker. I support.

Hon. Wambugu: Thank you, Hon. Temporary Deputy Chairman. I also rise to support this amendment. I think it is true that Kenyans have been subjected to a lot of humiliation and frustrations by EACC, especially when somebody---

(Hon. Cecily Mbarire crossed)

the Floor without bowing)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Cecily Mbarire, even if you crossed at an angle, you still have crossed the Floor. You will have to go back. I have seen you cross the Floor. Even if you crossed at an angle, it was still crossing the Floor and it is not right.

Let us proceed and finalize.

Hon. Wambugu: Thank you, Hon. Temporary Deputy Chairman. I want to support because Kenyans have on many occasions been subjected to humiliation by the EACC. This issue does not only apply to the EACC, it should also apply to all other persons in this country. Unless they have substantial evidence or claim against somebody, they should not come out in the public and say that so and so did this.

The Temporary Deputy Chairman (Hon. Cheboi): Very well, I think you have prosecuted your case Hon. Wambugu.

Hon. Wambugu: Thank you, Hon. Temporary Deputy Chairman. Even though I have prosecuted, the cases that were brought to this House should be investigated afresh, because it looks like some of them did not have evidence of any kind. Some of the Cabinet Secretaries whom we had, were sent home illegally

The Temporary Deputy Chairman (Hon. Cheboi): All right Hon. Wambugu. I now give an opportunity to Hon. Omulele.

Hon. Omulele: Thank you, Hon. Temporary Deputy Chairman for giving me an opportunity to support this proposed amendment to the Bill that we are discussing. My main reason for supporting is only one. It is a constitutional and a ground rule on the rights of a person, that you are innocent until you are proven guilty. This will ensure that those people who face the EACC will have their rights protected.

So, I support.

The Temporary Deputy Chairman (Hon. Cheboi): Lastly, Hon. Kipchoim. Hon. Member for Baringo South.

Hon. (Ms.) Kipchoim: Thank you, Hon. Temporary Deputy Chairman. I rise to support the amendment by Hon. Oner. This is a constitutional office that deserves all the rights. Those mentioned deserve the right to remain innocent until proven guilty. The fact is that these people face a lot of humiliation before Kenyans, because they are seen as if they have done wrong before they are found guilty. This is because of TVs and radios everywhere.

The Temporary Deputy Chairman (Hon. Cheboi): Now, the alternative views can be expressed by a vote. It is fine. We are already having too many people here. Let me give two Members chances. Let us start with Hon. Midiwo, and then I will make a decision on who to give on this other side. These should be the last ones. You will make your decision one way or the other.

Hon. Midiwo: Hon. Temporary Deputy Chairman, I thank you for being so considerate. Both you and I were in this House one afternoon when we rushed a law. In that law, we said on some days, inadvertently, we will not be paid sitting allowances. This is one such case. I want Members to address themselves to this because everybody is supporting. I want to say that if you allow the EACC to work away from the glare of the media, there will be consequences.

You are dealing with policemen with authority under the law. If you allow them to interrogate people without the media knowing what the EACC is doing, you are opening a Pandora's Box. This is important for Members. We know there is defamation. Let me just end by saying that reputation can be dealt with. If you besmirch somebody's reputation, there is a law

that deals with that. Is there not? Maybe in order to have a middle ground, the Mover can change the word “privacy” to “confidentiality” and then take out the word “reputation”. It is very important that the media know what these people do. Without them it will be very dark.

The Temporary Deputy Chairman (Hon. Cheboi): You can discuss that with the Mover. You have been heard. I want to give Hon. Kang’ata a chance.

Hon. Kang’ata: I have two issues. One, I imagine that when it comes to deterring corruption, media do the best work towards that. To the extent you are doing this amendment, you are going to remove that aspect of deterring further corruption. In any event, you have remedy if at all you feel you were taken there unlawfully.

Two, and most importantly, look at this amendment. Look at the duty; it is being bestowed upon which entity? The duty is being bestowed upon the Commission which does not have power as to what the media write about. If you wanted to achieve that which you are stating you want to achieve, you ought to have brought an amendment and touching on the media. It is the media which publicise, it is not the Commission.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Amina Abdalla.

Hon. (Ms.) Abdalla: Thank you, Hon. Temporary Deputy Chairman. I want to support this amendment and agree to some extent about changing this word to confidentiality. In the last Parliament, PLO Lumumba, as chair of the EACC, kept speaking of five high voltage files. My good friend Naomi Shaban was one of the people he was referring to. To this day, the high voltage file has not been seen. We take these things very lightly. The other week, one of these activists added on twitter the list of women who are corrupt. He put in those whom PLO Lumumba referred to as “high voltage files”.

The media do a good job in the fight against corruption, but those names should be put to the public when they have even told you what you are being accused of. Most of the time you see your name, you are being crucified in the media before you are even told what you have really committed. We do not want to gag the media, we just want the Commission to be responsible enough and mention people’s names after they have done their homework.

Hon. A.B Duale: Hon. Temporary Deputy Chairman, with regard to this amendment, I will ask Hon. Oner that we go and redraft it. This is a double-edged sword amendment; it can cut both sides. The media are a very important player in the war against corruption. They can even give a clear perception of what we are doing. There is a lot of witch-hunt in the war against corruption. Your opponents can go and talk about the Constituencies Development Fund (CDF) and write anonymously. In fact, the Act must be amended. Kindly give me few minutes. You remember when we did the law on public appointments, we put a section that says if you have an allegation against somebody, you go and swear an affidavit.

Today in the war against corruption, on the basis of any anonymous letter and any allegations, you are taken to EACC for investigations. What we are saying is that we want the media also to critique anti-corruption. If we give them the privacy, that they can come to your House and nobody knows about it, they can go to your office and collect documents that nobody knows about; how about if they plant documents in your office? How about if they plant information which is not yours?

I want to beg Hon. Oner to let us consult for five minutes and come up with an amendment that can take care of us. If we give these guys blanket privacy, then we are taking the country back to the days when we did not have a vibrant media. Where people were taken to Nyayo House and the next morning they were in court. We want the public to discuss the matter. So, let us not make a law that--- I want to ask my good friend Hon. Oner, if we get five minutes,

we can consult and come up with a middle ground amendment. Let us not hang ourselves. The media have been the saviour of our country. The media play a very big role.

Hon. Temporary Deputy Chairman (Hon. Cheboi): I thought I heard Hon. Oner speak about further amendment. Did you have that specific one? Let us see if it captures the issues that your colleagues are putting forward. Let us have Hon. Oner. What is your further amendment? Let us be keen, so that we can see what it captures.

Hon. Ogola: Thank you Hon. Temporary Deputy Chairman. I thank Hon. Jakoyo and Hon. Duale for the issues they have raised. They are valid. Let me see if this will clear your fears.

Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the new clause 5 proposed by me be further amended by:-

(1) deleting the word “privacy” and substituting therefor the word “confidentiality.”

(2) deleting the words “and reputation”

The Temporary Deputy Chairman (Hon. Cheboi): Let me propose that further amendment.

(Question of the further amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): What is it Hon. Duale? I wanted to give you an opportunity to speak to this. Proceed.

Hon. A.B Duale: Hon. Temporary Deputy Chairman, I want Hon. Jakoyo and Hon. Oner to listen to me. That amendment is good, but again at what stage does EACC bring information to confidentiality? It is in this House where every three months the EACC tables information. They table their report. That report is for public good. There is a bit of contradiction in the Act. If you allow me, let me go to that side and sit with him and bring---

The Temporary Deputy Chairman (Hon. Cheboi): I wanted to proceed to put the Question on this. If you decide one or the other, we go to the next one and put the Question. You can make one decision one way or the other. What is it Hon. Midiwo? You are the one who raised this red flag.

Hon. Midiwo: Thank you, Hon. Temporary Deputy Chairman. We seem to be dragging this on but it is important. One, I want to thank Hon. Oner for seeing our point and getting advised. The issue being raised by Hon. A. B. Duale is very important. There is freedom of information. This House cannot then be part of a process that denies Kenyans information. Two, I want to plead with Hon. Oner to kindly withdraw this amendment. An amendment can later come and we have also suggested that. I am sure you are aware that Ethics and Anti-Corruption Commission (EACC) needs to work closely with a parliamentary committee, but away from the public ear, so that the public interests are protected. Because of constitutional issues rights to information, I want to plead with my colleague to withdraw his amendment.

The Temporary Deputy Chairman (Hon. Cheboi): For purposes of clarity, are we talking about the withdrawal of the further amendment or the new Clause in totality?

Hon. Midiwo: Hon. Temporary Deputy Chairman, the new Clause in totality.

The Temporary Deputy Chairman (Hon. Cheboi): Then I will dispose of the further amendment, which you can decide on one way or the other. We will go back to the clause as will have been voted for and then you make a decision.

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

(Resumption of debate on original clause)

So, we go back to the original Clause. It is up to Hon. Oner. If you have been convinced that you should withdraw it completely, then that is fine. If you want to proceed, then I will proceed and put the Question. You have the Floor, Hon. Oner to make your decision.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Chairman. The main import of this amendment as proposed on the Order Paper is to ensure the EACC is not used to malign people's names. It is to ensure the EACC is not a weapon used by opponents to take away somebody's reputation and then after three months of investigations, you are found to be innocent. Already, your name is soiled. Those who will hear you are innocent are fewer than those who will hear that you are guilty. I will not withdraw the amendment. Let it be defeated and then we move on.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): I will give a chance to only two Members as you make the decision on whether to have this new clause or not to have it. You will make the decision one way or the other. I will have Member for Suna East.

Hon. Nuh: Hon. Temporary Deputy Chairman, I do not support this amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Did you say you support or you do not support?

Hon. Nuh: I do not support it completely. If you are called to the EACC and you have been told to answer certain issues, what privacy do you need? Privacy is only found in your bedrooms. When you are called to Integrity Centre, answer the questions you are asked. There is no privacy. Why do you want to die in darkness? Kenyans must know that you have been summoned, and you have come out either guilty or not guilty, or you have nothing or something to answer. So, I beg my colleague to withdraw this amendment, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): The issue of withdrawal is out of question now. We are proceeding to make a decision. I will give a chance the Vice-Chairperson of the Departmental Committee on Justice and Legal Affairs, and then come to this side, so that we can finalise. The Vice-Chairperson of the Departmental Committee on Justice and Legal Affairs will speak on behalf of the Committee. If you have any issue, then you can pass it to him quietly. To ensure that that is done in an orderly manner, I will proceed and have Hon. Kaluma as the Chairperson and his vice-Chairperson to decide on what the content will be. Let us have Hon. Kaluma.

Hon. Kaluma: Hon. Temporary Deputy Chairman, this is now a difficult decision following a defeat of the further amendment. I thought that when we said the EACC shall ensure confidentiality, it was to ensure that information and materials reaching the Commission are not published to third parties pending investigations. That has been dropped. Since the further amendments have been killed, my position is now to oppose the amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Very well. Let us have Hon. Nyokabi. I hope it carries together the entire---

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Chairman. I carry the views also of my Chairperson. We oppose this particular amendment because this is gagging the media

and undermining the freedom of Press. Part of this can be done in regulations. It does not need to be in the law. So, we oppose the amendment by Hon. George Oner. As a House, let us not pass legislation around the EACC law. That law needs to be implemented well. Let us not put in too many amendments that will collapse the fight against corruption in this country, and even interfere with other institutions. If you want to address particular issues of the media, you use the media laws. So, I oppose the amendment.

(Question, that the new clause be read a second time, put and negated)

New Clause 5

Hon. Ochieng: Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after clause 4 —

Amendment
of section 7
of No. 22 of
2011.

5. The principal Act is amended in section 7 by—

(a) inserting the following new subsection immediately after subsection (1) —

(2), Without prejudice to subsection (1), at least, two members of the Commission shall be appointed for a single term of five years and shall not be eligible for reappointment.

(3) The term of office for the respective members shall be specified in the instrument of appointment.

(b) renumbering the existing subsection as subsection (4).

This is a very simple amendment. The issue of continuity of the commission is very important. It is something that we are struggling with even now that almost all our commissioners who were appointed at the same time in 2010/2011 are going home the same day. We are talking about Independent Electoral and Boundaries Commission (IEBC), EACC and Commission for the Implementation of the Constitution (CIC) whose terms are expiring. This ensures that there is no continuity. So, what I am proposing is that out of the five Commissioners, three will serve for six years and two will serve for five years. We are staggering this, so that even as others retire, there is no vacuum in the commissions. Examples are found in Salaries and Remuneration Commission (SRC) and Judicial Service Commission (JSC).

I want to request the Chairman of Departmental Committee on Justice and Legal Affairs to support this. As we speak now you know this that there is a case in court regarding this same body we are dealing with today. There are no commissioners; so, people are saying that they cannot be investigated and prosecuted because there are no commissioners. If some retire after five years, there will be a whole year for Parliament, the commission and for the relevant bodies to put in other commissioners. I want to plead with Members to support this, so that we have continuity. We will do this for all the commissions.

The Temporary Deputy Chairman (Hon. Cheboi): That is clear. Who will second you?

Hon. Ochieng: I will request Hon. Jakoyo to second this.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Jakoyo.

Hon. Bowen: *(Inaudible)*

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

Hon. Midiwo: Hon. Temporary Deputy Chairman, remember Hon. Bowen. I rise to second. For the very reasons Hon. David has given, I want to plead with the Committee. This is an amendment that can only help so that there is continuity. It will help us begin this process of continuity even as we do it in other laws, because there must be an engine left to continue some work.

My last point is that we are talking about the next general elections now and the term of the commission has expired. If it was staggered, we would not be in the sort of quandary that we are now beginning to quarrel over. Continuity is good and that engine must always be a reference point.

The Temporary Deputy Chairman (Hon. Cheboi): I will give the first shot to the Chairman of the Departmental Committee on Justice and Legal Affairs, Hon. Chepkong'a.

Hon. Chepkong'a: Thank you, Temporary Deputy Chairman. I have had the opportunity to discuss this with Hon. Ochieng'. This is a matter which was canvassed in our Committee. We discussed and we found that it was in appropriate. As you know, the EACC is established under Article 79 of the Constitution which states as follows:

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

Article 250(12) deals with the composition and appointment of terms of independent officers. If you look at Article 250 (6) (a), it says:

“A member of a commission, or the holder of an independent office-

(a) Unless *ex-officio*, shall be appointed for a single term of six years and is not eligible for re-appointment.”

You are trying to limit that term on the basis of a legislation. You are purporting to amend a Constitution which does not make constitutional sense.

The Temporary Deputy Chairman (Hon. Cheboi): Okay Chairman. I will give chances to two Members starting with Hon. Gumbo. Are you prepared or can I go to somebody else. You do not seem to be interested. Let us have Hon. Nyikal.

Hon. (Prof.) Nyikal: Thank you. I support this amendment. Commissions and boards are as good as the information that the secretariats work under them give them. It is a very common practice and some may not realize it. If you have a completely new commission or board-- They will not be effective for a long time because they will be trying to learn the roles; many times the secretariat tries to hide information from them. Therefore, continuity by a few members who know what has been going on is extremely important.

That is why I support this amendment.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. I will have Hon. Gichigi, the Member for Kipipiri, contribute.

Hon. Gichigi: Thank you. I have heard my colleague and friend Dr. Nyikal. You have a point, but, unfortunately, as the Chairman has pointed out, I think my colleague should withdraw this clause. The Constitution is very clear that the term must be six years. There is no way we

can change that. Unless we are just wasting the House's time, so that it is challenged in court and ruled against. We cannot talk of a five-year term when the Constitution talks of a six-year term. I am requesting my brother to withdraw so that we move on.

The Temporary Deputy Chairman (Hon. Cheboi): Okay. Your request has been passed across directly to your colleague. Let us have the Hon. Member for Homa Bay. We shall have one other Member from this side and we and then finalise.

Hon. Kaluma: I seldom disagree with our Committee's leadership. However, on this one the interpretation by the Chairman and the lawyers who spoke before me is not right. This Commission is created under Article 79 and it says that:

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

The Temporary Deputy Chairman (Hon. Cheboi): Okay, I want you to be fairly brief.

Hon. Kaluma: Yes. I am done. The provision does not say that the commission to be created under this provision will be "similar" to the others in terms of structure or term of office. In fact we are even permitted to create a commission here without commissioners like others, but with the same status and powers, and not similar to.

The Temporary Deputy Chairman (Hon. Cheboi): So, let us have Hon. Nyokabi and probably we just finalise. Make a decision in one way or the other.

Hon. (Ms.) Kanyua: Thank you. This House has come under so much disrepute. Do we really want to add to that disrepute? It is in black and white. There is no "same" and "similar". We are just trying to split hairs here. It will not help us. The Constitution is clear. It is six years. There is nothing we can do about it unless we go to a constitutional review process. So, because the Constitution is binding and we have a lot of sympathy for the arguments that Hon. Ochieng' is advancing on staggering. When we wrote the Constitution we did not stagger the terms. Kindly colleagues, let us not put this House into any more disrepute than it has suffered. This is in black and white. I oppose the amendments and we urge the Member to consider withdrawing them. We are as low as we can be. No need for further laws.

The Temporary Deputy Chairman (Hon. Cheboi): Okay Members, you realise we have very little time. We will move very fast.

*(Question, that the new clause be read
a Second Time, put and negatived)*

New Clause 6

The Temporary Deputy Chairman (Hon. Cheboi): Let us have Hon. Oner. We will move very fast. So go straight to the point.

Hon. Ogalo: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Principal Act is amended in Section 27(3) by –

- | | |
|---|--|
| Amendment
of section 27
of No. 22 of
2011. | (a) inserting the following new paragraph immediately after paragraph |
| | (f) – |
| | (g) the state of compliance with the provisions of section 18 (4) (b); |
| | and |
| | (b) by renumbering the existing paragraph (g) as (h). |

The import of this amendment is that Section 18(4)(b) of the principal Act says that: “The Commission shall ensure that there is ethnic and regional diversity in its staff at the secretariat”

I am moving that every year when the commission is bringing the annual report to this House, they should also indicate the state of compliance with the provisions of this section.

Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): Let us proceed. Who is seconding you?

Hon. Ogalo: I will ask Hon---

The Temporary Deputy Chairman (Hon. Cheboi): You were not prepared to have a seconder. You do not have to look around. So, somebody stand and Second.

Hon. Ogalo: I will ask Hon Millie to Second .Thank you.

The Temporary Deputy Chairman (Hon. Cheboi): I can see clearly that Hon. Millie is ambushed. Just say one word because we have to save on time.

Hon. (Ms.) Odhiambo-Mabona: Thank you. I support this. This country needs national cohesion, because most of the institutions do not obey the law. It is important that Parliament holds them to account.

I second.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

Clause 1

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Chepkong’a, you have an amendment which you circulated. Please go straight to the point.

Hon. Chepkong’a: Thank you, Hon. Temporary Deputy Chairman. This is fairly straight forward. Every Bill has a commencement date. Unfortunately, we forgot this on this one.

Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended in Clause 1 by adding the words “and shall come into effect upon publication” immediately after the expression “2015.”

(Question of the amendment proposed)

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

(Clause 1 as amended agreed to)

(Title agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Mover to move reporting.

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No.33 of 2015) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Order, Members! We will quickly move to the next Bill. It only has three clauses. This is the Vetting of Judges and Magistrates (Amendment) Bill.

Hon. Members: No!

(The House resumed)

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

REPORT AND THIRD READING

THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL

Hon. Cheboi: Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No.33 of 2015) and approved the same with amendments.

Hon. Chepkong'a: Hon. Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Pukose to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. (Dr.) Pukose: I second.

(Question proposed)

Hon. Members: Put the Question.

Hon. Nuh: Hon. Deputy Speaker, I beg to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words "subject to re-committal of New Clause 5".

Hon. Deputy Speaker: Who is your seconder?

Hon. Nuh: Hon. Duale.

Hon. A.B. Duale seconded.

(Question of the amendment proposed)

Hon. Members: Let us debate.

Hon. Members: Put the Question.

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

Hon. Bowen: Thank you, Hon. Deputy Speaker. This is a very mischievous amendment and cannot be entertained. This House passed that amendment and recommitting it at this time is very mischievous. It is bad for this country and this Government.

(Loud consultations)

Hon. Deputy Speaker: Hon. Kajwang'. Members you will make a decision. I am only giving two or three people a chance to make comments and then we put it to the vote as you well know.

Hon. Kajwang': Hon. Deputy Speaker, let us make the best use of the time of the National Assembly. This is an issue that was taken to a Division. Even the subsequent issue was taken to a Division. The second Division was even higher than the first one. For you to bring a clause for recommitment, it must mean that we had a discussion on it before the Floor of the House and that even the "ayes" and the "nays" were in doubt. It can be the procedure in the Standing Orders. However, that procedure presupposes that there was a discussion and doubt in the mind of the Chairperson and hence it must be recommitted. Otherwise, we will have the Committee of the whole House coming throughout and we will be chasing the wind. I oppose but I dare them to bring it. We will defeat it.

Hon. Deputy Speaker: Hon. Kabando wa Kabando.

Hon. Kabando wa Kabando: Hon. Deputy Speaker, we have been here for a while. As much as precedent is set, we must also bear the responsibility of not initiating certain moves that give the indication that some people are so paranoid and so uncomfortable to the extent of circumventing the normal processes. This has not happened before. Hon. Amina Abdalla can heckle me today and tomorrow. Hon. Duale, you can start shouting at me as the Leader of the Majority Party but your views are very minority. We are talking about procedures and processes. It is time for Hon. Duale to say what is agitating him. Why is he becoming so paranoid? Stop attacking me with a community. I am here as a national leader.

Hon. Deputy Speaker: Hon. Kabando, do not personalise. Order, Hon. Kabando! Your point has been made.

(Loud consultations)

Order, Hon. Kabando! Relax Members!

Hon. (Ms.) Abdalla: Hon. Deputy Speaker, the procedures of this House allow for recommitment. Some of us had put our cards in the intervention slot and were not being allowed to speak. I want to ask Hon. Kabando to declare his interest because Hon. Kabando--- Let me tell

you the interest Chris, relax. When Hon. Kabando was lobbying me on this matter, he told me that he wants this secretariat to go because they were unfair to his friend.

(Loud consultations)

Hon. Deputy Speaker: Order, Hon. Members! I am upstanding.

Hon. Members, Order! Hon. Kabando wa Kabando, remember that if any of you is sent out now, you will be out until the recess is over. Hon. Members let us conduct ourselves in a good manner. We are going to put it to the vote. The decision is for the House. Can we stop the shouting matches?

I will put the Question that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words “Subject to re-committal of New Clause 5”.

(Question put and negatived)

(Several hon. Members stood up in their places)

Hon. Members, you are only 24 and therefore, you do not have the numbers. Let us continue. Can we have the Mover of the Bill?

Hon. Chepkong’a: Hon. Speaker, I beg to move that the Ethics and Anti-Corruption Commission Bill be now read the Third Time.

Hon. (Dr.) Pukose seconded.

Hon. Members: Put the Question, Hon. Deputy Speaker.

Hon. Deputy Speaker: Is that the mood of the House?

Hon. Members: Yes, Hon. Deputy Speaker.

Hon. Deputy Speaker: Can the clerks confirm that there is quorum?

Hon. Members: There is quorum.

(Question proposed)

(Question put and agreed to)

*(The Bill was accordingly read
the Third Time and passed)*

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

Hon. Deputy Speaker: Hon. Katoo ole Metito.

Hon. Katoo: Thank you, Hon. Deputy Speaker. Being a day the House is anticipated to go on recess, I beg to move that pursuant to the provisions of Standing Order No. 30(3), this House resolves to extend its sitting until conclusion of business appearing on Order No. 9 and 12 The Motion on Order No. 9, Vetting of Judges and Magistrates (Amendment) Bill (National Assembly Bill No. 19 of 2015) is very short and it will not even take two minutes. The other one

is on Ratification of Three East African Protocols on Defence Matters and it will not take 30 minutes. Therefore, I call upon Hon. (Eng.) Gumbo to second.

Hon. (Eng.) Gumbo: I second.

(Question proposed)

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Deputy Speaker (Hon. (Dr.) Laboso left the Chair]

IN THE COMMITTEE

*(The Temporary Deputy Chairman
(Hon. Kajwang') took the Chair)*

THE VETTING OF JUDGES AND MAGISTRATES (AMENDMENT) BILL

The Temporary Deputy Chairman (Hon. Kajwang'): Order, hon. Members! This is the Committee of the whole House convened to consider the Vetting of Judges and Magistrates (Amendment) Bill No. 19 of 2015. This is a very short Bill and we should not take more than 10 minutes on it.

Let us begin.

Clause 2

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Kaluma and Hon. Midiwo, can you allow the member for Mbita to express herself. I know the two of you are mutual friends.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Chairman. While I am moving my amendment, I will explain to the hon. Members so that they understand my amendment.

I beg to move that Clause 2 be read a Second Time---I have forgotten how it is done.

The Temporary Deputy Chairman (Hon. Kajwang'): No, just a minute.

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Chairman, I move that it be amended as per the Order Paper. There is so much excitement and that is why I have forgotten.

(Loud consultations)

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Mbita, let me first get some order before we proceed. Hon. Members, resume your seats!

(Hon. Kabando wa Kabando consulted Hon. (Dr.) Shaban loudly)

Member for Mukurweini just walk in and sit so that you can discuss with the Deputy Leader of the Majority Party.

Hon. Member for Mbita, just move that Clause 2 be amended as proposed in the Order Paper.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Deputy Chairman. I was forgetting that I am moving a new amendment that is why I was thinking of reading it a Second Time.

Hon. (Ms.) Odhiambo-Mabona: The Members who were consulting with me---

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Mbita, the notice I have here is that you want to move it in an amended form. Can you read it out to the Members?

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Chairman, I want to read it out in the amended form.

I beg to move:-

THAT, Clause 2 of the Bill be amended by inserting the words “and shall not exceed three months from the 3rd of December 2015” immediately after the words “determination is made” appearing in the proposed sub-section.

The Temporary Deputy Chairman (Hon. Kajwang’): 3rd or 31st of December?

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Chairman, 31st of December, 2015. If you look at the amendment that is proposed by the Committee, what it seeks to do is that it is enabling the vetting of judges and magistrates to go on in an open ended manner so long as they would show that they would have started vetting some of the cases. If we do not put a cap, then actually what Members of the Committee are saying that it will end in December 2015 is not correct. What it means is that so long as they decide that they have started vetting, they can go on vetting so long as the matters are not complete even for 20 years. So we are actually giving them time to vet for 20 years. What I am doing by my amendment is allowing three months leeway after the 31st December 2015, that if there are any pending cases then they have three months within which to complete because then we are making nonsense of the judicial reform process. We cannot be doing open ended reforms, we must have a timeframe.

(Question of the amendment proposed)

Hon. Bowen: Hon. Temporary Deputy Chairman, I support the amendment. It is good not to leave it open ended because the way it is framed by the Committee, it is not clear. The amendment by Hon. Millie makes it very clear. I support.

The Temporary Deputy Chairman (Hon. Kajwang’): May I have contrary views?

Hon. Midiwo: Hon. Temporary Deputy Chairman, my view is not contrary because I wanted to be clear. My view and that of many Kenyans has been that this particular activity has gone on for a bit too long. There are too many judges and magistrates who have been victimized through this process and to give these people an open ended cheque - in fact to say that they will continue as long as the cases are not finalized – is not good. In our wisdom when we formed this body, we thought time was sufficient. This is not the first time we are giving them an extension. I am of the view that they need to work and work overtime. They need to generally go home and let judicial processes as we know them and as envisaged in the Constitution to go on. As for this open ended cheque, I think it is causing anxiety to too many Kenyans and costing this country too much money.

Thank you.

Hon. Kaluma: Hon. Temporary Deputy Chairman, I would support this amendment if the extension is limited to the term of the Commission under the Constitution. The term of the Vetting Board is ending on 31st of December. If we permit the amendment as proposed, they are going to go beyond that constitutional term. So I would request my sister because the motive is good, to let us expressly say that the extension in that event shall be within the term under the Constitution.

The Temporary Deputy Chairman (Hon. Kajwang’): Chairman of the Committee, can you explain this issue to the satisfaction of Member for Gem?

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, we have discussed this matter sufficiently with Hon. Millie. It is very clear that if we went with the amendment of Hon. Millie without the amendment that she has proposed at the moment, then we would have extended the term of the Board by one year. What we are saying is that if there is a matter that is pending determination, it is already partly heard, it is not a fresh matter, we expect them to have heard everybody; all the 29 magistrates by 31st December 2015. However, if by 31st December 2015, they have concluded the hearing but they have not issued the determination, we allow them three months within which to read that determination but not to open up a new inquiry. That is the import of this amendment. So the time lapses on 31st December 2015 as passed by this House. We are not bringing an amendment to extend the life of the Board.

The Temporary Deputy Chairman (Hon. Kajwang’): Okay; the last one on this, Member for Saku.

Hon. Dido: Hon. Temporary Deputy Chairman, I rise to oppose this amendment on the grounds that if we are not sure that by 31st the vetting will have been completed, what assurance do we have that given three more months, it will be completed? I do not, for a minute, want us to pass laws in vain giving institutions deadlines which cannot be met. I think the Committee should reflect on it so that whatever this House passes can be effectively accomplished by the institution that we seek to oversee and see to it that they meet the deadlines as set by this House.

The Temporary Deputy Chairman (Hon. Kajwang’): Shall I put it to Question?

Hon. Members: Yes.

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Chairman, I think I need to explain to hon. Members so that they understand because I hear them asking me to withdraw. If I withdraw, then we are leaving this body to vet *ad infinitum*. From the amendment that is proposed by the Chairman, so long as they can show that they have started a process, they can continue forever. There is no cap and you cannot have a body vetting people forever. So what we are doing is putting a cap to three months so that it does not go beyond that. I am not withdrawing.

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

(Clause 2 as amended agreed to)

Clause 1

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, first I would like to move that Clause 1 be amended by deleting “4” appearing as 2014 so as to read “2015” in the first instance. The Bill itself---

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Chepkong'a, because the digit "4" does not stand on itself, just say "2014".

Hon. Chepkong'a: Yes, it should be changed from "2014" to "2015". Secondly, Hon. Temporary Deputy Chairman, I would like to move that Clause 1 be amended by inserting the words "and shall come into effect upon publication" immediately after "Act 2015".

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Shall I put the Question?

Hon. Members: Yes.

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

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 1 as amended agreed to)

(Title agreed to)

The Temporary Deputy Chairman (Hon. Kajwang'): Mover, are you on intervention?

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Vetting of Judges and Magistrates (Amendment) Bill, 2015, and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The House resumed

*[The Temporary Deputy Speaker
(Hon. Kajwang') in the Chair]*

REPORT AND THIRD READING

THE VETTING OF JUDGES AND MAGISTRATES (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, Chairperson.

Hon. A.B Duale: At least this is on the magistrates and not the other one where the forces were fighting back.

The Temporary Deputy Speaker (Hon. Kajwang'): Welcome to the Chamber, the Leader of the Majority Party.

Hon. A.B Duale: Thank you, Hon. Temporary Deputy Speaker. I had certain issues with the previous Chair. I will deal with them at the right time.

I beg to report that a Committee of the whole House has considered the Vetting of Judges and Magistrates (Amendment) Bill, 2015, and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Kajwang'): Mover. Order, Hon. Chepkong'a.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Speaker. I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Pukose to second the Motion for agreement with the Report of the Committee.

Hon. (Dr.) Pukose seconded.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you.

(Question proposed)

Hon. Members: Put the Question.

The Temporary Deputy Speaker (Hon. Kajwang'): I am putting the Question, having been satisfied that we have quorum to transact business.

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, Mover.

Hon. Chepkong'a: Hon. Temporary Deputy Speaker, I beg to move that the Vetting of Judges and Magistrates (Amendment) Bill, 2015 be now read the Third Time. I also request Hon. Pukose, Member for Endebess, to second.

Hon. (Dr.) Pukose seconded.

(Question proposed)

Hon. Members: Put the Question.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

MOTION

RATIFICATION OF THREE EAST AFRICAN PROTOCOLS ON DEFENCE MATTERS

The Temporary Deputy Speaker (Hon. Kajwang'): The Chairperson of the Committee. Is it the Member for Tetu? Can the Member for Tetu have the microphone?

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

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on a Protocol, Pact and Agreement relating to Defence Affairs, laid on the Table of the House on Tuesday, 7th July 2015, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, approves the ratification of:

- (i) The East African Community Protocol on Cooperation in Defence Affairs;

- (ii) The Mutual Defence Pact between the Republic of Kenya, Uganda and Rwanda; and
- (iii) The Agreement on the Establishment of the Eastern Africa Standby Force.

Even as I proceed to move, it would be remiss for me not pay tribute to the 14 Kenyans who lost their lives in the *Al Shabaab* attack in Soko Mbuji in Mandera, 12 of whom are from Nyeri County. Eleven of those who lost their lives are from Kieni Constituency and one young man of 28 years, David Mwangi, is from Kangaita Village in Tetu Constituency, which I have the honour of representing. I also take the opportunity to condemn the violence in the strongest terms possible and to express outrage of Kenyans at large, specifically of the people of Nyeri County.

We note with grave concern the racial and religious profiling and increasing segregation as the agenda that the *Al Shabaab* are perpetuating in North Eastern Kenya. The *Al Shabaab* appears to perpetuate a separatist agenda, which would also appear to achieve what the *Shifta* campaigns failed to achieve in the 1960s. We also commend the police for their quick response which minimised further loss of life. The Departmental Committee on Defence and Foreign Relations will soon be bringing a Motion to the Floor of this House to debate the situation in northern Kenya in relation to *Al Shabaab*.

The East African Community Protocol and Cooperation in Defence matters is made pursuant to Article 125 of the Treaty for the Establishment of the East African Community (EAC). The Article permits EAC States to establish a framework for cooperation in defence matters. This Treaty was signed by the Heads of State on 28th April 2012, and all EAC States are signatories. This Treaty will replace the existing Memorandum of Understanding (MoU) in Cooperation in Defence which was signed on 3rd November 2001. This Treaty provides a framework for cooperation in the following areas: military training, joint operations, technical cooperation and visits between countries in exchange of information. The Treaty creates institutional and co-ordination mechanisms for defence cooperation and contains the Status of Forces Agreements (SOFA) as per Section 37(2) of the Kenya Defence Forces Act.

Major issues dealt with in the Status of Forces Agreement include: criminal jurisdiction for East African Community Forces in partner states and settlement of claims against visiting forces as per Section 37(1)(d) of the Kenya Defence Forces Act (KDF). Exemption of taxation is also one of the areas which is addressed in the Agreement and lays ground for the Mutual Defence Pact (MDP).

Hon. Temporary Deputy Speaker, the MDF according to Article 17 of the East African Community Protocol requires conclusion of all mutual defence pacts within one year of entry of force of the Protocol. The establishment of Paragraph 8 of the MOU of the tripartite initiative for fast-tracking the East African Community integration requires the following: An establishment of a defence pact with a summit as a supreme organ. It also provides for establishment of a collective defence territory. The MDP was signed by Kenya, Uganda and Rwanda on 20th February 2014. The Pact is open also to signatures from other East African Community (EAC) member states. It provides a framework for collective action to threats to national security against partner states. The collective action is to be determined by the summit which is convened by the Chairperson and may include the use of armed force. It also provides that a threat to national security and collective action to be reported to the African Union and to the UN Security Council.

The pact also provides for a practical framework for pursuit of common defence and joint operations. It also consolidates the EAC integration by solidifying cooperation on security forces and defence. The pact is an important mechanism for providing a framework for tackling transnational threats such as terrorism which I alluded to earlier, epidemics and protection of critical infrastructure such as the collective infrastructure arrangement we have in the EAC in the Lamu Port South Sudan Ethiopia Transport (LAPSSET) Project and in the Northern Corridor. It facilitates the sharing of intelligence.

Elimination of mutual suspicion and costly arms race is also one of the consequential benefits of the MDP. It also provides a framework for settlement of disputes which is very much needed in the area of conflict resolution, particularly in the neighbourhood that we sit in this country.

Parliament must also approve the deployment of forces in Kenya and of KDF for regional peace support operations as per Article 240(8) of our Constitution. Parliamentary oversight has been retained by the MDP amendment instrument No.1 of 2014 which was an amendment that was moved by Kenya which requires the summit to take into account the provisions of respective constitutions and national laws of member states. This was an important amendment. The amendment instruments subordinate the pact to constitutions of all the partner states. Examples of MDP include the Northern Atlantic Treaty Organisation (NATO).

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Tetu, I do not want to disturb you in your eloquence and clarity of thought, but remember also the mood of the House so that you take care of it.

Hon. Gethenji: I appreciate that the House has been extended and Members are tired and may be at their wits end. Hon. Temporary Deputy Speaker, I will move quickly to summarise so that I can give my hon. brother here the Floor to second.

Finally, I wish to speak on the Agreement for the establishment of the East African Standby Force which is an important element of what we are ratifying here today. The Agreement was signed on 24th June 2014 by Kenya and nine other East African countries. It replaces the MOU which established the East African Standby Brigade. The East African Standby Force (EASF) attained full operational capability in December, 2014. Rwanda has ratified the EASF Agreement and Kenya validated its forces in September, 2014. It is important that we do the ratification of EASF, MDP and the Protocol today as Kenya remains one of the last country in the Community to ratify these protocols. The National Assembly's role is protected and this is why we are here to pass and ratify these protocols in accordance with the Constitution.

Now I invite my brother, Hon. Rasso to second the Motion.

Thank you, Hon. Temporary Deputy Speaker.

Hon. Dido: Thank you very much, Hon Temporary Deputy Speaker. I rise to support this Motion. But before I do so, I join my colleague in sending condolences to all families who lost their loved ones to a faceless enemy that does not represent anybody.

The Protocol, Agreement and the Pact that are before us, are important for Kenya. With those instruments there will be greater cooperation and enhanced working together of forces across the East African Region. Our region has been referred to as an arc of conflict, tension and misunderstandings among countries of the region. Through this defence cooperation, I believe that things are going to be much better. Already, we have the exchange of military officers, training, joint operation and cooperation in the area of disaster management. Already there is a

mutual defence cooperation of the Kenyans and Ugandans in Somalia and the Rwandans and Kenyans in Rwanda. This says a lot in terms of how these countries are cooperating.

Finally, with these instruments that have been brought to this House for ratification, I see greater mutual trust, confidence among nations, sharing of intelligence, sharing of equipment, expertise and reduction of arms race and flare-ups within the region.

With those remarks, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang’): Order, Members! Pursuant to Standing Order No.1, I give directive that business appearing as Order No.12 shall be listed on the Order Paper immediately on resumption of debate in the next sitting. Can the Clerk at the Table tell us how many minutes we may have to debate this Motion? Members, come prepared to debate it when the House next resumes its sitting.

Next Order!

(Debate deferred)

MOTION FOR ADJOURNMENT

ADJOURNMENT IN ACCORDANCE WITH THE
CALENDAR OF THE ASSEMBLY

The Temporary Deputy Speaker (Hon. Kajwang): Can the Leader of the Majority Party have the microphone please.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Speaker. I beg to move the following Motion: -

THAT, in accordance with the Calendar of the House, National Assembly, 2015 this Motion be amended by deleting the words “until Tuesday 21st July 2015” and substituting therefore the words “Tuesday 28th July 2015”.

That means that if the House agrees with me this evening that we will go on a short recess, we will come back on Tuesday, 28th July 2015.

First, I want to thank all my colleagues for their very valuable contribution during the just concluded session in which a number of key legislations were passed. The Budget-making process was the hallmark of the session that we are completing. During this period, we have passed several Bills that include the ones that we have finished today; The Ethics and Anti-Corruption Commission (Amendment) Bill and the Vetting of Judges and Magistrates (Amendment) Bill, 2015. We have passed the Division of Revenue Bill, 2015, the two supplementary appropriation Bills; the Retirement Benefits (Deputy President and Designated State Officers) Bill, 2013, the Water Bill, the Securities and Investment Analysts Bill and the County Allocation of Revenue Bill among many other Bills. I sincerely want to thank the various Departmental Committees for the job well done.

During the session, we debated and adopted several Committee Reports which include:- Reports of the Finance, Planning and Trade Committee on Privatization of the Public Sector Owned/Controlled Sugar Companies; Committee on Lands on the disputed Karen Land;

Committee on Education, Science and Technology on Pension Dues to Retired Teachers among many others.

Hon. Temporary Deputy Speaker, the House has also carried out its mandate of vetting and approving various nominees in accordance with the Constitution and Standing Orders. These include the Nominee for the Appointment of the Cabinet Secretary for Water and Irrigation, whom I joined this morning as the President administered the Oath of Office. We want to congratulate Hon. Wamalwa. Members can go and visit his office now that Parliament has approved and the President has administered the oath. We also dealt with the issue of the Secretary to the Cabinet, my very good friend Monicah Juma whose nomination was rejected. There was also the position of the Secretary to the Salaries and Remuneration Commission and finally the Chairperson, the Governor and Deputy Governor of Central Bank.

Hon. Speaker, the House today also approved the appointment of five Members to a joint committee on the Presidential Memoranda on the Public Procurement and Asset Disposal Bill and the Public Audit Bill. The task of the five Members is to convey and uphold the decision of the National Assembly. I have faith that my colleagues will do that. The National Assembly has disposed of those two Bills as per the Memoranda of the President.

We waged a serious war on alcoholism. I commend my colleagues from Central Kenya. A time will come when you must stand up to be counted. You must save the community that you represent. I thank the President and the leadership of Central Kenya. I urge other citizens and leaders across the country that we must stand together in the war against illicit brews and drugs. We must guard ourselves from the destruction of both public and private property.

As we proceed for recess, the people of northern Kenya, where I belong, are facing serious security challenges. We are facing the challenge of the invisible enemy; the war that the terrorists have been carrying on in our country. I am sure the Government of the day and the people of this country will unite across political, religious, ethnic and regional lines in the war against *Al Shabaab*. I am sure that the serious recommendation that the leadership of northern Kenya, under my leadership, gave to the President will be fulfilled; that the Muslim community and its leadership must be a very serious integral part in the war against violent extremism and *Al Shabaab*.

I also state that the House Business Committee (HBC) will give priority to various pending Sessional Papers and about 14 Bills awaiting the Committee of the whole House. To be given priority will be the Year 5 Constitutional Bills that have a deadline of 27th August 2015. Two of those constitutional Bills have already been received in my office and have been printed, assigned and are waiting for First Reading. These Bills are the Legal Aid Bill 2015 and the Controller of Budget Bill 2015, which are already within the precincts of the National Assembly. I hope that the Constitutional Implementation Oversight Committee (CIOC) under the able leadership of Hon. Baiya will engage the Office of the Attorney-General, that of the Commission for the Implementation of the Constitution (CIC) and respective Government departments so that the rest of the remaining Bills are published and the National Assembly will have enough time to deal with them.

A matter of great national importance is the Bill that concerns the two-thirds gender rule. I hope that the leaders across political divide will have a common ground in making sure that the Constitution is implemented and various articles are operationalised so that the women of Kenya will go home happy and that they will be proud of the men who are in the Executive, Judiciary and who serve in the Legislature. We have been counted on as fathers and husbands and I am sure that a time will come when the men of this House will enact the law before 27th August

2015 and give our sisters, mothers, our wives and the women of Kenya their due share that is provided for in the Constitution 2010. I am happy I am only talking to very few. The rest can get it from the HANSARD.

Hon. Temporary Deputy Speaker, I hope that this break will give Members time to interact with their constituents. Those of us who have the Constituencies Development Fund (CDF) kitty will go back to the people in the villages and give priority to the projects that we want to implement in 2015/2016.

Hon. Speaker, as I fly out this evening to the Holy City of Mecca, after saving my good friend Kaimenyi but unable to save my other good friend Halake Waqo and Mubea; the rest remains to wish all my colleagues *Idd Mubarak* and *Ramadhan Kareem*. I will pray for our country. I will pray for the National Assembly and above all, I will pray for the new Chair of the Public Accounts Committee whose report I read last night - he is a man of substance - a report that the previous Chair took this House in circus. I hope you will not do the same to the great party of ODM in which at one time I was a Member.

Thank you very much, I beg to move.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Ndhiwa.

Hon. Oyugi: Thank you very much, Hon. Temporary Deputy Speaker. I would like to support this particular Adjournment Motion. I would like to start by first thanking you for shelving the debate on Motion No.12 because as you may appreciate, Article 25 and 26 of the Constitution make international treaties part of the Kenyan law. One of the tendencies in this House is that half the Chairs of Committees rush these treaties towards the tail end of the discussion and Members do not apply their legal mind to them. These things become law so if you rush them through without Members--- You cannot treat treaties as ordinary Motions because then they are binding.

This particular one is very important. It ought to have established an East African Standby Force. So, if at all we do not look at the considerations, the East African region is always in turmoil. Burundi is just about to explode. South Sudan is happening. So we need to give considerations and look at the core content of the treaties. I thank you on that move.

The second thing is that I would like to appreciate the fact that this House, even as we take this recess, is coming of age. I have seen closed ranks in both coalitions, CORD and Jubilee, moving closely together on issues that look ideological. If we move this way, I am happy that Hon. Duale has discovered that sometimes he cannot always marshal the tyranny of numbers. Sometimes tyranny can go against you.

Two things have happened this evening which is very good for the House. Moving forward, I look forward to Members of this National Assembly reading from the same page on issues of ideology and speaking on issues like people of Kenya so that we do not look at always being bipartisan. Thirdly, I would like to thank this House on the fight on alcoholism. Whereas it looked like it was only a Central Kenya agenda, I think the problem of alcoholism is true and tackles all Kenyans. We need to look at ways in which we can make the fight on alcoholism go across board and we need to see how best to challenge the various houses, the people responsible, like the Kenya Bureau of Standards (KBS) and NACADA, so that we put in place issues that will ensure that no Kenyan dies of cheap alcohol and that illicit brew is a thing of the past.

Fourthly, the reason I was thanking you for shelving Motion No.12 is because I want to send my condolences to the people of Kieni. My very good friend, Hon. Kanini Kega, has lost several people on the attack in Mandera. We must do everything else it takes to make sure that

Kenya is secure. Many Kenyans' lives have been lost. It looks like we are no longer in charge of the Mandera and Garissa regions. The Kenyan space looks like it is being narrowed by *Al Shabaab*. The Committee on Defence and Foreign Relations and the Committee on Administration and National Security must do whatever it takes to protect lives of Kenyans because people come to the Government to protect life and property.

Hon. Temporary Deputy Speaker, as I support this Adjournment Motion, I would like to thank all Members of Parliament for all the good times we have had. I look forward to spending two weeks in Ndhiwa and I hope it is going to be a good time. We will spend that time as well to read the Companies Bill. I did not start my contribution to this Bill, but I am hoping that when I come back from recess, I will have sufficiently researched to input on this particular Bill.

With those many remarks, I support this Adjournment Motion. I thank you.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Rarieda.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity. As the Leader of the Majority Party was moving, I thought he left out a very bright spot of what happened during this session which is that one of us, Hon. Isaack Mwaura, left the bachelor's club and he is now a senior member of the society like some of us who have been in that institution for 25 years. I wish to congratulate Hon. Mwaura except that I must say when I saw Hon. Mwaura walk in on Tuesday, I thought he was far too strong, far too agile and far too awake for a newly married man. Anyway, that is something for me to discuss with him.

The Temporary Deputy Speaker (Hon. Kajwang'): Do you want me to send copies of the HANSARD to Hon. Mwaura?

Hon. (Eng.) Gumbo: Yes. I have actually told him that I thought he was far too strong for a newly married man, but anyway. These are some of the things that----

(Laughter)

Hon. (Ms.) Kajuju: *(inaudible)*

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Rarieda, you only have five minutes.

Hon. (Eng.) Gumbo: As we go into this recess, we also need to reflect on the good. As much as we reflect on the good, let us also reflect on the bad. I get very concerned when those of us who have been privileged to be in positions of leadership, do things that do not recognise the fact that we need to contribute in holding the country together.

I have gone to many countries of the world and I keep saying that given a second, third, fourth and even tenth chance, I would still chose Kenya as my country. Holding this country together is the work of every leader. Societal conviviality is the duty of every Member of Parliament. In fact, as Parliament under Articles 94(2) and (4), we have a duty to uphold the ideals of the Constitution. One of the ideals of the Constitution is national unity. It, therefore, saddens me when leaders who are Members of this House make statements that clearly have the possibility of tearing this country apart. We need to be unanimous in condemning such leaders. We need to be unanimous in realising that it is for me a privilege to be a Kenyan and that privilege must be safeguarded.

On the war on alcohol, it is a good thing and it is affecting all parts of the country. Even where we come from, we are not immune to this problem. This war must be waged within the confines of the law. Destruction of property cannot be permitted under guise of fighting alcoholism in our country. Even as we do that, the Government must also accept its fair share of the blame. We do want to behave if alcohol is only a preserve of the rich. It cannot be. When you go to Uganda, you do not see the kind of problems you see here because the Uganda *Waragi* is prepared in such a way that you can have quality *Waragi* for the kings and low priced *Waragi* for people who cannot afford to buy the heavily priced beer. You also must think of those who drink. I do not drink but drinking and alcoholism is as old as humanity itself. I am concerned that sometimes the Government takes measures that make it impossible for our factories to produce affordable alcohol for those who must drink. I do not understand, for example, why the Government reintroduced exercise duty on sorghum beer because when this was removed, we were not seeing. So, the Government must look at its taxation regime and must also accept its responsibility for what is happening.

Finally, as I conclude, I would request the House business Committee to give priority to some of the crucial reports that have been done by the Committees. Some of these reports like for my Committee, have been before the House for over a year. Some of these have huge public interest and we need to discuss and dispose of them.

I wish every Member God's blessings. As you go to your constituencies, let us keep peace. Let us remember that it is the duty of each and every one of us to contribute in holding this beautiful country together.

I thank you.

Hon. Kimaru: Thank you, Hon. Temporary Deputy Speaker. I would like to support the Adjournment Motion moved by the Leader of the Majority Party. I would like to take cognisance of the good work that this House has done so far and in particular the Division of Revenue Bill which was a difficult Bill to pass in this House. We all remember that this House and the Senate were locked in a tussle. However, we were able to unlock this particular dispute in whatever way we did. At the end of the day, we had the Division of Revenue Bill passed by this House and the counties will have resources to use. We were all reasonable in that we did not want to pull and push forever. We wanted money to go to the counties. We hope that once this money gets its way to the counties, it is going to be used well for the benefit of all Kenyans. We must re-state here that all monies sent to the counties and constituencies must be used properly because the reason why we are in this House or why we have the Senate is to ensure that the common *mwanaanchi* back at home benefits. The need to use resources properly cannot be overstated. Therefore, I am also happy with the ruling by the High Court that Senate cannot be prevented from carrying out its role to supervise the county governments or summon governors to come and account for the monies that belong to the people of Kenya.

I would also like to recognise that this House has asserted its authority. On a number of occasions, Members of this House have acted in a bipartisan manner when addressing issues. For example, the attempt to censure Cabinet Secretary for Education, Science and Technology, Prof. Kaimenyi. If you look at the voting pattern, in as much as he was saved, it was quite clear that every public servant serving this nation must meet the standards that are required. I believe that the lesson learnt yesterday was that there are standards that must be adhered to. I am sure that he and other public servants were watching. They are aware that there are standards that they must adhere to. Even when we say that somebody's disposition by nature is such that he should be arrogant, in a public office, there cannot be any room for arrogance. If I am in my house, I can be

as arrogant as I want to be but when I am a public servant, I must rise up to the expectations of *mwananchi*. If somebody is arrogant and he is a revenue officer, you would not expect him to deliver. He would have a bloated ego that would affect his ability to perform.

We have also seen previously the issue of Dr. Monica Juma. Quite a number of us were lambasted that we were voting machines. There were even accusations of compromise which is unfortunate. On that note, I still want to follow up on that Motion to have at least that Member who made that serious accusation in the minimum apologise for painting this House in bad light. When we resume, we will have that opportunity. He will also have the opportunity to come before the House and probably give a personal statement apologising to the Members. If he does not do that, we will follow it up to make sure that he does that.

The other thing is alcoholism. We would not want Kenya to be a drinking or drunk nation. It is unfortunate that very early in the morning, you find people in the bars. In my constituency, some bars open at 6.30 p.m. and operate the whole day. So, let us all join hands in this war against alcoholism. Let us also enforce the drinking hours. Let it be: "*Baada ya kazi* but not *badala ya kazi*."

The Temporary Deputy Speaker (Hon.Kajwang'): Leader of the Minority Party.

Hon. Nyenze: Thank you, Hon. Temporary Deputy Speaker for giving me this chance to contribute to this Adjournment Motion. I support it. I want to thank my colleagues because we have achieved a lot. The speakers before me have said that we have shown a bipartisan stand in many issues. That shows that the National Assembly Members have matured to a level which they will not vote on party lines but they will reason out and see how they should vote.

As we retire to our constituencies, there are things that have disturbed my mind. One is the retired teachers' unpaid pensions.

Hon. Temporary Deputy Speaker, you know that by the time one retires, they have served the Government and are in the time when they need assistance most. These people need to be paid. This is because they went to court and there was a High court ruling that they should be paid. It is not a lot of money. It is about Ksh40 billion. I urge the Government to pay these retirees their dues because some are sick, old and poor.

It is bad when someone who has served as a teacher cannot buy medicine in their old age or they cannot live well because of lack of their dues which the court has ruled that they should get. This country is ruled through the rule of law under the Constitution. I urge the Government to make provision and I urge my colleagues in this Parliament to appropriate monies in the budget to pay these retired teachers.

The other thing that disturbed me is the rejection of the nominee Monica Juma. The Committee said that she was very qualified. She had everything that it took but she was not bending to their requests. That was a very bad reason to deny her a chance. I hope that in future as long as civil servants are qualified, this House will not deny them opportunity to serve this country.

I congratulate the President for the crackdown on illicit brew. When something is done in such a large scale manner and it causes such an impact, it is something to be happy about. These illicit brews have killed our children and many of our people not only in Central Kenya but in the whole country. This crack down should go on but with a rider that we should protect businesses. Those who are properly licensed should not be under threat by goons pretending to implement this crack down.

Let the Government protect licensed businesses so that they do not live under fear. I will give an example of Keroche Breweries in Naivasha which employs so many people and they pay

their taxes. Let goons not invade it. Let us stop production of brands that the Kenya Bureau of Standards KEBS does not approve. Let them receive Government protection because they are taxpayers and they are employers who have created employment for the youth of this country.

There are challenges of security in this country. Insecurity has to be fought by all of us across the political divide. It is not the Government's duty alone but it involves everybody. It is good that they still urge the leaders from across the political divide to sit down and solve this problem because Kenya is losing a lot.

Tourism has died and it was a very big exchange earner. Agriculture has been disrupted, Education in North Eastern has been disrupted and many other sectors. We are losing a lot. May we ---

The Temporary Deputy Speaker (Hon. Kajwang'): The Hon. Leader of the Minority Party. Please wind up.

Hon. Nyenze: I appeal to the legislators that as we go for this short break, we also think of ways of making secondary school education free. Parents suffer a lot because they cannot take their children to school. If we can make secondary school education free, all Kenyans will have a chance to go to school and we will be doing good service to this country. Let us hold Kenya together. Let us be united. As we break, let us unite and not break this country in our talks. Those people who make bad statements should be punished.

Whether they are legislators or not, there is nobody who is above the law. If you try to incite people to fight or divide the country, you should be punished through the law.

With regard to the safety net for the elderly, I urge this House to consider passing a law so that we increase the amount of money that we give to the elderly from Kshs2000 to Kshs5000. We should also increase the amount of money because so many people who are old and poor do not benefit from this Fund because the money is not enough.

There are elders who assist chiefs and sub-chiefs. They never get any pay. I want us to legislate and try to appropriate a budget so that these elders who help sub-chiefs get a small pay for their service. They also assist the Government in so many matters such as security and social order in villages.

I want to appeal to the National Assembly Members and the Senate to try and work together. Let us try to minimise our differences. Let us not keep fighting and trying to show who is more powerful than the other. Let us try to serve Kenyans and respect each other because both Houses were created by the Constitution of Kenya, 2010 and they have the right to exist. Let Members of the National Assembly also respect and understand that the Senate is there by virtue of the Constitution and it has to do its mandate.

As I wind up, I want to wish the Members a good time. Kenya is a united country. We are along the equator. We have the same length of time during the day and at night. We have the best climate, beaches and animals. We have raw materials. We are a country that will be very rich in a few years. As long as we get our act together, we will succeed. I thank fellow Members for their good contributions. We have passed very many Bills which are very important to this country and will help us move forward.

Last but not least, I want to appeal to the Government to look for money to pay---

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kajiado North, you can hear your colleagues want to say goodbye to other Members. I know you have a few minutes but if you could just spare two minutes so that other Members can contribute, it will be great.

Hon. Manje: Thank you, Hon. Temporary Deputy Speaker. I will just take one or two minutes.

I support this Motion for Adjournment. This is the time when we should go home and reflect on what we have done. I also want us to reflect on another issue. When we congratulate ourselves for passing many Bills, are we saying that when we pass many Bills we are efficient? I tend to think it should be the other way round. When we pass many Bills it means our Bills are very fluid, not based on research, can easily be bent here and there and that is why we are passing so many of them. We should take heed of other countries. In a country like China, members of parliament only sit for 15 days to deliberate on laws that were not serving them properly throughout the year. We should also take heed. We do not change our Constitution time and again meaning that we are very stable in terms of constitutional law. However, when it comes to the Acts that we pass in this country, they are very fluid and not efficient as such. I am also a very worried man today because we vote along tribal lines in this House.

Hon. Temporary Deputy Speaker, if we are supporting members who are from our tribes, then we are not making good laws in this country. It is a bad trend and we are telling Kenyans to divide themselves along tribal lines. We should be careful when voting because we have been given a chance by all Kenyans to serve them regardless of our tribes. I come from a constituency which is cosmopolitan and sometimes you fail to know which side to take when people start voting along tribal lines and so, I think we should change that.

Hon. Temporary Deputy Speaker, there is the issue of fighting alcoholism. Since we are moving from a low to middle income country, we cannot move if our young generation is indulging in this alcoholism and we have to liberate them the way we started this week. The content of this illicit brew is not the correct ingredient that should be given to our people. I happened to have a look at what our young men are taking in the constituency and this alcohol is a mixture of cocaine, formalin preservative and other concoctions that make them get addicted when they take a glass. That is why it is difficult to remove them from this mess. We should liberate them from this.

Lastly, we have an issue of traffic jam in Nairobi and specifically my area of Ongata Rongai. It is time to say traffic jam in Nairobi is like a national disaster because people are not moving. It is becoming hard to do business in Nairobi, Ongata Rongai and Ngong.

The Temporary Deputy Speaker (Hon. Kajwang'): Can I hear the voice of a lady? Member for Meru, since we have three minutes remaining, will you share it with Hon. (Dr.) Pukose?

Hon. (Ms.) Kajuju: Yes, Hon. Temporary Deputy Speaker, I will share with my brother. I want to thank Members for accepting the call to honour Prof. Kaimenyi by rejecting the petition. We want to believe that he will be better when we come back from recess.

I would also like to congratulate the President for starting the war on alcoholism. As we were seated here, we received a message via 411 which said that several people have died in Kiambu County due to withdrawal symptoms. It is an undertaking of the Jubilee government to ensure it has rehabilitation centres. That is going to happen within the recess so that we can have those who are addicted to alcohol on a rehabilitation programme.

Hon. Temporary Deputy Speaker, as a woman I want to assure this House that we are working on the Gender Bill so that we can a consensus. The Departmental Committee on Justice and Legal Affairs is going for a retreat next week. Today, we met His Excellency the President and we agreed that this is going to be an affair that we are all going to agree on. We will ensure there is a good representation as per the Constitution. We hope that a Bill is going to be published tomorrow by the Attorney-General.

Let me also take this opportunity to wish my Muslim brothers a happy *Ramadhan* and when the time comes, we will all celebrate the *Eid-Fitr* together. I thank you all. Hon. Members, take your time, relax and come back rejuvenated.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): It is in my information that the Member rising is a medical doctor but I think must be---

An hon. Member: He is a clinical doctor; maybe a dentist.

Hon. (Dr.) Pukose: Hon. Temporary Deputy Speaker, the Member is not a medical doctor and he appeared today to present a petition before my Committee. I am a general surgeon by profession. I want to thank you and the House for all the cooperation we have had. We have had our ups and downs and I know that as we go on recess, we are going to reflect on that.

As I also go on recess, I want to assure my constituents that I will be present to do some surgeries because I have got some few supplies from KEMSA. So I want to thank the Ministry of Health for also giving me some medical supplies that I am going to use at Endebess District Hospital to do free operations for my constituents.

I also want to congratulate Hon. Eugene Wamalwa---

The Temporary Deputy Speaker (Hon. Kajwang'): Is that part of a duty of a legislator under Article 94?

Hon. (Dr.) Pukose: Hon. Temporary Deputy Speaker, it is part of the representation.

(Laughter)

I will do that in my representation and also giving something back to society. I am a trained doctor and surgeon in that case and so I offer that. I am also free to come to your constituency when you invite me and I will do it free of charge, but you must have supplies.

I also want to congratulate Hon. Eugene Wamalwa for having been appointed by the Government as a Cabinet Secretary and today he was sworn in. He is the only Cabinet Secretary from my county and we hope that he is going to work very closely with us, both at the county level and the national level so that we can deliver services, not just to the nation but also to our county.

Hon. Temporary Deputy Speaker, as we go for recess, I want to wish all our Muslim brothers *Ramadhan Kareem* and hope that we will have a good time.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, I can see the Member for Igembe Central is on his feet. Member for Matungulu, Member for Samburu West, Member for Seme, Member for Baringo, Member for Naivasha, Member for Kibwezi and all of you are here. Unfortunately, we cannot reach everybody. That is a testimony that you need to go and rest so that when you come you have more energy to do this.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, the time being 7.08 p.m., this House stands adjourned until Tuesday, 28th July 2015 at 2.30 p.m.

The House rose at 7.08 p.m.