

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 24th March, 2015

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, there will be Communication to be issued at some later point.

PAPERS LAID

Hon. A. B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table:-
The Public Finance Management (State Officers House Mortgage Scheme Fund) Regulation, 2015 and Explanatory Memorandum (in accordance with Section 2 of the Statutory Instruments Act, 2013 and Section 24(4) of the Public Finance Management Act, 2012).

Report of the Auditor-General on the Financial Statements of the Medical Practitioners and Dentists Board for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of the Kenya Tourism Board for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of the Bomas of Kenya Limited for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of the Information and Communications Technology Authority for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of the Water Services Trust Fund for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of the Competition Authority of Kenya for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of the Cotton Development Authority for the year ended 31st July, 2014 and the certificate of the Auditor-General therein.

Hon. Speaker: Hon. Members, and particularly the Members of the Committee on Delegated Legislation, the Report on the Public Finance Management (State Officers House Mortgage Scheme Fund) Regulations, 2015, is referred to the Committee on Delegated Legislation. It is important to announce to the Committee that in terms of Section 205(6) of the Public Finance Management Act, the Committee has 15 sitting days within which to make a report to the House, failing which those Regulations will be deemed to have been approved.

Therefore, hon. Cheptumo, you have your work cut out by the Act.

STATEMENTS

WORLD TUBERCULOSIS DAY

Hon. Mule: Thank you, hon. Speaker. I wish to make a Statement regarding the World Tuberculosis Day, which is celebrated today, 24th March globally. I wish to urge this House to rise to the occasion to make sure that we eradicate Tuberculosis (TB). I wish to inform the Members that Kenya has been recognised as a leader in TB control regionally and globally. In fact, the National TB Strategic Plan 2015-2018, which will guide TB control in the nation for the next three years, was just launched on 18th March 2015.

Additionally, in the past seven years, Kenya has bagged four global awards for among other things, being the first country to achieve the World Health Organisation targets of TB cases, detection rates and treatment success rate. Key personalities in Kenya have also stood out of the crowd in making a difference on the global stage in contributing to TB control globally.

(Loud consultations)

Hon. Speaker, I seek your indulgence, there is a lot of noise in the House.

Hon. Speaker: Order, Members! Consult in lower tones.

Hon. Mule: Hon. Speaker, however, even with these efforts, the country still remains in the list of the 22 high-burdened countries in the world, and is ranked fourth in Africa after South Africa, Nigeria and Ethiopia. There is need for the Government to put more effort in Tuberculosis (TB) control to ensure the country is off this “infamous list”, and reducing Tuberculosis incidences to zero.

Last year, the Government sponsored a delegation of Members of Parliament from this House, that is hon. (Dr.) Pukose, hon. Murgor and myself, to attend the World Conference on Lung Health in Barcelona, Spain.

(Hon. (Ms.) Lay walked into the Chamber)

(Applause)

Hon. Speaker: Order, Members! Hon. Mule will be heard. Order, hon. Ochanda! Order, hon. Wanga.

Hon. Members, whatever the cause of the excitement, let us allow hon. Mule to inform the House about today.

Hon. Mule, proceed.

Hon. Mule: Thank you, hon. Speaker. I want to confirm that the Government sponsored three Members of this House to Barcelona. They were hon. (Dr.) Pukose, hon. Murgor and I. At this conference, Members of Parliament from Kenya and five other countries, led by Nick Herbert from the UK Parliament, launched the Barcelona Declaration. It calls for coordinated global action to drive down rates of Tuberculosis across the world and to accelerate progress towards ending Tuberculosis as a threat to global public health.

It is in our interest to tackle the disease. Tuberculosis is an airborne, infectious disease with no respect for boundaries. If we do not act to eliminate Tuberculosis, and the spread of drug-resistant Tuberculosis is allowed to continue unabated, patients, families and health systems of nations will struggle to deal with the costs. That is why, today, I am calling on our Government, in conjunction with others across the world, to intensify its response to Tuberculosis and act to scale up existing interventions, improve the pace in the development of new drugs, diagnostics and vaccines, and invest in innovative programmes to diagnose and treat everyone who has this disease. Since our economies are global, our approach to this disease must also be global.

I, therefore, want to urge the 11th Parliament to sign the Barcelona Declaration as a demonstration of our combined commitment to address Tuberculosis in the country---

(Loud consultations)

Hon. Speaker: Order, Members. Hon. Mutinda Mule, try to finish.

Hon. Mule: Thank you. I am almost finishing, hon. Deputy Speaker. It is, therefore, my wish to call upon my fellow parliamentarians to sign the Barcelona Declaration as a demonstration of our combined commitment to address Tuberculosis in Kenya and in the African region.

Members interested in this matter, please pick a copy of the Declaration at the entrance of this Chamber and append your signature to the list which will be provided to make sure that at least we will be the ones to commit to turning the tide against this devastating disease. Together, we can be the generation that ends Tuberculosis.

I want to leave you with this: Tuberculosis is an airborne disease. If you are breathing today, you are not immune to Tuberculosis. We must make sure that we commit ourselves to this worthy cause. I want to assure you that immediately we collect all these signatures, we will come back to you, write to the Union to show the commitment of the country and present the report to the next Tuberculosis summit to be held in South Africa.

Thank you very much, Members. Thank you, hon. Speaker.

Hon. Speaker: Very well. Next Order!

POINT OF ORDER

INVESTIGATIONS INTO OPERATIONS OF CHINESE RESTAURANT

Hon. Midiwo: Thank you, hon. Speaker. Just before we get to the next Order, I rise on a point of order to raise a matter of grave national importance. It has been reported in the last couple of days that there is a Chinese restaurant in the Kilimani area of this capital city that does not admit black Kenyans after 5 p.m. The said restaurant, we are told, only allows two politicians for whatever reason.

Having lived with racist people in the past, I find it hard to believe that our Government can allow racist Chinese to live in the heart of our city centre in a way that hurts and limits the rights of our citizens. I know that to many it may sound trivial. However, our Constitution does not allow anybody to limit people's freedom of association and freedom of access to any of such facilities.

I am in the belief that this House has a duty to deal with this issue now that it has come to the fore in a much wider sense. We have a scenario where there are many places in Karen where black people and Kenyans in general are not allowed access into normal public restaurants. It even goes beyond that because these people run these restaurants but they are foreigners. The Government has no access to their premises. Further to that, our Government agencies cannot access many places. I am told there is a place in South C where foreigners live and there is a wall. The Kenya Revenue Authority (KRA) cannot access them to know what they are doing and even the police department cannot access those walls to know what they are doing.

This House, through the relevant committees, need to deal with this matter. I abhor the thought that some Chinese can live in this country and tell Kenyans we are inferior to them because we are not. I want us to condemn this in every strongest terms possible. I want to request you to order the relevant Committee to visit this restaurant with the police so that we as Kenyans can set an example. We cannot have limits to our rights by people who have no rights in their own country. They cannot come here and treat us the way they are treated in their own country.

I thank you, hon. Speaker.

Hon. Speaker: The fairest way would have been to do a formal Motion so that the House can express itself. Now it might be a bit tricky. I believe it is the Kamama-led Committee which should address the matter that you have raised. Now that hon. Kamama is present, they will see how they can react although as a House we also have our own rules. Let us not initiate investigations based on unconfirmed information. If it is true, the

Committee can move into the area and--- Hon. Kamama, perhaps you may wish to say something about that.

Hon Abongotum: Hon. Speaker, I want to thank my good friend hon. Washington Jakoyo Midiwo for raising this matter. As a Committee we have discussed with a few Members. This country cannot condone issues to do with racism because our brothers and sisters died pursuing this course. These are people like Martin Luther King, Booker T. Washington. Malcom X, Nelson Mandela and the rest. We will take it as a Committee, visit that area and get in touch with the Minister so that appropriate action can be taken.

Thank you.

BILL

Third Reading

THE PROTECTION AGAINST DOMESTIC VIOLENCE BILL

Hon. Speaker: Very well. As you may have heard, the Clerk read Order No. 8 on the Order Paper, before hon. Midiwo rose on a point of order. It relates to the Protection Against Domestic Violence Bill, No.28 of 2013. Debate on this Bill was concluded. Consideration of the Bill even in Committee was concluded. What remains is for me to put the Question which I hereby proceed to do.

(Question put and agreed to)

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

MOTION

EXPRESSION OF DISPLEASURE WITH CONDUCT OF SPEAKER J.B. MUTURI

Hon. Speaker: Hon. Members, as indicated on Thursday last week, the business appearing as Order No. 9 is the Motion of Expression of Displeasure with the Conduct of the Person of the Speaker in the National Assembly. In keeping with good practice, the Speaker must vacate the Chair so as to facilitate debate on this Motion and I accordingly proceed to vacate the Chair.

(Applause)

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

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

COMMUNICATION FROM THE CHAIR

EXPECTED STANDARDS OF DEBATE

Hon. Deputy Speaker: Order, Members! Hon. Members, before we proceed with this, I would like to give a Communication. Before we embark on the Business of Order No. 9 which is a Motion to discuss the conduct of the Speaker under Standing Order No. 87(1), I wish to guide the House on a few matters relating to the manner in which you will transact this business.

You will all agree with me that a censure Motion against the Speaker is both rare and extremely unique business. Speakership in the Kenyan National Assembly and in similar jurisdictions in the Commonwealth embodies the power, dignity and honour of the House. The main features attached to the Office of the Speaker are authority and impartiality. Members aggrieved by the conduct of the Speaker can only discuss his or her conduct by way of a specific substantive Motion such as the one which is in the House about to be debated. As the case is now, the Mover seeks to discuss the conduct of the Speaker and censure him on allegations of a general nature. It is therefore incumbent upon the Mover to give specific instances where the Speaker is alleged to have made the contemptuous, malicious and unfounded allegations against Members as alluded in the Motion. It will be out of order for any Member to introduce extraneous matters other than those contained in the Motion on the Order Paper and as stated by the Mover in moving since doing so would negate the aim of giving a three day notice.

Hon. Members, for avoidance of doubt, allow me now to attend to the question of how this Motion relates to a Motion for removal of Speaker as contemplated under Article 106(2)(c). The said provision states:-

“The office of Speaker or Deputy Speaker shall become vacant -

(c) if the relevant House so resolves by resolution supported by the votes of at least two-thirds of its Members.”

The wording of such a Motion will be patently different from what we have under Order No. 9 today. Clearly therefore, this Motion by the Member for Kibwezi West is not a Motion under Article 106 (2)(c) of the Constitution of Kenya 2010. I wish to appeal to all Members to observe decorum and courtesy in the use of language during the debate. The expected standards of debate must be strictly observed to ensure that we listen to one another without unnecessary interruptions. It will be out of order to use offensive or insulting language in respect of Members, other persons or to make claims without substantiation as required under Standing Order No. 91. This is not an occasion to make disparaging remarks on the person or the character of the Speaker or indeed any other Member.

Finally, the Speaker has decided that he will not preside over the House today because this would amount to sitting in judgment over his own case. I want to assure the House that I will be fair to all Members when enforcing the rules of the House as founded in the Standing Orders and as established in the accepted tradition without fear or favour.

Thank you.

(Applause)

PROCEDURAL MOTION**LIMITATION OF TIME FOR MEMBERS
SPEAKING ON SPECIAL MOTION**

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, pursuant to Standing Order No.52 (k), as read together with Standing Order 97, I beg to move the following Procedural Motion:-

THAT, notwithstanding the resolution made by the House on Wednesday 11th February, 2015, this House orders that each speech on the debate on the Special Motion on expression of displeasure by hon. (Dr.) Patrick Musimba, MP; be limited as follows:-

A minimum of three hours with not more than 30 minutes for the Mover in moving and 15 minutes in replying and a maximum of 15 minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of 20 minutes each, and that priority be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that order.

(Hon. Memusi crossed the Floor without bowing to the Chair)

Hon. Deputy Speaker: The new Member, hon. Memusi, you shall be allowed but you have to go right to the Bar and come round. You do not cross the Floor. Hon. Member, he is allowed because this is his first time in the House.

(Hon. Memusi went to the Bar, bowed to the Chair and crossed the Floor)

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, I am moving his Procedural Motion because, as per the Communications from the Chair, Members, including me, are very keen to know the specific complaints that hon. (Dr.) Patrick Musimba has against the Speaker. It would be good to give him enough time to explain himself, so that we can assess whether there is a basis to the matters that he is going to raise.

Hon. Deputy Speaker, I beg to move and ask hon. T.J. Kajwang' to second the Motion.

Hon. Members: On a point of order!

Hon. Deputy Speaker: You are very impatient, hon. Members! This Motion was approved. So, can we just get on with the business that is supposed to be transacted?

Please, proceed, hon. Kajwang'!

Hon. Kajwang': Hon. Deputy Speaker, today we are about 350 of us. You can see that today the House is well attended, expressing itself to the sensitivity and importance of the Motion before the House. If everybody were to speak for 10 minutes this afternoon, we would take 3,500 minutes, which will break down to not less than six hours. This is a rare case indeed. As you have ably said in your ruling, it is one of its kind particularly in this House. If a Member who calls himself an "independent Member" is able to express himself in these terms, it behoves us that we have enough time to reflect

on the issues that are before us, so that we speak without haste; we speak with thinking and reflection.

Hon. Deputy Speaker, many of us have gone to the library for this moment. We have done a lot of research and we think we have contributions that will assist not only the Assembly, but members of the public at large, to appreciate the issues before us. Fifteen minutes allows Members to bring out their issues, put a foundation on their cases and be able to prosecute the matter.

(Loud consultations)

Hon. Deputy Speaker, I do not know what the Member for Gem has done to poison the Members but whatever it is, I humbly request that Members do have enough time to be able to express themselves in the best way possible.

I thank you and second the Motion.

(Question proposed)

(Question put and negatived)

Hon. Deputy Speaker: Hon. Members, shall we now allow hon. (Dr.) Musumba to move the Motion?

Hon. Members: On a point of order!

Hon. Deputy Speaker: Hon. Members, I am not taking any more points of order until the Motion has been moved.

Hon. Musimba, can you move the Motion?

MOTION

EXPRESSION OF DISPLEASURE WITH CONDUCT

OF SPEAKER J.B. MUTURI

Hon. Musimba: I beg to move the following Motion:-

THAT, pursuant to the provisions of Standing Order 87(1) and noting with concern that the Speaker of the National Assembly Hon. Justin Muturi, EGH, M.P. has and continues to degrade the character and the ability of the Honourable Members of this august House through making of contemptuous, malicious and unfounded allegations against them; aware that the said allegations have eroded the collective dignity, esteem and honour of Members of Parliament in and out of the House; concerned that the Speaker in so doing has failed in his Constitutional duty to protect the dignity, honour and integrity of National Assembly; this House expresses its displeasure and disappointment with the conduct of the Speaker and censures him.

Hon. Deputy Speaker, I want to table the Statement of fact as demanded by our Standing Order No.91, if you allow, they are both in hard and soft copy. I kindly---

Hon. Deputy Speaker: Proceed to move

Hon. Musimba: Hon. Deputy Speaker, I also beg that, in accordance with the provisions of Standing Order No.80(2), you allow me to read from a prepared speech because of the veracity of this particular Motion, the provisions of Standing Order No.80(1) notwithstanding.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Hon. Musimba, can you just summarise what you need to say instead of reading out a speech? Do what we normally do in debate. This Motion is not any different.

Hon. Musimba: Thank you, hon. Deputy Speaker, for your direction.

(Loud consultations)

Hon. Deputy Speaker: Order! I do not want to resort to throwing Members out of the Chamber. Hon. Members, let us give him this opportunity. This Motion was allowed and, therefore, it has to be prosecuted. Allow him to move the Motion. We will then proceed in the manner we always do.

Hon. Musimba: Thank you, hon. Deputy Speaker. Psalms 121 says:

“I lift my eyes to the hills. Where does my help come from? My help comes from the Lord, the maker of heaven and earth. He will not let your foot slip. He who watches over you will not slumber. Indeed, He watches over Israel. He will neither slumber nor sleep. The Lord watches over you. The Lord is your shade on your right hand and the sun will not harm you by day nor the moon by night. The Lord will keep you---”

(Loud consultations)

Hon. Deputy Speaker: Hon. Musimba! Honestly, we said that you stick to the Motion that you have given us. Order, Members!

Hon. Musimba: Hon. Deputy Speaker, the preamble of the Constitution of Kenya bestows upon this House the supremacy and legislative authority to govern on behalf of the people of the Republic of Kenya. It carries and espouses our aspirations that our people elect us to do. It is in the true spirit of the Kenyan people that all Kenyans--- It is important for me to reiterate that I am an independent Member of Parliament and I believe I belong to the coalition of all Kenyans. I firmly believe there is no Jubilee Kenya or CORD Kenya; there is only one Republic of Kenya. The roles of Parliament as stipulated in Articles 94 and 95 of our Constitution proffer upon this National Assembly the powers to look over their welfare and achieve aspirations for Kenyans who are, indeed, hardworking. They are full of resilience. Despite all odds, in the 51 years history of this nation---

(Loud consultations)

I have completed. The Office of the Speaker, as espoused in Article 107 of this Constitution, is a serious office. It is, indeed, a constitutional one. The guidance to this is under Article 106. Article 97(1)(d) makes the Speaker a Member of Parliament. In accordance with the Articles within Chapter Six, the Speaker is held to account as a State officer, as the face and voice of this National Assembly. In his capacity as the Chairman of the Parliamentary Service Commission, he oversees the role of both Houses in the manner unto which we conduct our businesses. His primary responsibility is in protecting the dignity of the National Assembly. The requirement that Parliament must retain the confidence of the Kenyan people is best espoused by the fact that over 10,000 Members have gone through this House and they all look unto us to keep this esteem for posterity. The future of this great Republic looks upon this Assembly. This Assembly represents the faces of 42 million Kenyans. The actions of our Speaker, in degrading Members through utterances, pose a great security threat to this nation. This is because if the people we represent lose faith in Parliament, anarchy will prevail because we are the epitomization of the rule of law.

Just to cite the Speaker at the opening Address of this august House, he describes Parliament accurately as the citadel of our democracy through which the nation knows the political philosophy and economic strategy of our Government, in governance of the people of the Republic of Kenya. The letter and spirit of our Constitution and the embodiment within our National Anthem is important to be upheld as it restores public confidence. Standing Order No.98 of this House gives the Speaker responsibility to preserve order and decorum in protecting the integrity of this House, which he has failed in doing as I enumerate shortly.

With regard to parliamentary language, the communications by the Speaker, on numerous occasions, in my humble opinion, have been unparliamentary. This is because, if you were to repeat the same words in this House as a Member you would suffer wrath as stipulated in our Standing Order Nos.108 to 112. In various occasions, Members have responded to this by walking out of the Chamber in a sign of protest. This disrespectful utterances or general reflections of Parliament as a whole, individually, should never be permitted, especially remarks directed to specific groups, or generally. This is because they offend Article 35 of the Constitution which gives us the freedom of speech. It is the sacred privilege within this House for as long as it is within the rule of law. The Speaker, as I said earlier, is a Member of this House and should be held to the highest accord as an example of our House. It is said that the very essence of leadership is the ability to instill in people a hope of success and a belief in themselves and empower people to achieve their goals. In our case, we are supposed to represent, legislate and oversight the Executive on behalf of the Kenyan people.

The proceedings of the House are based on a long standing tradition of respect for the integrity of Members. Abusive and insulting languages cannot and will not be tolerated. What you wonder is when that questionable language comes from hon. Speaker himself. Convention tells us in all legislative assemblies around the world that you cannot challenge the communication from the chairperson. It is not just said in jest, but the tone,

manner and intention of the hon. Speaker's Communications in several occasions have diminished the standing of this esteemed House when Members find utterances which are defamatory, impugning, of ulterior motives, charges of falsehoods and deception, claiming lack of intelligence and knowledge, reference to race, creed or prejudice and charges relating to loyalty or patriotism.

I will now go to instances of unparliamentary language. On 11th February, 2015, hon. Speaker said:

“Who is that walking through---Is that hon. Member for Muhoroni walking as though he is walking through Muhoroni Constituency?” This offends. “I will not listen to anyone,” he said. He has also said, “What is that one doing now?” and “Look, this is not your property.”

This was espoused on 18th February, 2015. He also said, “This is not a market place and you cannot just be walking.”

(Loud consultations)

Hon. Members, allow me to finish. You will have your say.

Hon. Deputy Speaker: Order, Members!

Hon. Musimba: Hon. Speaker has also said the following: “Say it quickly”; and “What a statement!” He has also said, “This is not a public rally,” and “Order, hon. Members, including the hon. Member in a *buibui*.” This offends many.

“Order, hon. Arati! Take your seat. Do not talk to me now”.

Hon. Deputy Speaker: Order, Members!

Hon. Musimba: It continues: “Order! Hon. Momanyi, you think you may not be seen because of your vertical challenge, but we can still see you”. The Member for Borabu is with no doubt of stature in Borabu and, indeed, around the country. He continues: “It does not matter whether you are on a point of order or not. Order, Members! If you choose indolence, you will just have to live with it. Hon Midiwo, regarding today, you can say no because that may be your nature. However, the matter is over. Hon. Member with a bold head, receding hairline and white beard, the one behind there---” This is not the way to refer to a Member.

(Laughter)

Hon. Deputy Speaker: Order, Members! Remember we asked him to substantiate. Order, hon. Members!

(Loud consultation)

Hon. Musimba: Thank you, hon. Deputy Speaker. In another instance, the Speaker said: “This is not Kibera. You should not shout across the House. This is not Kibera and you are not selling fish”.

The hon. Speaker, in his Communications, dealt with disorderly conduct and utterances of other Members. There is edict within law which says: “He who seeks equity must come to equity with clean hands” to exercise your privilege of free speech while

maintaining courtesy of language towards other Members in debate and proper decorum as befits your stature. Utterances to the contrary compromise the sanctity, sanity, integrity, competence and respect for the rule of law in Parliament, discipline and order in the House.

Our National Assembly does not exist in a vacuum, but is part of a greater part of Commonwealth legislatures around the world. As is the case, we have representatives in the Pan-African Parliament. We are collectively responsible for the discipline and order in the House. We shall be judged for the quality of our service and how we relate within and out of the House.

Standing Order Nos.98 to 112 provide remedies to the Speaker as to anyone who breaches these particular provisions. This brings Parliamentary image to the lowest echelons possible and, indeed, threatens the powers, privileges and immunities that have been accorded to Members of this esteemed House. The hon. Speaker is aware that the right of freedom of speech comes with responsibility of preserving the trust of the House and upholding the sanctity of the National Assembly. For this to be watered down, what will our people hope towards? This is because we are, indeed, the last line of defence.

In order to protect the integrity of the National Assembly, it is necessary to give a fair hearing to all Members. To show bias in selection of who shall contribute to debates dilutes the voice of the representatives of this nation in House matters or issues where the Member might differ in opinion. Recognising legitimacy of a voice, however small, is loud and echoes to eternity.

With regard to the role of our Liaison Committee and Chairpersons of Committees, the people of Kenya gave the Jubilee Administration, led by His Excellency the President and His Excellency the Deputy President, clear majority in both Houses of Parliament and by extension the authority to govern this nation. Within this House, it is commonly referred to as the tyranny of numbers where each of the 30 Committees of this House enjoys a clear majority by the Jubilee Coalition and the leadership of all the Committees and more so, in the Liaison Committee established under Standing Order No.217. This Committee, which comprises all the Chairpersons of Committees in conjunction with the Speaker's Office is responsible for operations of all Committees, their planning and Budget allocation that goes with it.

Therefore, when the hon. Speaker avers in a Communication that Committee Chairpersons and Members are corrupt he is saying, in essence, that the Jubilee Coalition and the leadership led by His Excellency the President, who was duly elected, are corrupt. This is because Chairpersons and Members of Committees are nominated by the coalitions to serve in the Committees.

(Applause)

This is a serious indictment that begs serious attention as it threatens the economic, social and political progress of Kenya. Therefore, the hon. Speaker's Communications have a far reaching impact and should not be made without qualification as espoused in our Standing Order No.91 as to statements of fact.

Kenya is, indeed, a resilient nation owing to the hard working nature of our people. They have continued to make strides in our common fight over ignorance,

poverty and disease over the last 51 years. Our economy, both local and international obligations, stand at US\$14 billion and is projected to the need to serve our people, to US\$28 billion as espoused in the current Government plans. The hon. Speaker threatens the stability of the nation as the political standing brings stability necessary for economic growth.

With regard to convention and the Mace, the Mace is a serious symbol of the authority of this House. On the morning of 18th December, 2014, the Speaker led the Mace, breaking a tradition all over the world, through the back door of Parliament.

(Applause)

This is in contravention of all standing traditions of legislatures around the world. This is, indeed, in his own Communication, a serious disgrace. In his ruling, he said that indiscipline will not be allowed under the Standing Orders. When we came back after 18th December, the Speaker proceeded in the spirit of reconciliation, and said that bygones should be bygones. He gave a blanket amnesty. Albeit the provisions of Standing Order No.108(1), he contravened his own Communication that he had made the previous day and proceeded to allow the naming of a Member.

With regard to global perspectives, Motions of censure are not unique to Kenya. Indeed, we are presented with an opportunity for transformation. We stand here as representatives of our people and our nation, charged with the tremendous task to provide leadership through service of the greater good for this Republic. We are individually and collectively responsible and owe a duty of care to those we serve.

(Loud consultations)

Hon. Deputy Speaker: Proceed to summarise. Your time is up!

Hon. Musimba: I am, therefore, calling upon this House to express its displeasure in the conduct of the Speaker and hereby censure him.

May God bless Kenya, its people and our aspirations for the generations to come. I hereby call upon hon. (Eng.) Gumbo to second my Motion.

Thank you.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Allow Eng. Gumbo to second the Motion.

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, I rise to proudly second this Motion. As I second this Motion allow me, on my own behalf and on behalf of the great people of Rarieda, to mourn the passing on of a model statesman, my hero and a man who built a nation from nothing and devoted all his life to fighting for the propriety of his people. May all of us copy the example of the late Lee Kuan Yew, the founding Prime Minister of the City-State of Singapore who built it from nothing to a model state in this world!

As I second this Motion, in the Strategic Plan of Parliament, the vision of Parliament is simply to be a supreme, effective, efficient and self-sustaining Parliament

as a major participant in the process of good governance. The mission of Parliament is to facilitate the Members of Parliament to efficiently and effectively fulfil their constitutional mandate in a representative system of government by upholding and ensuring the autonomy of Parliament in its corporate relationship with other arms of Government. This mission and vision are governed by the following core values: Professionalism and teamwork; objectivity and impartiality; accountability, transparency and integrity; courtesy, efficiency and responsiveness.

In his famous book, *The Prince*, the celebrated Florentine, historian, diplomat, philosopher and human history writer, Niccolo Machiavelli, cites King Hiero of Syracuse as an exceptionally virtuous man. However, even this man of virtue had his failings. That is why the Greek prophet, Plutarch, tells of an encounter which King Hiero had with one of his enemies. As the king was talking to one of his enemies, the enemy told the king in a reproachful and dishonourable manner that the king had a stinking breath. The king, feeling dismayed, went to the person who should have known him better – that is his wife. He asked the wife; “How come you have never told me that I had this problem all these years?” The wife, being a simple chaste woman told him: “My Lord, my King, His Excellency, all my life I have thought all men’s breath smell that way.”

What are we being told here? We are simply being told that sometimes it is not your friends but your enemies whom you need to tell you the obvious faults in your life. That is why as young people, we are told that we should avoid, like the plague, and in fact despise; friends who change when we change and nod when we nod. Why? This is because any time, any day and any place, your shadow will do that much better for you.

It is no question that the Speaker of the National Assembly holds a very exalted office. In fact, Erskine May, in *Parliamentary Practice and Procedure*, says as follows about the Speaker in presiding over the House: “The chief characteristics attaching to the office of the Speaker in the House of Commons are authority and impartiality.” His action cannot be criticised incidentally in debate or upon any form of proceeding except through a substantive Motion. His authority in the Chair is fortified by many special powers which he has. Confidence in the impartiality of the Office of the Speaker is indispensable condition of the successful working of procedure and many conventions exist which have as their objects not only to ensure impartiality of the Speaker but also to ensure that impartiality is generally recognised.

Hon. Deputy Speaker, the operative words here are “not only is the Speaker required to be impartial but impartiality must be evidently recognisable.” Then the question is: Can such an exalted office make mistake? The answer is ‘yes’. In fact, it may not even be wrong to make mistakes from time to time, as the Greek philosopher, Plutarch says: “To make no mistakes is not in the power of man; but from their errors and mistakes the wise and good learn from wisdom for the future”.

Equally, the institution of Parliament manifests the diversity of the nation. In this House, billionaires have sat side by side with paupers; people who have got very poor upbringing have sat side by side with nobility; and grandfathers have sat side by side with people who are barely out of their teens. Indeed, that is the diversity of this House.

It is no wonder then that since Independence, nobody has succeeded in being President of Kenya without passing through this House. I believe that in 10, 20 or 30 years from now or even earlier, the next Chief Executive of this country may as well

come from these Members assembled here today. It is a dignified House. Therefore, it would be very naïve for such an Assembly to be a gathering of angels. Neither does it happen here nor anywhere else in the world. Transgressions do occur and will occur. Sometimes we perform below expectations. That is expected. After all, we are human beings. However, by and large, my belief is that many of the hon. Members seated here today go out of their way to make our great county a better place to live in.

Those of us who were in the Tenth Parliament remember the 15th January, 2008, when we were electing hon. Kenneth Marende as the Speaker. Invariably, we have to compare Speaker Muturi with those who were before him. I have never seen this House cross swords like it did on 15th January, 2008. Even on that day, how did Speaker Marende acquit himself? I will quote one of the people who opposed the election of hon. Marende as the Speaker. This was none other than the ‘iron lady’, Martha Wangari Karua, who is my friend and relative. As soon as Speaker Marende made his inaugural speech, she had this to say: “I thank you, Mr. Speaker, Sir. I now want to publicly congratulate you. I had my own misgivings about you but you have acquitted yourself in your acceptance speech and we do indeed look forward to working with you.”

Hon. Deputy Speaker, this is what we require. We do not require an angel to sit in the seat of the Speaker. We require somebody who listens to people and accommodates them. This is what we require. In the days to follow, I was privileged to sit in this House. Speaker Kenneth Marende made some rulings that made him to be compared to King Solomon of Israel.

(Loud consultations)

Yes, he was compared to King Solomon of Israel!

Hon. Deputy Speaker: Order! Order, hon. Members! Let him finish his submission!

Hon. (Eng.) Gumbo: Hon Deputy Speaker, in times when the political situation in our country seemed so precarious, it is the rulings made by hon. Marende which provided the glue to hold this country together. Of course, some of us in the Orange Democratic Party (ODM) sometimes thought that hon. Marende was moving too far to the left of the centre. If I was asked to name the difference between hon. Marende and Speaker Muturi, I would say authoritatively that hon. Marende was a great listener. I would say without thinking that hon. Marende was a great listener. If the Speaker needed some advice from me, I would tell him: “Hon. Speaker, know how to listen and you will profit greatly even from those you consider fools or those who talk badly.” In the fullness of time, it may actually be that the reason as to why hon. Marende performed so well was because he was a great listener.

As I rush to conclude, I am aware that my good friend, hon. Musimba, has been labelled an Opposition mole for bringing this Motion to the House but let us debate it soberly. It comes only once in a lifetime. I thank hon. Musimba for bringing this Motion. Hon. Musimba, this country needs courageous men and women like you – who will rise up and tell the king that he has a bad breath before the king needlessly embarrasses himself publicly while reading poems to school children.

Hon. Deputy Speaker, I beg to second.

(Question proposed)

Hon. Deputy Speaker: The hon. Deputy Leader of the Minority Party, this is their agreement between themselves.

Hon. Midiwo: Thank you, hon. Deputy Speaker. I rise to make my contribution to this Motion. I am normally baffled when something of this magnanimity is before men and women who have responsibility and people yell. There is nothing which has been said on the Floor of this House by the prior two speakers that is not worth of our noting. So, I think it is good to be sober about it.

When this Motion was floated, hon. Musimba rose on the Floor in this House to name the hon. Speaker very unprocedurally. I met him in the corridors and told him: “You cannot do that. You will look disorganised. You do not look parliamentary.” So, he has done the right thing which is within our Standing Orders. The least we can do is to hear each other out. This is not a Motion where people vote for those of us who are new and I know 74 per cent are new. This is a Motion where you just express yourself and you may even stand here to praise the hon. Speaker.

This country and this Parliament are at serious crossroads. The more we listen to ourselves the more sense we will make to our country. This is the National Assembly of Kenya and cannot be for CORD or Jubilee. In any case, the Mover of the Motion is an independent Member of Parliament. Maybe sometimes it may take an independent person to create sense in the majorities who are not listening.

(Applause)

Hon. Deputy Speaker, I want to beg both sides because I think, three weeks or a month ago the House leadership was in Mombasa. I personally raised many of these issues which have been raised by hon. Musimba because I thought it was away from public glare. It is good for the House to know that we decided we want to move in a different direction as a Parliament. We wanted to do things differently and I want to say that the hon. Speaker has really been trying to enforce the provisions of the Standing Orders since we came from Mombasa as we agreed. You know, a thank you is good when it is relevant but there is nothing which has been raised on the Floor of this House which is not truthful. The evidence which has been tabled is true and the offences taken by the hon. Member could have appeared malicious to him. He has taken a stand. There is even one attributed to me from the hon. Speaker but I am saying, it is incumbent upon us as a House to point out our mistakes as we move forward. How we rise to the occasion is what matters.

This particular House, not even Parliament but the National Assembly is on the public prism today, as we speak. It is good for us to wake up and move in a way that the confidence of the public shall be inspired from now onwards. That includes the hon. Speaker of the National Assembly. It truly does and we must move forward. If those were the issues, this particular Motion is a narrow Motion. You will agree with me we discussed its contents in Mombasa. If we had called a *Kamukunji* and addressed hon. Members on our resolutions in Mombasa, there would never have been this Motion.

Now, it is upon us hon. Members to know that some of us had raised these issues except that we were acting a bit slower.

So, I want to say this and I do not want to talk for too long: We must ask the Chair, including yourself and Members of your panel that hon. Members are not happy. When people are not happy it cannot be a CORD or a Jubilee thing. Let me dispel something I have been hearing since last week. The media even called me and asked: "Hon. Midiwo, are you aware of this Motion?" I said that this is a Motion which was okayed by the hon. Speaker on the Floor of the House. It is not a CORD Motion. Hon. Members of my party called me and asked: "Is there a party position on this?" I said: "No, these are general issues of the Floor." So, I want to plead with both sides of this Parliament that when people are talking--- You know this boy Obura sometimes--- This Obura boy.

(Laughter)

(Loud consultations)

Hon. Deputy Speaker: Hon. Jakoyo, you must withdraw. Please withdraw your remark about hon. Obura.

Hon. Midiwo: I withdraw and apologise but please warn him to stop shouting.

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

Hon. Deputy Speaker: Hon. Obura, he has apologised and we are not going on that matter. Hon. Jakoyo, do not raise the temperatures. You were doing very well until you began calling others unparliamentary names.

Hon. Midiwo: I apologise again, hon. Deputy Speaker. All I was saying---

Hon. Mirenga: On a point of order. Who is a boy? Who is a boy?

Hon. Deputy Speaker: Order, hon. Obura! He has apologised. Order, hon. Ochieng!

Hon. Midiwo: Hon. Deputy Speaker, so that I move on, all I am requesting from all of us and given the public mood, we need to be a bit careful on how we treat one another beginning with the leader of this National Assembly who is hon. Justin Muturi. Let us watch what we say because it polarises our nation and it offends people. Let us stop as a group and as the House leadership has it in its minutes, we want to chart a new beginning for our country.

If you read the newspapers of the last one week, there is nothing about the matters of any other Kenyan other than the conduct of Members of Parliament. The National Assembly includes the Speaker. So, we have and owe a responsibility and so I want to request that there are issues that we must address but I want to ask that we heed the sentiments of hon. Members and we all change our ways, the way we agreed in our meeting in Mombasa because many hon. Members feel aggrieved and offended.

Hon. Deputy Speaker that will be my contribution, I thank you.

Hon. Deputy Speaker: The Leader of the Majority Party. Order hon. Members! Let us listen to each other.

Hon. A.B. Duale: Thank you, hon. Deputy Speaker. I rise to confirm my opposition and that of the Jubilee Coalition to this Motion by hon. Musimba. I also want

to say that this is not the first time this type of a Motion has come to the National Assembly. On 10th July, 1996, my good friend and my lawyer for a long time, hon. James Orengo---

Hon. Ochieng: Yes.

Hon. A.B. Duale: Hon. Ochieng, you do not need to shout. I think you can do better. Hon. James Orengo brought a Motion to the House following a Communication issued by the hon. Speaker ole Kaparo on 11th June, 1996 and 2nd July, 1996 regarding the Report of the Public Accounts Committee (PAC) on a matter concerning the Goldenberg saga. The bone of contention was that the then hon. Speaker ruled that the name of the President be removed from the Report and substituted with that of the Government. Hon. James Orengo's argument was: "We are not dealing with the person of President Moi but with the institution of the Presidency."

Hon. Deputy Speaker, I went through the HANSARD of that afternoon's deliberations which was presided over by a great man from northern Kenya, the late Dr. Bonaya Godana, who was then the Deputy Speaker. When I compare that Motion with the Motion of my very good friend before I joined Parliament, hon. (Dr.) Musimba, the difference is that hon. (Dr.) Musimba's Motion lacks substance and clarity. Why do I say so? My counterpart agreed. It talks about contemptuous, malicious and unfounded allegations against him.

The Speaker of the National Assembly holds a very unique position in the Constitution. Article 127 gives him the chairmanship of the Parliamentary Service Commission (PSC). Article 107 of the Constitution allows him to preside over joint sittings of the two Houses. Article 146(2)(b) gives him the position that, God forbid, in the absence of the President and the Deputy President, he assumes Office. So, the person we are discussing is not a person who has no powers within the Constitution. Secondly, the person we are discussing is the leader of this House.

Hon. Muturi was elected and became a Speaker on 28th March, 2013 and took an oath. I went back and looked for his speech because this matter is a serious one. I looked for his speech and I picked what he promised this House and the country. If you allow, I will quote what hon. Muturi that evening. He said.

"I will vehemently preserve the powers, privileges and the immunities of this House without which optimal performance could be greatly compromised. I also propose to defend and uphold the dignity of the House and to enforce uncompromised adherence to the Constitution, our laws and the Standing Orders in the management of the business of this House."

In my honest opinion, as a Member of Parliament for Garissa Town, hon. Muturi has lived to the oath that he took. Secondly, great leaders are not defined by the absence of the---

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, the consultations are too loud again. Those standing in corridors, please follow your Standing Orders; you should not stand in the corridors. If you need to speak, there is enough room for you; move to somewhere and speak.

Hon. A.B. Duale: Hon. Deputy Speaker, we listened to hon. (Eng.) Gumbo; he should listen to me and have his chair. We listened to you. The same for hon. Member for Kibra.

Great leaders are not defined by the absence of their weakness, but by the presence of their clear strength. What are we doing today? If one Member of this House has an integrity issue, by extension all of us will have aspersion cast on us. Time has come when we must call a spade a spade. Time has come when the 349 of us must stand to be counted to protect the dignity of the institution of National Assembly. If the 349 of us stand and protect the dignity of this House, I am sure that the Speaker, who is a human being like us--- The evidence adduced by hon. Musimba is the proceedings of the HANSARD. If the Speaker spoke in this way, then the question is, how was that Member behaving? You cannot only judge the Speaker. When the Speaker says: "Hon. Duale, this is not a market place", then I must have been behaving as if I was in a market in Garissa! So this is two-way traffic. If all of us from 2.30 p.m. to 6.30 p.m. live by the Standing Orders, the way the august House is supposed to be run, then the Speaker will not be in a position to go to that extent; if we come to our chairs --- I sat in the last Parliament. I want to disagree with my colleague that former Speaker Marende was to be impeached at one time. I was leading that crusade, for one fundamental grave mistake he committed. It was the media who gave him Solomonic wisdom. It was not the Members of Parliament of then.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members!

Hon. A.B. Duale: In the Tenth Parliament, there were serious integrity allegations against the PSC commissioners then. Hon. Marende, being the Chairman then, a number of us---

Hon. Deputy Speaker: Order, hon. Members! We are not here to discuss hon. Marende. Let us go on; let us do it. Proceed to give the point.

Hon. A.B. Duale: Hon. Deputy Speaker, you should not be unfair because hon. (Eng.) Gumbo talked about hon. Marende. So, I am still doing that. I said hon. (Eng.) Gumbo spoke at length about hon. Marende, I will do the same with your permission.

So what are we talking about? When we came--- I want to give the reforms hon. Muturi did in this Parliament. When we came to this Eleventh Parliament, PSC then led by the same Speaker hon. Marende, the Speaker himself had no office. I was a squatter, I had no office for eight months. Hon. Members had no offices. In two years' time, as the Chairman of PSC and his Members said, they have made sure that every one of us has an office. That is the reform agenda of hon. Muturi. Two, when we came here---

An hon. Member: On a point of order, hon. Deputy Speaker!

Hon. A.B. Duale: Let me finish my time; I have my time.

Hon. Deputy Speaker: Yes. Leader of the Majority Party, finish your time, please.

(Hon. Midiwo spoke off record)

Hon. Midiwo, order! That is what you have said!

Hon. A.B. Duale: You had your bit hon. Midiwo. I will have my bit.

Hon. Deputy Speaker: Order, hon. Midiwo!

Hon. A.B. Duale: The common denominator we are discussing is the conduct of the Speaker. Some of us are at liberty to give the other side of the Speaker. We have not committed any crime. Two, when we came to this House we had a serious issue, Sarah Serem's Commission. The Chairman of the PSC, and his commissioners, offered leadership. He went round and made sure a serious public outcry was contained in a very thorough mutual understanding of both SRC and PSC. That is the man in the name of Justin B. Muturi.

Three, Chairpersons of Committees will agree with me, and those Members who were in that Parliament, that it is under the leadership of hon. Muturi that Chairpersons of Committees have been given the powers and independence to run their Committees.

Hon. Members: Yes!

Hon. A.B. Duale: Those of us who were in last Parliament--- I had the benefit of serving in the last Parliament. When Members of Parliament were going out of the country, they used to be victims of the Speaker. In this Parliament, I have seen chairpersons have the discretion to nominate and to send on trips whoever they want. The matter before us is very sensitive; it is a matter that we can discuss in a *Kamukunji*. Parliament has been exposed. There are too many things outside. It is like we are in a hole and we keep on digging that hole.

Hon. Deputy Speaker, I think we are leaders and we must rise above partisan interests. We must rise above our own political interests. We are 349 hon. Members. How many of us can get an opportunity to speak every afternoon? We are here from 2.30 p.m. to 6.30 p.m. if each one is to speak for ten minutes, hardly 24 hon. Members can get a chance. We must deal with the challenges we are facing. I want to tell my colleagues that it is the leadership, the Chairpersons of Committees, the House Business Committee (HBC) Members and the Parliamentary Service Commission (PSC) that sat in Mombasa. The Deputy Speaker was among us and we agreed to have a fundamental shift in the management of the National Assembly. Why did we do that? We have said that we are in the mid-term and we must change the way things are done. When the hon. Speaker gives a Communication, that Communication is not a Communication from hon. Speaker as a person. It is a Communication drafted and discussed by all the departments of the National Assembly. It cannot be a Communication read by the hon. Speaker, the Deputy Speaker or the Panel chairs. It cannot be their individual communication. They do not sit in the House. Colleagues, I say this very clearly.

I want to end by quoting a famous writer called Peter Drucker. He said "Effective leadership is not about making speeches." Speaker Muturi might not be the best speaker in town. He might not be the best public speaker you have around. Speaker Muturi might not be the best politician. In the Ninth Parliament, hon. Muturi was the chairman of Public Investments Committee (PIC). Hon. Muturi was the Chairman of the Centre for Parliamentary Democracy. Hon. Muturi was a Member of Parliament. Hon. Muturi was a member of the Judicial Service Commission (JSC) for many years, and more fundamentally he is a human being like all of us and he has weaknesses.

Hon. Deputy Speaker, I want to quote “Effective leadership is not about making speeches.” It is not about being liked. You can be liked. I have so many people in this country who do not like me because of my political orientation and I have nothing against them. It is because I stand for a position that has political orientation. Maybe, tomorrow the same group will not like me if I change my political ideology, including the leadership behind me, but I would say leadership is defined by results and attributes.

In my opinion, if you go down memory lane, in the last two years, hon. Muturi has brought reforms. In 2009, there were serious issues in the House of Commons like the Iraq arms scandal and the cash for questions. The Speaker then, hon. Martin, did nothing and what happened? Ultimately he was forced to resign. We want our Speaker to protect the integrity of Parliament. We want him to defend us. We want him to implement the Constitution and the Standing Orders to the letter. Those who will hate him can bring a censure Motion every six months. That is their right, according to the Standing Orders.

Hon. Deputy Speaker, I oppose and we can do something else better that is waiting for this House.

Hon. Deputy Speaker: Hon. Onyonka.

Hon. Onyonka: Thank you, hon. Deputy Speaker. First of all before I say much, I would wish to say that it would be critical for this House to realize that hon. Marende has just been appointed a diplomat, a special envoy, by the President to handle the conflict in Central Africa. He has apparently signed an agreement with the opposing sides and, therefore, it would be injurious to his endeavour in that exercise if we start raising issues about his integrity and his performance in this House. I believe that hon. Marende did a brilliant job in this House.

Hon. Deputy Speaker, I disagree with my brother, hon. (Dr.) Musimba, whom I highly respect, because he is somebody I have done some business with. The reason for that is that I believe that hon. Muturi, in his comments--- I wish many of us would listen and engage the comments that he made.

I want to tell my colleagues in this House that I was in the Tenth Parliament. There has never been a time in this House, or in this Republic, when hon. Members of this House accused one another publicly of stealing money from the public. This House has reached a stage of disrepute. Hon. Members have reached a level of disrepute to the extent that during the weekend when I was holding a church function, a person, who opposes me locally, said: “What are you saying and all of you are thieves, and all you do is keep opening your zips.”

(Laughter)

This House must begin to interrogate itself. I believe what we are discussing about hon. Muturi is a reflection of what we have become in this House.

(Applause)

We have reduced the dignity of this House. We have reduced the dignity of a country that is highly respected within the East and Central African region, and the whole of the

African Continent, but we have become the laughing stock. When you look at Standing Orders Nos.98, 103, 104, 106 and 112, this House is all about disorder. You can listen when contributions are being made here and you will find hon. Members heckling each other, and never listening to the issues which affect this country. These are issues of poverty. They are issues of tribalism and issues of lack of everything that the Kenyan people want, but we are all busy all the time making noise, which we call “excessive consultations,” yet this House is the last line of defense for making sure that the Kenyan people are represented, we have a good Budget and persuading the President to be a good President of all Kenyans; but what do we do in this House? We have just become a group of hecklers. That is the reality in this House.

Hon. Member: That is right.

Hon. Onyonka: So, hon. Deputy Speaker, we must begin to interrogate ourselves; let us ask ourselves: What are we doing? Look at our committees. That is what the hon. Speaker was saying. When we go for committee meetings, what do we do? We go out there, we sign and walk out. Do we ever deliberate on the critical issues? The answer is no. That is the truth. That is where we are. We have to agree that we are going to work as hon. Members of Parliament who are paid in this House; that is exactly what hon. Muturi said the other day.

(Loud consultations)

Hon. Deputy Speaker: Order hon. Members!

Hon. Onyonka: Hon. Muturi said the other day that we must be in committees; we must deliberate and we must spend time. When we go to Mombasa, let us stop going to the beach. Let us go to the beach after the business. That is the work of this House.

(Loud consultations)

Hon. Deputy Speaker: Order hon. Members!

Hon. Onyonka: Hon. Deputy Speaker, I would like to tell my colleagues that Kenyans are getting tired. Kenyans are annoyed. Kenyans want changes and this House must be able to make the changes.

I would like to say I do not support the Motion but my brother hon. (Dr.) Musimba has raised critical issues and hon. Members of this House must be careful. If you do not change, you will not come back to this House.

I submit.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Let us hear hon. Chepkong’a.

(Loud consultations)

Hon. Chepkong’a: Hon. Deputy Speaker, I would like to thank you for giving me this opportunity to contribute to this very important Motion. First and foremost, I would like to take this opportunity to congratulate my very good friend, hon. (Dr.) Musimba for

acting within the law. Hon. Musimba and I have a long history. I started an organisation called CCK. When I left, hon. (Dr.) Musimba came and continued from where I had left. I want to thank him for his courage. I would like to quote what Franklin Delano Roosevelt, the former President of the United States of America said:-

“Courage is not the absence of fear; but rather the assessment that something is more important than fear.”

Hon. Deputy Speaker, for someone to bring such a Motion is, indeed, very courageous. He has raised issues that are stated very clearly on the Order Paper that the Speaker was contemptuous, malicious and made unfounded allegations against Members. I like what Robert Maxwell has written in his book, *“Thinking for Change”*. He says:-

“As you think of your goals, you should be clear enough to be kept in focus, close enough to be achieved and helpful enough to change lives.”

I will stick to the rule of relevance as contained in Standing Order No.107. I have listened very carefully to my very good friend in support and in seeking to buttress his case against the Speaker he sought to put meat to the issues that he has raised. I do not want to dwell on matters that have not been brought before this Motion. On the issue of the Speaker being contemptuous, one of the things about which the Speaker was contemptuous, according to Dr. Musimba was that he referred to some people here: “You bald headed person”. Madam Deputy Speaker, you can see that my head is receding.

(Laughter)

How can you be abused by being told what you are?

(Laughter)

Surely, it is like calling a dog, “You dog”. It is as if you have abused the dog. There is nothing like abusing a dog. You have just called it by its name. You have just been called by the manner in which you look. I mean, if I tell someone, “You look very handsome,” how has that person been abused? These are things that, as a lawyer, I get shocked at. When I attended the Global Law Summit, together with hon. Kaluma and hon. Cheboi, about three weeks ago, after the meeting, I just wanted to listen to the House of Commons. Listening to the Speaker speaking in the House of Commons and controlling the loud noise that was in the House of Commons, this is what he said to the Members and I was shocked:

“Look at that one, including that one making a lot of noise even a senior Member of this House.”

All of them kept quiet.

Hon. Deputy Speaker, we must differentiate between light moments and serious moments. Since we are a presidential system, we have borrowed so much from the American system. I would like to quote what Abraham Lincoln said during very serious times of war and conflict. This is what he said:

“Charity towards all and malice towards none”. I just want to appeal to my friend that he shows some charity towards the Speaker. The difference between speaking in a light moment and speaking maliciously is the intention. I am sure that my good

honourable friend, hon. Musimba, is a very good driver. If he were to knock somebody today dead, and I do not wish him to knock anyone dead, he would not be charged with murder; rather he would be charged with manslaughter. The difference is that with regard to murder, you must have had intention. However, in this case it was just a mistake and an accident. To convert light moments into malicious situations is missing the point.

The allegations of malice have not been supported. Nobody has said that he has gone to speak to the Speaker and the Speaker said that he intended to abuse the guy. Hon. Musimba has not told us that he went to see the Speaker and had a conversation with him and ventilated what he has today ventilated in this House. He has not told us that the Speaker has, indeed, confirmed that what he was saying was meant to be malicious against that person. More importantly, when somebody is complaining on behalf of someone, that person must have given him authority to complain.

I like what the former President of the United States of America (USA), George Washington said.

Hon. Members: Quote Moi!

Hon. Chepkong'a: Some people want me to also quote hon. Moi here. Moi has also supported this. To quote President Moi, who is popularly referred to here, he said: "Good politics leads to good life." I am not seeking support. I am contributing.

President George Washington said:

"On matters of style, swim with the wave. On matters of principle, stand as a rock."

These are matters of style and opinion about someone. We laugh at them. The Speaker always refers to me, "Look at this guy here." I even laugh and sit down and say that there is nothing that he has said about me. We should differentiate between matters of style and matters that are malicious.

Another accusation against the Speaker is that he makes unfounded allegations against Members of Parliament. There is nothing that has been said here by the Mover that shows the Speaker said anything that was unfounded against Members. I have listened here to the Speaker when he communicates. It is all written. When the Speaker states that some Members of Parliament have been reported in the newspapers--- We take parliamentary notice of certain things like the Judges take judicial notice of matters of public importance. Again, as the representatives of people--- The Speaker, as he sits here, must bring to our attention matters that our voters have stated. Otherwise, how else would you know what your voters are saying if you missed it and the Speaker has not brought it to your attention? For instance, the newspapers raise issues of corruption in this House. Are you expecting the Speaker to just keep quiet? He is, in fact, the symbol of integrity in this House. The Speaker cannot just listen and just wish away things. He has to bring it to our attention. That is the reason why the hon. Cheboi's Committee is conducting an investigation. In fact, Members there have accused one another. You have heard them say, "I saw you receiving money in the dark." Such kind of things are all said by Members here. Then, how do you allege that the Speaker has said something that is unfounded? For instance, the Departmental Committee on Agriculture, Livestock and Cooperatives fought until they invited the Press into the Committee. The Press was not in the Committee. Now, do you expect the Speaker not to take cognisance of such kind of

misbehaviour? How do you invite the media when you want to fight and you have not invited them from the beginning?

Hon. Deputy Speaker: Hon. Chepkong'a, you have prosecuted that, unfortunately your time is up. I think you have made your point.

Yes, hon. Ababu.

Hon. Ababu: Thank you, hon. Deputy Speaker. First, let me start by telling my honourable colleagues that this is one of those fundamental and historic Motions, where it is important to completely put aside our political party affiliations, and for once look at this matter and prosecute it on its merit.

Therefore, the contribution I make to this Motion has absolutely nothing to do with whatever political affiliation you may associate me with. This is a House of honour and that is why we are called honourable Members. This is a distinguished House and that is why we call it the august House. This is a House of rules, customs and traditions. We are just the latest in a very long line of distinguished Kenyans who have sat and served in this hallowed Chambers. The late Mzee Jomo Kenyatta, Masinde Muliro, Jaramogi Oginga Odinga, Bonaya Godana, Raila Odinga, Daniel arap Moi, the current serving President and his Deputy are part of that long list of distinguished Kenyans who have graced this House.

I want to thank hon. Musimba, a good friend and a distinguished Member of this House, for bringing this Motion. However, for me, rather than view this Motion as a censure of the hon. Speaker, I want to look at it as an opportunity for introspection for all of us on where we are today as a House. I say this with clarity of mind and conscience that, indeed, as has already been said by prior speakers, this House is at crossroads. It is at crossroads in terms of fidelity, as honourable Members in this House, our own rules.

When you look at Standing Order No.98, for instance - I will read it for the avoidance of doubt - it is about maintenance of order. It says that:-

“Order shall be maintained in the House by the Speaker and in a committee of the whole House by the Chairperson of such committee, but disorder in the committee may be censured only by the House on receiving a report thereof”.

Order is the essence of the conduct of the business in this House. If, as hon. Members of this House, concerned about the image of this House and the orderly manner of conducting business in the House, do not pay attention to that Standing Order, and do not respect the right of every Member in this House to make their contribution, while enjoying the respect of colleagues in this House, there will be no order.

For example, the 18th day of December, 2014 will always go down in history as a day of ignominy in the history of this House. I have always told myself that on that day, in this Chamber, as we debated the Security Laws (Amendment) Bill, it was like an evil spirit took control of this House. We have to agree that we completely violated the Standing Order No.98. We made it impossible for the business of this House to be conducted. All of us. I would be the first one to acknowledge that in terms of contributing to that mess, I was guilty as charged. Until we reach a point - I say this is an opportunity for introspection - where we can acknowledge that, indeed, there is a crisis in this House, and that as hon. Members, we bear the responsibility to look at these issues

and decide to make a difference, then we will not make a difference. We will continue to engage in blame game after blame game.

Therefore, we must acknowledge that there is a problem and we have to confront that problem. On December 18th 2014 there was an issue which we cannot run away from. For me, as I have said, I am willing and ready to say I am guilty as charged. What about you?

I sat in the Tenth Parliament, perhaps one of the most divided Houses we will ever see, a House that had just emerged out of war. It was a war Parliament. It was a Parliament that was also charged with the responsibility of piecing together the famous “Agenda Four” that had emerged out of the Anan talks. That House was charged with the responsibility of piecing together a new constitutional order for this country. But, like the Phoenix rising from the ashes, the Members of the Tenth Parliament acquitted themselves and were able to put this country together and maintain the honour and respect of the House.

Standing Order No.91 is an important Standing Order in terms of the decorum of this House and respect for each other in this House. When we are out there on the campaign trail and in public rallies as politicians, we are subjected to all kinds of abuse, insults and odium from rivals and members of the public. When we come to this House, Standing Order No.91 is intended to protect the dignity of Members. That is why it is provided clearly--- Let me also put it on record. It says that:-

“(1) A Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may be required to substantiate any such facts instantly”.

We cannot operate in a House where out of the blue, you just make allegations against other Members and ignore completely the requirement for substantiation and that remains that way. It becomes extremely difficult to distinguish between fact and fiction. I sat in the Tenth Parliament and witnessed attempts of such a nature to besmirch the character of Members, absolutely in violation of the Standing Orders, but the Chair and the House always stood firm in terms of upholding Standing Order No.91. I want to submit that, as we debate this matter, let us debate it in a context where we look in totality at the image and conduct of this House.

I want to conclude by making reference to one of the rulings of the Speaker because it has been subject of public discussion. The last major ruling made by the Speaker related to the Public Accounts Committee. The essence of that ruling was to refer the matter of the Public Accounts Committee to the Powers and Privileges Committee of this House. On the day the Speaker made that ruling, I submitted on this Floor that it was unprecedented. It was an unprecedented measure in the sense that such a move had never been taken before. I supported that move and I still support it now as being a bold move. If, for instance, anybody would wish to use that particular ruling as an excuse, I, being right in the eye of that storm, tell you that the ruling the Speaker made to send this matter to the Powers and Privileges Committee was a bold ruling that may just have provided this House with an opportunity to create an avenue to deal with matters such as this.

It is not always the convenient way that matters. Sometimes, you have to make a choice between what is convenient and what is right. In this case, what the Speaker did

was right. I do not stand here to be an advocate for the Speaker, but I stand here to defend the honour of this House.

Hon. Deputy Speaker: Okay. Hon. Kajuju. Hon. Members, please understand that I have 120 Members who want to speak. We are trying to get all shades of opinion. So, allow us to---

Hon. (Ms.) Kajuju: Thank you, hon. Deputy Speaker. I rise to oppose the Motion that was presented before this House this afternoon. It is apparent that this is a Motion that has been brought before this House today for debate not for purposes of achieving any particular benefit for the Members, but is meant to injure the reputation of the Speaker. The law of equity demands that: "He who seeks equity must do equity." What we are saying in this House is this: If you are seeking that the Speaker of this House does equity then you must be prepared to do equity as well. It also says that: "He who comes to equity must come with clean hands." Those are principles that we cannot sweep under the carpet. What we are asking is: Has the Mover of this Motion come to this House with clean hands? Are the contents of that Motion brought to this House with clean hands?" From what has been enumerated in this House, the answer would be in the negative. Those who have brought this Motion have not brought it with clean hands.

Why do I say this? There are situations where the Speaker has been forced to employ desperate measures because of desperate times. It has been said in this House by the previous speakers that there are situations that have warranted the Speaker to behave in the manner that he did. The contents of this Motion are that what the Speaker said was contemptuous, malicious and unfounded allegations. In my thinking, that would only amount to defamation. If we are talking about defamation of any particular Member in this House, then we must ask ourselves: Did what the Speaker did amount to defamation? Defamation is when you injure, or harm, the reputation of an hon. Member. I will be the first one to say that the conduct of the Speaker and his utterances and directions in this House have not injured the reputation of any one Member. I am alive to the fact that whatever the Speaker and Members say in this House is privileged. All of us enjoy immunity, so that I cannot be sued for any utterance that I make in this House.

However, that does not give us the permission, or the licence, to disrespect one another in this House. So, what we are asking ourselves is: For this Motion to be brought to this House, have the commissions and omissions of the Speaker amounted to defamation? The answer is no. Neither has it amounted to abuse of the respect, laws and powers that the Speaker is given. The leadership of this House went for a retreat in Mombasa. They agreed on a number of issues that were then brought to this House as Communication from the Chair. What I am asking myself, and for which I have not found an answer - maybe hon. Musimba will provide it to me - is: Do you shoot the messenger? Do you kill the messenger? What the Speaker has done in this House from the first day when he was sworn in is to deliver messages. These messages have come from the House Business Committee (HBC) and the House leadership. We have always interacted as leaders. So, the question is: When we put the Speaker on the chopping board, who are we killing? Are we killing the messenger? It cannot be allowed.

That is why I ask: If this Motion is not out of malice, why has it been brought before this House? I would appreciate if this Motion was brought to this House, so that we can re-examine ourselves and ask ourselves: For the two years that we have been in

this Chamber, has it added anything to our curriculum vitae (CVs), so that when you walk out there you are a better person than you were when you came here? That has not been the case.

I, therefore, talk about collective responsibility. In any Cabinet like the one that hon. Duale, hon. Ababu Namwamba, hon. Jamleck and hon. Kamama have served in, there is the aspect of collective responsibility. If the Speaker has done any wrong then we are worse off than him. So, we are guilty as charged. We are going to take the cross of collective responsibility and not crucify the Speaker, because we have done worse things than him as Members of this 11th Parliament.

Therefore, we should not waste precious time debating matters about which you can sit down in a *Kamukunji*, tell one another the truth and agree on the way forward. The answer to this Motion is that it should fail. It has been brought in extreme bad faith. Let us differentiate between a fair comment, something that can be said to be justification, and defamation or contempt. That is the education we need. There is a difference between truth and defamation. This Motion is in bad faith and it should fail.

I, therefore, oppose it. Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Opiyo Wandayi.

Hon. Wandayi: Thank you, hon. Deputy Speaker, for this wonderful opportunity for me to pronounce myself on this very important Motion. Indeed, this is a very rare Motion. It is one of those Motions that do not come about every other day. When this Motion was first introduced, there was a narrative which was created through the media that this is corruption fighting back, and that is why this Motion has been brought. I said to myself that if, for sure, this Motion has been brought as a way of fighting back, then I will oppose it, but if it is the other way round then I will support it.

If the Speaker, through his actions, was merely trying to rein in corruption then I have got no issue with him. However, having looked at this Motion in detail and having listened keenly to my friend, hon. Musimba, I am convinced beyond reasonable doubt that the intention of this Motion is not to subvert the fight against corruption. The hon. Musimba is being vilified left, right and centre. Indeed, I must say from the outset that hon. Musimba is a man of rare courage.

(Applause)

As you can see from the previous speakers, very few people are willing to take a position. People are flip-flopping. People are wavering. You cannot know where they stand or sit.

Hon. Members: Yes.

Hon. Wandayi: It is because Members are in a conflict. I want to go on record--- I consider hon. Musimba to be like a character in Francis Imbuga's *Betrayal in the City*, Jisper Wendo.

Those of you who have read the play *Betrayal in the City*, know that Imbuga says in just a window that when the burdens of an entire nation overburden a solitary mind, it is not right to say that that person is mad. The hon. Musimba is just one of those rare human beings who have got the courage to say it as it is. This is an opportunity for all of us as, hon. Ababu said, to do soul searching. It is also an opportunity for, indeed, the

Speaker to get to know what people may be thinking about him. It really does not mean that those who are thinking bad things about him are against him. I am aware that the hon. Muturi is a very intelligent man, and, indeed, my thinking is that since the office of the Speaker is such a critical office, its holder is essentially number three in the pecking order in the country. The hon. Muturi, from those who are close to him, is a very sociable man. He strikes me, therefore, as a person who has got two personalities. In private he is very good and sociable but when he is on the Chair of the Speaker, he exhibits some traits which are scary. We must say it as it is.

(Applause)

Indeed, I would want to be closer to him from now, so that I can learn him better. However, the fact is that when he is on that Chair, he scares very many people by the way he pronounces himself and the way he carries himself.

Hon. Deputy Speaker: Please, hon. Members, help me by--- I have 130 Members here who want to speak. So, let us---

(Loud consultations)

Hon. Wandayi: Hon. Deputy Speaker, the hon. Speaker is the head of one of the three arms of Government. He is a very powerful person in the scheme of things in this country. The office of the Speaker is such a critical office in the sense that it comes with immense responsibilities. The holder of the office, therefore, must, like Ceasar's wife, be beyond reproach. So, the mere fact that issues such as these can be raised about him is a cause of concern. Therefore, it is important for us to debate this matter soberly and without any emotions.

Hon. Deputy Speaker, if you read Erskine May's *Parliamentary Practice* 23rd edition on page 218, it clearly says:-

“The chief characteristics attaching to the office of the Speaker in the House of Commons are authority and impartiality. Confidence in the impartiality of the Speaker is an indispensable condition of the successful working of procedure.”

He goes on, on page 440, that is Erskine May, one of the most celebrated authorities on parliamentary practice, to say:-

“Good temper and moderation are the characteristics of parliamentary language.”

It further says:-

“Offensive expressions against the character and conduct of Parliament itself are not permitted, since not only are they contempt, but they may also tend to degrade the Legislature in the public estimation.”

What my friend, hon. Musimba, outlined earlier on, if true, could essentially bring the image of this Parliament into disrepute, and collectively so. It is not right to say that since one person is wrong, the other person is justified to be wrong. Two wrongs do not make a right. Therefore, the Motion at hand is not about Parliament. It is about the

conduct of one hon. Justin Bedan Muturi. That is the Motion that we are debating. Therefore, I will confine myself to that specific Motion,

The hon. Musimba outlined very clear grounds. The question should be: Is what hon. Musimba alleges to have been said by hon. Justin Muturi correct or not? If it is true, then why the hullabaloo? Why this flip-flopping? We need to address the issues as they are. This House is the epitome of civilization and democracy in this country. The person occupying the position of the Speaker of this House is a person that is viewed in very high regard under ordinary circumstances. The impression out there is that hon. Muturi is playing some gate-keeping role for the Executive. That may be true or not, but these regimes will come and go but one's legacy will live forever. It is important to understand that this is a multi-party House and, therefore, the Speaker in his conduct of business must demonstrate utmost impartiality.

Hon. Deputy Speaker, the issues raised by hon. Musimba should not be wished away. I want to say, for avoidance of doubt, that I support in totality hon. Musimba's Motion. That must go on record.

Hon. Deputy Speaker: Hon. Francis Njenga. Okay, some people's microphones are not functioning.

(Hon. Njenga walked to the Dispatch Box)

Hon. Njenga: They are not working, hon. Deputy Speaker.

When I look at the subject matter of this Motion, and when I remember my faith, at one time Jesus was in a dilemma and he told those who wanted to stone Mary Magdalene that if any of them had never messed they should be the first throw a stone at her. They all disappeared and none of them cast a stone. This Motion is ill timed.

(Loud consultations)

Hon. Deputy Speaker: Order! The consultations are too loud. Hon. Members, remember this is a Motion. So, there will be voting. The Deputy Minority Leader said it is a Motion and, therefore, it must be voted on at the end of the debate. So, do whatever other business, but be aware of that.

Continue, hon. Njenga, proceed.

Hon. Njenga: Thank you, hon. Deputy Speaker. I, therefore, think that this House should spend its precious time trying to redeem where we have been placed by the views of people outside this House.

Hon. Deputy Speaker, I rise to oppose this Motion. In the first place, the madness of a community can make a very sane man very insane. I do not know whether we have taken into account the inventory of our conduct. Sometimes we really put a lot of pressure on the Speaker and the circumstances under which he makes his statements are really not malicious. Look at what he has been accused of, and it is describing people. The moment you describe me as "a bespectacled man.", I do not think you have abused me. The moment you call me "a "Kikuyu" you have not abused me, but the moment you call me "that Kikuyu" someone might actually take it that you have abused me or discriminated against me.

The other thing I looked at is the conduct of our Speaker. When I came to this House I thought that because we voted for him in a big way he would be giving us all the chances to speak but hon. Justin B. Muturi is a man of equity.

I look at the way he treats Members on both sides of the House and say that he is a man of justice and equity. When I looked at this Motion, I thought it was such an immaterial Motion that should have been brought to a *Kamukunji*, where we could talk about the conduct of the Speaker as we talk about our own conduct. This precious time would have been used for other matters that are of national importance. Just speaking on end and accusing someone working under such difficult circumstances is not fair. There is one thing I am particularly happy about hon. J.B. Muturi. He is very conversant with the laws, the Constitution and the Standing Orders, and he does not give anyone a chance to be a nuisance in this House. Therefore, if hon. J. B. Muturi has stepped on someone's toe, that is not a good reason for us to take offence and discriminate against him.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! The consultation tones are going high again!

Hon. Njenga: Hon. Deputy Speaker, I wonder whether we are looking at the human aspect. Sometimes people who cannot play football kick others outside the pitch. What we should look at are the circumstances in which the Speaker utters whatever he is being accused of uttering. Sometimes there are circumstances in which some of us can do bad things. Looking at the benefits that he has brought to this House, I wonder about human nature. Just the other day, we were pushed to a corner by the Senate; we were so desperate. The Speaker defended us against the Senate and the Cabinet Secretaries. If we can forget that, then we are also people who cannot see the past in an accurate way. Looking at the benefit of the character of the Speaker, it is greater than the risk of using a few words here and there. In fact, what he has been accused of is not substantive. We should be told what he did, and under what circumstances he did it. Looking at the efficiency, effectiveness, timeliness and fearlessness of our Speaker, we would not be doing justice to him by censuring him. So, I urge my brothers in this House to consider the fact that the madness of a community can make a sane man look mad. Therefore, I urge all the hon. Members of this House who know that we are trying to redeem ourselves to oppose this Motion.

With those remarks, I beg to oppose.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Let us have hon. R. K. Nyamai, if hon. Chachu Ganya is not in.

Hon. (Ms.) R. K. Nyamai: Thank you very much, hon. Deputy Speaker, for giving me the opportunity to contribute to this Motion.

I oppose the Motion because it is not specific. Its purpose is discussion of the character of the Speaker. In any matter, there are two sides of the story. I would like to speak on the other side of the coin, which Members may not have dwelt on. I would like

to give my own experience as a new MP and Chair of a Committee. The attributes contained in this Motion, purporting to describe hon. J.B. Muturi, do not fit him. I believe that, just like me, other new MPs who are chairs of committees have received a lot of attention from him in terms of being guided on how to implement certain activities in this House. He is a Speaker who is accessible. He will not tell you: "Get out of my office until you get an appointment with me." All of us have received so much support from him, and I give him credit for that. He is a friendly and sociable person, especially outside the Chamber, where most of the guidance is given.

The Speaker was not appointed. We are the ones who listened to him. He gave us his manifesto, indicating what he could do for us; and we elected him. A lot has been said by previous speakers on what he has been able to do to ensure that we settle down in this House. Many of us have stayed without offices for months. We complained to him almost every day and he ensured that all of us settled down.

Leading a Committee of 29 Members is not easy. It is more difficult to lead a House of 349 politicians who say whatever they wish, because they represent their people. For that reason, I would like to point out the fact that some people may misunderstand the Speaker when he tries to be humorous. We need to understand when the Speaker is being humorous to avoid confusing it with being too hard on Members.

Hon. Deputy Speaker, issues of corruption have been raised in this House and, as a leader and a father in this House---

Hon. Deputy Speaker: Hon. Members, please, let me not see Members coming here to check their position on the queue. Allow me to try and see how to balance it out. If you all come here to check and see whether you are the next one to speak, we will not make progress. You may be the next one but you might be from the same party as the Member who has just spoken. So, please, take your seats and let me see if we can make progress.

Proceed, hon. Rachael.

Hon. (Ms.) R. K. Nyamai: Thank you, hon. Deputy Speaker.

I was saying that there are some accolades for our Speaker that we need to focus on, as much as some people would like to look at the weaknesses. Each one of us has their own weaknesses. When someone says something annoying, or when a Member who has not researched on a subject tries to contribute to debate, our Speaker always notices and points out to that Member that he has not researched adequately on the subject. Really, that amounts to being warned to prepare adequately before contributing to debate; it does not amount to being hated.

(Loud consultations)

Hon. Deputy Speaker: Order! Order, Members! The consultations are too loud. Please, wait for your turn, if you will be reached on the queue. As you have been told, this debate is supposed to last for three hours. We have one hour left.

There was a point of order raised by hon. Wamalwa. Can we allow him to prosecute it, in the interest of helping us?

Hon. Wakhungu: On a point of order, hon. Deputy Speaker. Looking at the interest that hon. Members have shown in this Motion, and the time that is remaining, it

is my humble request that we reduce the time to a maximum of five minutes for each Member speaking, so that we can have as many Members as possible contributing to this debate.

Hon. Deputy Speaker: Hon. Members, I know that we had agreed that such a proposal should come at the beginning, but if Members are in agreement with hon. Wamalwa, it is okay.

*(Question, that the time for each Member speaking
be reduced, put and agreed to)*

So, five minutes it shall be! Conclude, hon. Nyamai.

Hon. (Ms.) R. K. Nyamai: Hon. Deputy Speaker, I will now focus on the strengths of our Speaker, bearing in mind the fact that I may not be able to say everything that I had wanted to say.

We have Speaker who is respected, and who has vast knowledge and understanding of parliamentary business. We have seen it through the way he guides us in this House while debating issues, without even referring to the Standing Orders. I would like us to give him credit for that achievement, being a qualified lawyer and having served as a magistrate in various places.

He has been very strong in handling the new political outfit that we have today, with so many Members of Parliament who need to be controlled. I would also like to say that he has steered the Parliamentary Service Commission (PSC) in a way that satisfies us. Look at what the National Assembly has achieved. I would like us to compare ourselves with the Senate. Consider the number of Bills that we have passed. Really, we need to give credit to our Speaker because he has really done very well. We have a House to compare ours with. We know the number of Bills that have been passed by the National Assembly and the Senate.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Who are those Members standing on the corridors? The Member for Isiolo!

Hon. (Ms.) R.K Nyamai: I would like to conclude that what has happened today is not in good faith and I oppose the Motion. I request the other Members who will speak after me to seriously oppose it. Thank you.

Hon. Keynan: Thank you hon. Deputy Speaker. Before I take a position on this, I would like to equate what is happening to a mid-life crisis. This is because we have just done two years of our term of 4 years.

Secondly, I want to remind Members that Parliament, right now, courtesy of the current Constitution is a quasi-judicial institution. Therefore, before we discuss the conduct or otherwise of the Speaker, we need to understand the role of the Speaker. I have looked at the current Constitution, the Powers and Privileges Act, the Standing Orders and some of the best practices in the Commonwealth Parliaments and other Parliaments. I summed up the functions of the Speaker as the following:-

1. To preside over the House Business Committee;
2. To preside over joint Sittings of the House;
3. To determine whether Bills are constitutional or not;
4. The Speaker is the Chairman of the Parliamentary Service Commission;
5. To facilitate public access and public participation in legislative process;
6. To act in acting capacity in the office of the President in case there is a vacancy;
7. To protect the Constitution; and
8. To ensure there is compliance with requirements of the public Leadership and Integrity Act.

Under those circumstances and having looked at the critical role of the Speaker, I believe that the Speaker remains the father figure of the institution of Parliament and, therefore, he enjoys the full authority of the institution of Parliament. To that extent the office of the Speaker symbolizes the dignity and power of the House.

I want to take this early opportunity to thank Dr. Musimba for his courage and zeal. What he has done is within his democratic right and he should not be vilified; rather we should look at the substance of his Motion. The substance before us comprises some of the issues that were canvassed in the leadership retreat. I participated in that meeting and I believe that some of these issues should have been sorted out immediately after the Mombasa retreat. Those issues should have been brought to the attention of Members in a *Kamukunji* hence this Motion by hon. Musimba would not have seen the light of the day.

What is the definition of “malice”? Looking at the contents in this particular Motion, and being fair to my good friend, I want to say that the Motion itself is malicious, oppressive, capricious and unconstitutional to the extent that it does not define exactly what sections of the law the office of the Speaker breached. If this could easily be quantified, we would have taken a position, but that is not coming out. In criminal law, suspicion cannot be the basis of conviction. Therefore, what is before us here--- We are being told that because there are issues that had been said, then we should find the Speaker of the National Assembly as having committed certain crimes against the institution of Parliament.

Hon. Deputy Speaker, I said that Parliament is a quasi-judicial institution. I want each one of us to reflect on the letter and the spirit of Article 125 of the Constitution. Fate has brought us together under the Eleventh Parliament. I want you to look at the four products of this august House. This is your second home regardless of what you say or political divide. I want you to reflect for a moment on what used to happen before the advent of multi-partism where leaders used to quarrel. However, when it came to issues affecting the Members of Parliament they used to collect around and jealously protect the integrity of the House. Is that where we are today? Presently we have the issue of name-calling and all sorts of allegations.

As I oppose this Motion, I want to urge the Speaker to strictly apply the meaning and every aspect of the Standing Order so that we also behave in a manner that is consistent with the presidential system. There seems to be confusion. If that is done,

every Member will know his rightful place, both inside and outside the House. Members will respect Parliament and, therefore, we---

Hon. Katoo: Thank you, hon. Deputy Speaker. From the outset, I stand to oppose this Motion. I had a lot to say because I know five minutes is very little. I want to start by quoting the Speaker's ruling of 23rd July 1999. The Speaker, hon. Francis ole Kaparo, on authority of the Chairperson said this---

(Messrs. Nuh and Wandayi consulted loudly)

Hon. Deputy Speaker: Hon. Junet and hon. Wandayi, you risk leaving the Chamber if you continue in that manner.

Hon. Metito, please, continue.

Hon. Katoo: Hon. Deputy Speaker, I was quoting the ruling of the former Speaker of Parliament, hon. ole Kaparo. He said this on the authority of the Speaker:

"Unless Members give the Chairperson the authority, then the House as a whole loses the authority."

A lot has been said about the functions, responsibilities and powers of the Speaker. I want to follow up on what hon. Keynan has said. Indeed, it is the Speaker's duty and responsibility to rise to the occasion and perform all his duties without fear or favour with a view to protect the dignity, honour and integrity of the institution of National Assembly as opposed to that of individual Members. This includes sometimes making controversial decisions.

Members, individually and collectively, as has been said by prior speakers, also have a responsibility to protect the dignity, honour and integrity of the House. It is not only the responsibility of the Speaker to hold this House to high esteem. Although this Motion is properly before the House as contemplated under Standing Order 87(1), the Motion is general and lacks in content. Issues that have been raised by my good friend and neighbour, hon. Dr. Musimba, even if they had weight, I want to say that the option available to Members who wish to challenge the Speaker's rulings--- Rules and practice differ from one jurisdiction to another. Therefore, I want to plead with my colleague, hon. Musimba, that actually the concern he has raised in his Motion about the Speaker's conduct would have been best raised in a Speakers *Kamukunji*. This is because - I know Members have said it before, but there is something nobody mentioned - at the Speaker's *Kamkunji* there will be an opportunity to have the issues raised responded to. Now we are prosecuting matters to do with the Speaker, hon. Muturi and yet he is not here to respond. If we had called a Speaker's *Kamkunji*, the issues that have been raised by the Members, especially the Mover of the Motion would have been responded to.

I want to agree that there has been precedent even in Kenya. Two similar Motions were moved against the Speaker in the past. One was moved by the Leader of the Majority against hon. Kaparo. There was also an attempt in the Tenth Parliament to censure hon. Marende. Where such Motions have been moved, in most cases, there has been a specific bone of contention and not based on generalities like in the Motion before the House. I want to urge colleagues that censure Motions are not Motions that Members should rush to move. This is because censure Motions call for House resolutions which will be carried forward and referred to in the rulings of the House. They will form

precedent and custom. Therefore, before we bring censure Motions to the Floor of the House, we should explore other options that are available to us administratively for purposes of maintaining the dignity of this House. We keep saying this every time

I beg to oppose.

Hon. Deputy Speaker: Hon. Wamunyinyi! He is not present. How come his card is reflected here? Hon. Members, do not cause confusion. Hon. Ayub Savula.

Hon. Angatia: Thank you, hon. Deputy Speaker for giving me this opportunity to contribute to this important Motion. First of all, I would like to state that the moral value of this House is in a crisis. The integrity of the House is in crisis. This Motion gives us an opportunity to re-evaluate ourselves on matters of corruption and morality as Members of this House.

Although the Motion is targeting the Speaker---

(Loud consultations)

Hon. Deputy Speaker, I seek your indulgence because there are loud consultations in the House.

Hon. Deputy Speaker: Order, Members! We are doing very well so far. Let us listen to one another.

Hon. Angatia: Hon. Deputy Speaker, although the Motion targets the Speaker of the National Assembly, it gives us an opportunity to re-evaluate ourselves and see what is happening with us. We have lost the moral authority to be called honourable Members of Parliament. Issues that have been in the media this week are shameful to the National Assembly. Let us look at these issues positively and utilise this opportunity to re-evaluate ourselves.

Concerning the Speaker, I categorically oppose this Motion. The Mover of the Motion has not justified issues related to contempt and malice. The examples he has given are like the Speaker calling a monkey a tailed mammal. This is just using an idiom to describe it. It is using the figurative word that does not imply literal meaning. The examples that have been given by the Mover of the Motion do not amount to contempt or malice against the leadership of this House by the Speaker, hon. Muturi.

Lastly, I urge the Speaker to balance opportunities for Members contributing to Motions in this House. There are Members who come very early, but the speakers in every session are the same Members. Members leave this august House without having spoken because of the leadership.

(Applause)

Please, that is the only area the Members are raising concern about.

I beg to oppose the Motion.

Hon. Deputy Speaker: Hon. Memusi to give his Maiden Speech.

(Applause)

The Member for Kajiado Central (Hon. Elijah Memusi Kanchori): Thank you, hon. Deputy Speaker for giving me this opportunity to give my Maiden Speech.

I take this early opportunity to thank all those who made it possible for me to be a Member of this august House. Today would not have been possible if God had not willed it. The scripture says that:-

“Unless the Lord builds the house, those who build it labour in vain”. Yes, we laboured, but not in vain because the Lord is on our side. So, to God Almighty, the owner of time and season, we owe our debt and gratitude for a day like this.

I thank the great people of Kajiado Central who stood up to a massive barrage of propaganda, crude threats, bribery, abuse of power and empty promises, but still voted for the best candidate. Indeed, ours was a victory of the common man against the tyranny of power. To the good people of Kajiado Central goes my unflinching gratitude. We salute your steadfastness, courage, loyalty, commitment and fierce determination to defend your sovereign rights. You have demonstrated in this election that in a democracy, power truly belong to the people.

I am humbled and honoured by your trust and abiding faith in me and my party. I pledge that your confidence in us shall never be betrayed or taken for granted.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Remember the conduct. When a Member is giving a Maiden Speech, no sound should be coming from anybody. You should give him your undivided attention.

The Member for Kajiado Central (Hon. Elijah Memusi Kanchori): Thank you, hon. Deputy Speaker for your protection.

My heart goes out to the youth and the women of Kajiado Central, who irrespective of tribe, religion and social class voted overwhelmingly for me. I shall for ever remain indebted to you for your selfless sacrifice. I assure you that I will work tirelessly to positively transform your lives in the two years before the next general elections.

The outcome of this election, once again, shows the unswerving determination of our people to ensure that democracy triumphs in Kenya. We have sent a strong signal to all and sundry that no might is powerful enough to thwart the will of the people. This should always strengthen our resolve to ensure that as from now on, every vote must not only be counted, but must count in this country. Nobody or party must ever exercise power unreasonably at any level except in accordance with the will of the people to whom sovereign power belongs.

I pay particular tribute to the CORD fraternity led by the three Principals.

(Loud consultations)

Hon. Deputy Speaker, please, protect me from hon. Duale. I salute the Right hon. Raila Odinga, a man who has given four decades of his life to the selfless struggle for freedom, democracy, equity and justice. He has overcome immense challenges and made enormous personal sacrifices so that Kenya can progressively prosper and be democratic.

He brought his charisma and oratory prowess to Kajiado Central. Indeed, I now know why he is referred to as the enigma of the Kenyan politics. I ask God to bless and protect him.

I pay tribute to His Excellency the former Vice-President, Stephen Kalonzo Musyoka, a man who exemplifies servant leadership and principled politics. I had occasion to witness first hand his silent, but steadfast commitment to principled politics during the campaign. I also learnt a lot from the man who is Kenya's most accomplished diplomat, who brought peace to Sudan and Somalia. I thank him.

I commend hon. Moses Wetangula, a steadfast and selfless voice for equality. His courage and energy on the campaign trail was exemplary. At this point, I must congratulate the CORD campaign committee in charge of my election. It was headed by hon. Nuh, a fearless man, who stood by me all the way; a man whose hawk-eyed watch ensured that those engaging in electoral malpractices---

(Loud consultations)

Hon. Deputy Speaker: Order! Order, hon. Members! Allow the new hon. Member to complete his Maiden Speech. Remember, it is a speech. You are reading too much. You are allowed to consult.

The Member for Kajiado Central (Hon. Elijah Memusi Kanchori): Hon. Deputy Speaker, I will repeat my last line.

At this point, I must congratulate the CORD Campaign Committee in charge of my election. It was headed by hon. Nuh, a fearless man, who stood by me all the way; a man whose hawk-eyed watch ensured that those engaging in electoral malpractices were arrested; and a man who helped to reduce all avenues of digital rigging. God bless you, hon. Nuh!

I thank the treasurer of the CORD Election Committee, led by Governor (Dr.) Evans Kidero. His solid input and sound advice was very helpful. To my Governor, Dr. David Nkedianye, I salute you for your selfless support. We will work and walk together to develop Kajiado and take it to even greater heights.

Hon. Deputy Speaker, I thank the Members of the CORD Coalition who supported me, both materially and morally. Your presence before, during and after the election day was crucial to my victory. Words cannot express my gratitude to the over 100 MPs who left their personal and professional engagement to campaign for me.

I salute the support I received from all Kenyans. I have received messages of goodwill from all corners of the country; from Lamu to Lokitaung and from Mumias to Mandera. I thank them and I will not let them down.

Hon. Deputy Speaker, to the Members of the Maa community, from as far off as Samburu and Laikipia in the North, to Narok and Arusha and the West; they have affirmed that we are a proud people and we are not visitors in Kenya. We seek to work with all Kenyans based on mutual respect and recognition; that we are masters of our own destiny; we are not experimental ground for ideological bankrupt parties. I particularly recognise the efforts of the respected and visionary Maasai leader, hon. William ole Ntimama. His support was much appreciated. It sent a crucial message to those who abandoned our African culture, which respects age and the elderly. It was a

decisive blow on those who had the temerity to refer to hon. Ntimama as ‘Vasco Da Gama’. They now know that hon. Ntimama retains clout and respect. I urge them to go to Narok and seek for forgiveness before it is too late.

(Hon. Nuh applauded loudly)

Hon. Deputy Speaker: Order, hon. Nuh! I know you have been praised but that does not mean you have to bring disorder.

The Member for Kajiado Central (Hon. Elijah Memusi Kanchori): Hon. Deputy Speaker, let me recognise that democracy in Kenya cannot survive without the Constituencies Development Fund (CDF). We now see *wananchi* who are not intimidated by the tyranny of power because resources are devolved to both the counties and constituencies. The abolition of the CDF should not be allowed to happen, if we want to safeguard democracy. As I embark on my parliamentary career, I would like to say that we all now know of unfounded and yet to be proved allegations of corruption that hang over this House. I urge hon. Members that we should all emulate the people of Kajiado Central who refused to be swayed by money and coercion and voted with their conscience. If a humble peasant---

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! You do not interrupt a new Member on their Maiden Speech. They are not given time limits. Can you just allow him to finish?

Finish, hon. Memusi.

The Member for Kajiado Central (Hon. Elijah Memusi Kanchori): Hon. Deputy Speaker, if a humble peasant can refuse thousands of shillings to sell their birth right to elect a good leader, I believe that hon. Members of this House will always – as they have always done – behave in a manner above reproach. As all Members prepare for the future, I urge them to leave a clean and spotless record of selfless service and prudent management of public resources.

Hon. Deputy Speaker, I thank you for your attention and for giving me this opportunity. I look forward to working with your office.

Thank you very much.

Hon. Deputy Speaker: Thank you. Hon. Members, hon. Memusi needs a good applause. You have made a very special Maiden Speech. You have really praised your coalition, your party, hon. Nuh---

(Loud consultations)

Order, hon. Members! Hon. Members, the chance goes to hon. Abongotum.

Hon. Abongotum: Hon. Deputy Speaker, I was among the first people in this place---

Hon. Deputy Speaker: You are wasting your five minutes. Please move to speak.

Hon. Abongotum: Hon. Deputy Speaker, I just want to say that what the contents of this Motion---

Hon. Simba: --- (*Inaudible*)

Hon. Abongotum: Hon. Deputy Speaker, please, save me from hon. Simba, who is a former councillor.

(Several hon. Members stood up in their places)

Hon. Deputy Speaker: Order! I am not taking any points of order. Order, hon. Abongotum! Please concentrate on the Motion and stop making comments.

Hon. Abongotum: Hon. Deputy Speaker, I just want to oppose this Motion in totality.

Hon. Simba: On a point of order!

Hon. Deputy Speaker: Order, hon. Simba! It was said with a light touch. Please, continue hon. Abongotum.

Hon. Abongotum: Hon. Deputy Speaker, he knows that I cannot be intimidated.

I rise to I oppose this Motion in totality. Of course, those who assisted my good friend, hon. Musimba, to draft this Motion did not do their assignment properly. This is because there is nothing contemptuous or malicious from what was said. What one can say is that the Speaker did not use a lot of humour. In terms of performance, on a scale of one to ten, I give our Speaker 8/10 because of the reforms he has initiated in this Parliament. I served with hon. Muturi in the Ninth Parliament, where he was the Chairman of the Public Investments Committee (PIC). If you refer to the HANSARD, you will be surprised. If you look at his participation in Motions and Bills, especially during the Committee stage of Bills, nobody can defeat him. The guy is extremely gifted in understanding our Standing Orders, our laws and almost all sections of the Constitution. Nobody can beat him in this House. Let us defeat this Motion. What we have done today is actually lowering the dignity of this House.

You cannot use empirical formula to determine what is written in this Motion. So, we have wasted this afternoon. Because the dignity of this House is at stake, let us improve because Kenyans will tell you a lot about what happens here if you go to churches and all these other places right now. Let us improve on what we have done so far because if a Motion can be brought against a reformist hon. Speaker, then a Motion can be brought against anybody in this House even on flimsy issues.

When you look at what the hon. Speaker has done and the list has been given, this is the most performing Speaker and I will not doubt that my good friend hon. Marende did his bit and even hon. Kaparo did his bit. However, this hon. Speaker is the most reform minded one since Sir Humphrey Slade.

(Applause)

So, hon. Deputy Speaker, let us support him. In future if you have issues, let us consult and discuss them in the *Kamukunji* because we have wasted this afternoon by discussing this.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Tom Kajwang.’

Hon. Kajwang’: Hon. Deputy Speaker, I was on intervention elsewhere but I have dropped it.

Hon. Deputy Speaker: Okay. Order, hon. Members! The hon. Jamleck Kamau.

Hon. Kamau: Thank you very much, hon. Deputy Speaker. From the word go I want to be on record as opposing this Motion. There are quite a number of questions that we can ask ourselves with regard to this Motion. Even before I start, it is important for hon. Members to understand and know that there will be voting at the end of this Motion contrary to what hon. Jakoyo Midiwo had said. So, I think it is important for us to clearly understand how to go about it.

I oppose this Motion for two reasons. The first reason is the way it was presented by my very good friend, the hon. Dr. Musimba. Looking at the presentation by the hon. Member, it was clear that he was actually reading a drafted speech. It was not clear that it was coming from him. It is clear that, that was a speech that was made somewhere else by somebody and he was told to present it before this House. Therefore, according to me hon. Deputy Speaker, the Motion before us is not that of hon. Dr. Musimba but that which has been brought to this House by some other forces based on hearsay.

Secondly, the reason I do oppose this Motion is a question that we must ask ourselves. I have checked and seen the reasons why hon. Dr. Musimba is coming up with this Motion. My argument is based on only one question: Is it the responsibility of the hon. Speaker to dictate the action or lack of it thereof on how individual hon. Members should behave? That is a cardinal point.

Hon. Members: You are also reading.

Hon. Kamau: Those who live in glass houses should not throw stones. Before you start pointing an accusing finger at the hon. Speaker, you must ask yourself how you are as a Member of Parliament. How dignified are you? Are you a person of good morals that you can take a stone and be the first one to cast it? If I am a rapist for example---

(Loud consultations)

I am giving an example. If I am a rapist, does that go to the hon. Speaker? Is it the hon. Speaker’s concern of business? If I am a corrupt person, how does the hon. Speaker come in with that? If I am a murderer and I am sitting in this House, how does that come to the hon. Speaker such that the hon. Speaker is the one who is being accused of the ills bedeviling this House? The first thing we have to do is to ask ourselves that cardinal question: How are we behaving as hon. Members of this House? How are we helping ourselves in maintaining, uplifting and making sure the dignity of this House is not eroded? That is the question that we have to ask ourselves.

When the hon. Speaker talks about an hon. Member in *buibui*, the hon. Member was in a *buibui*. What is wrong with that? She was in a *buibui*. There is nothing derogatory about wearing a *buibui*. It is normal. When the hon. Speaker talks about an hon. Member with a bald head, there are many hon. Members who have bald heads who are here including hon. Prof. Nyikal. There is nothing wrong with that. It is good and he is proud of it and I can see him laughing there. All right?

Hon. Deputy Speaker, I think it is a question of how you view all these things but at the end of the day this House is washing its dirty linen in public and that must stop.

I want to thank hon. Memusi here. Although it is his first time I forgive him because he was reading that speech. This guy belongs to Jubilee if you do not know. He just decamped the last minute.

(Laughter)

Hon. Deputy Speaker: Okay. Your time is up. Hon. Silverse Anami.

Hon. Anami: First of all I was going to raise a concern as to whether the hon. Member who has just spoken is really in order to think that hon. Dr. Musimba cannot prepare his own speech. This is one of the greatest speeches that we have heard in this House and the issues he has raised are issues of great importance.

(Applause)

Hon. Deputy Speaker: Order, hon. Members! Let him have his time because I have given him the microphone and he has his say.

Hon. Anami: We are concerned that the hon. Members can be undermined through such insinuations that hon. Members cannot prepare their speeches and do not belong to their parties. I think the hon. Member who has just spoken should be ruled out of order.

Hon. Deputy Speaker, I support this Motion.

(Loud consultations)

Hon. Deputy Speaker: Hon. Shidiye. Hon. Members, we are under a lot of pressure to accommodate all hon. Members. We cannot be able to accommodate everybody. Please understand that. The hon. Shidiye has just as much right as everybody else here please.

(Loud consultations)

We are trying. It is not just the list; it is trying to balance out. Order, hon. Members! Please let us give him a chance.

Hon. Shidiye: Thank you, hon. Deputy Speaker. I need your protection. Leadership according to *Lee Kuan Yew* is to make a decision. On this one, my decision is a big no to this Motion. In my wisdom, this is a frivolous, callous, petty and damaging Motion. It is full of hearsay, malice, hogwash and balderdash.

I was expecting hon. Dr. Musimba to come up with a Motion to help the people of Kibwezi.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Let him have his say.

Hon. Shidiye: I was expecting hon. Dr. Musimba, a young legislator, well-educated and well-groomed to make a career by helping and bringing a Motion that will

add value to his people. However, today hon. Dr. Musimba has lost his cool. He is involved in a task which is unnecessary.

Hon. Deputy Speaker, I have known our current Speaker for many years. He came through a by-election. He won an election and he lost an election but at no given time has he ever lost his cool. This is a large House; it has 349 Members. These hon. Members are from different backgrounds. There are professionals who are doctors, lawyers, engineers and businessmen. There are people who are modestly educated. There are others who have been -because they are people's representatives - beach boys, watchmen and doctors. This is the Assembly of Kenya. It is a reflection of Kenya. You cannot pigeon-hole these people into a single mind. The people who have elected the hon. Members know why they have elected them. This hon. Speaker has brought a lot of reforms. I know he is a stickler to rules. He understands rules and he is a very clever lawyer. The fact that he is stickler to rules and he does not like to bend the rules, he develops enemies. That does not necessarily mean that he hates the hon. Members. Most often he is misunderstood by some hon. Members. We should give him the benefit of the doubt.

Hon. Kaparo was here for three full terms. Hon. Marende was here for one term. In the fullness of time, after five years when we assess his career and achievement, you will realise that he was a man of dignity; a very open guy; a guy who is a stickler to rules; a happy lucky-go guy; an approachable fellow and a guy who did what he did. Hon. Leshore and I fought for the reforms of this Parliament. We are the ones who started the Parliamentary Service Commission (PSC). He was the Chief Whip and I was his deputy. The fruits you enjoy here were brought by hon. Leshore and I at that time and people cannot even remember. He is a senator currently and on a wheelchair. We did very good things for this Parliament and for this country. Today you are all enjoying those fruits and very few people can even remember. Perhaps, you will remember when hon. Muturi leaves. That is when you will remember that he did something. When hon. Muturi leaves that is the time you will remember the good things he did. I know there is no perfect guy. Everybody has his own lows. Everybody has his own weakness but I know hon. Speaker has tried his level best.

With those few remarks, I oppose this Motion.

Hon. Deputy Speaker: Hon. (Ms.) B.N. Nyaga.

An hon. Member: She is not there.

Hon. Deputy Speaker: She is there. There is a problem with some of the microphones.

Hon. (Ms.) B.N. Nyaga: The machine is not working.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, the name is here. There are so many of them which are not working but their names are here. Hon. Members, we are trying to be fair to you. I know all of you feel like making remarks but we need about five hours for everybody to be accommodated. Those few feel sufficiently represented because we are trying to make sure that we at least accommodate different shades of opinion.

Hon. (Ms.) B.N. Nyaga have your say.

Hon. (Ms.) B.N. Nyaga: Thank you, hon. Deputy Speaker, for giving me this opportunity to oppose this Motion. We have wasted the whole afternoon talking about a Motion that cannot bring any value to this House; a Motion that cannot assist the people who brought us to this House simply because hon. (Dr.) Musimba could be having personal issues with hon. Speaker.

Hon. Muturi has been a magistrate in this country. He is a qualified lawyer. He is very friendly to all of us in this House. If you indeed, have any time to study the character of hon. Muturi, it is time you had time and saw the person you are talking about. If hon. (Dr.) Musimba did not want to know his own Speaker who was elected in 2013 to represent all of us in this House, this is the time he should know who Muturi is. He is saying and I quote: "The Speaker of the National Assembly, Justin Muturi, has and continues to degrade the character and the ability of hon. Members." I wonder and I would like to ask: If hon. Speaker refers to me as a Member for Tharaka Nithi County, who does not know that I come from Tharaka Nithi County? What is wrong if you are told you are from Muhoroni? Is that a crime?

I want to oppose this Motion. It has wasted our time and strength the whole afternoon. I oppose.

Hon. Deputy Speaker: Hon. Moindi.

(Loud consultations)

I am just looking at the region. I looked at the region and that was a region that had not been represented. There is nobody who is more important than another person in this House. You are all equally important. Hon. Members allow him to speak. Hon. Moindi continue, if your card is not working, move to the Dispatch Box.

Hon. Moindi: Thank you very much, hon. Deputy Speaker, for giving me this opportunity to oppose this Motion. I am happy that our Member, the Mover, quoted the Bible. The same Bible says you should take out the log that is in your eye before you take a small speck from your friend's eye. Let me quote my colleague, hon. (Eng.) Gumbo who quoted the words of hon. Martha Karua where she thanked hon. Marende for a job well done. I also stand to thank hon. Muturi, our Speaker, for a job well done.

He has done a wonderful job. If it is the duty of the hon. Speaker to control this House, I do not think he has malice towards anybody. If hon. Speaker finds that a Member is doing wrong and he points out that fact, he is not malicious. That is not malice. For instance, if the hon. Speaker says: "You have missed to attend four Committee meetings," that is not malice. It is his duty to correct the wrongs that are taking place. He has no grudge against anybody. For instance, I come from Nyaribari Masaba. Let me cite one example. One time my colleague, hon. Angwenyi, was here and he called me from this side and I crossed the Floor. Everybody knows when you cross the Floor what happens. It is my friend hon. Nyamweya who came to tell me: "You are wrong. You just go there, bow and come back." Hon. Speaker was correcting me and that is his duty.

I strongly oppose the Motion and congratulate hon. Speaker for a job well done.

Hon. Nuh: Thank you, hon. Deputy Speaker----

Hon. Gikaria: On a point of order.

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

Hon. Gikaria: On point of order, hon. Deputy Speaker. I rise on a point of order under Standing Order No.95, that reading the mood of the House and the repetitiveness of what hon. Members are saying, I would wish to call upon the Mover to reply. Everybody is just repeating what the other speakers have just said. Since everybody is opposing the Motion and the mood of the House, can we---

Hon. Deputy Speaker: Hon. Gikaria, you have a point but we are doing it in the next ten minutes. Let us hear the few hon. Members who still want to contribute.

Hon. Gikaria: Hon. Deputy Speaker, am I in order?

Hon. Deputy Speaker: Yes you are in order but we are calling the Mover to reply in the next 10 minutes.

Hon. Gikaria: The best thing is you ask for the vote and---

Hon. Deputy Speaker: I am saying leave those three hon. Members to speak and then I can call the Mover to reply. I had already given hon. Nuh a chance to contribute.

(Loud consultations)

Hon. Nuh: Thank you, hon. Deputy Speaker, for giving me an opportunity to contribute to this Motion. From the outset, I would like to say that if you have been keenly following the happenings in the news in this country for the last two, three or so weeks, there have been a lot of issues with Parliament. This Parliament has been described as a House of shame and as a House of people who are hopeless and people who do not know what they want to do. It has been said in all the news channels that you watch at night. It is high time we, as hon. Members of Parliament, thought of what is happening to this House. In this House, the allegations going right, left and centre including allegations of corruption, we are the people who are supposed to do the oversight on the Executive on corruption. There are even allegations of sex scandals. If you read the news, there are hon. Members who have been accused of very bad manners and very bad behaviour during many trips including the latest one in Japan.

Corruption has been mentioned in every Committee of this House. This House is turning to be Sodom and Gomorrah. It is high time we came up with a strategy to redeem the image of this House. It is high time we came with bold measures to redeem---

An hon. Member: *Tosha.*

Hon. Nuh: It is a high time we came up with a strategy as a House to redeem the future of this Parliament in this country. Hon. Deputy Speaker---

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! The consultations are too high and I do not know what is causing the excitement.

Hon. Nuh: Hon. Deputy Speaker, if you look at the history of this country, I do not think there has been a lower moment than it is today since Independence. We have to come up with a collective responsibility on how we can redefine how Parliament conducts its business going forward. We have been accused. We have lost the trust Kenyans had in us, to be honest with each other. People of this country are talking badly

about us. It is very difficult nowadays to introduce yourself as an hon. Member in any function. You feel ashamed of what is going around in this country. It is high time we came back to our senses. It is high time we talked to each other. It is high time we reasoned together. It is high time we looked at the future of this country.

Parliament is one of the greatest institutions in this country that people look up to for them to get solutions to problems that this country is facing. When people lose faith in the institution of Parliament, I do not need to remind Kenyans what happened in Ivory Coast. One morning people woke up in that country and went to burn Parliament in that country.

An hon. Member: It was Burkina Faso.

Hon. Nuh: I meant Burkina Faso, I am happy to be corrected. That can happen in this country. People can wake up one morning and come and burn down this Parliament. You do not need magic for that to happen. With this kind of culture; with this kind of manners and “mannerless” hon. Members who have been brought here by people, this Parliament will be burnt one day. I can assure you.

Hon. Kimaru: On a point of order.

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

Hon. Nuh: *Kaa chini bwana!*

Hon. Deputy Speaker: Can you give him the microphone?

Hon. Nuh: Hon. Deputy Speaker, time is moving. As we sit here---

Hon. Deputy Speaker: I think it is the question of relevance hon. Nuh.

Hon. Kimaru: Hon. Deputy Speaker, hon. Nuh is totally out of order, in my view, to say that hon. Members of this honourable House are “mannerless.” He cannot insinuate in his right mind that we are “mannersless.”

Hon. Deputy Speaker: Order, hon. Nuh! You will be referring to yourself as well. Can you please substantiate or just withdraw that comment.

Hon. Nuh: Let me substantiate. When hon. Members are accused of corruption; hon. Members are accused of raping; what manners are you expecting hon. Members to have in this country and standing on the door---

(Loud consultations)

Hon. Deputy Speaker: Hon. Nuh, can you say alleged “mannerless”?

Hon. Nuh: Okay hon. Deputy Speaker, alleged “mannerless”.

Hon. Deputy Speaker: Okay, then leave it at that.

Hon. Nuh: Hon. Deputy Speaker, the President of Nigeria has said that Nigerians have given corruption a bad name when you know that corruption itself is a bad name. Parliament is giving corruption a bad name in this country today because this is the time--

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Hon. Deputy Speaker: Hon. Nuh, your time is up! Hon. (Dr.) Pukose.

(Loud consultations)

Hon. (Dr.) Pukose: Thank you, hon. Deputy Speaker, for allowing me to contribute to this Motion. First and foremost, from the outset, I want to oppose this

Motion by my good friend hon. (Dr.) Musimba, for the following reasons: The point he presented has not shown us the contempt by hon. Muturi because what he has done is give us a score card and also what he has tried to address yourself--- You know everybody has his own level of what is contempt to him but the contempt must be beyond reproach. It must be able to address to this House beyond any reasonable doubt that the hon. Muturi is contemptuous.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Hon. (Dr.) Pukose.

Hon. (Dr.) Pukose: Hon. Deputy Speaker, to me if we are going to be able to censure him then the level of contempt must be proved, which he failed to prove.

Secondly, when you are in charge, to control such a big House is also challenging because you must keep hon. Members attentive to the Motion that is before the House. You must be able to draw the attention of hon. Members and maybe whatever you will bring up is what hon. Muturi has been trying to use; to enlighten hon. Members and also bring liveliness to the debate and that does not constitute being abusive or contemptuous.

For instance, at times when you do medical courses, they are very challenging and people reach a level where they are not paying attention. One time one of my professors asked a question and there were two girls answering the question. He said: "Not you, the beautiful one." It did not mean that the other girl was not beautiful. Hon. Muturi may be referring to hon. Members by saying: "You hon. Member, this is not Mathare; this is not Kibra; this is not Endebess." I do not think it was in bad light. Everybody has his level of weakness. Nobody is perfect, but hon. (Dr.) Musimba, the level at which we can say hon. Speaker is contemptuous is very high. That is the level we want. That is the level, with your level of education, we expected you to present to this House.

The Speaker's position is supposed to be the position of this House. For us, as a House, we must ask ourselves: Do we want to be respected outside as Parliament? Do we want this House to be respected? Do we want that when hon. Muturi goes out there he is seen as the symbol of this House? If the answer is yes, we should defeat this Motion.

With those few remarks, I oppose this Motion.

Hon. Deputy Speaker: Hon. Iringo.

Hon. Iringo: Hon. Deputy Speaker, before I speak, I want to register my disappointment. I want it to go on record that I am disappointed. I have been sitting here from 2.20 p.m. I was slotted in as the second person and then hon. Kigo, but look it is now that I am being given a chance.

Hon. Deputy Speaker: I am sure all these Members have been sitting here as from 2.30 p.m. So, please, just relax.

Hon. Iringo: Yes, but I had slotted my card. I wanted to go on record---

Hon. Deputy Speaker: You are finishing your two minutes.

Hon. Iringo: Hon. Deputy Speaker, I stand here to oppose the Motion. The Motion we are discussing today negates a lot. As much as we would like to say that we want to correct our Speaker, we should also look at ourselves. The Speaker's reactions sometimes come about as a result of our own actions. He only reprimands when the individual Member goes out of the way. Personally, I take it that he does it on a light

touch. So, we should also be open and accept corrections. This Parliament has already been mud-slung all over. If we continue this way, instead of cleaning ourselves, we will continue putting more mud onto ourselves. Therefore, I would prefer that we have a *Kamkunji* where we will ask ourselves where the rain started beating us. This should be instead of trying to challenge each other here. We will not make any corrections if we do that. We will only correct ourselves the moment we ask ourselves: When did the rain started beating us? Let us correct our problems amicably and agreeably for the betterment of the people who elected us.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. We call upon the Mover to reply. He has got ten minutes to do that unless he wants to donate part of his time. That is up to him. You have to do it very quickly, hon. Musimba.

Hon. Musimba: Hon. Deputy Speaker, I thank you for this opportunity. I want to donate two minutes each to three people, in the interest of time. This is because we only have ten minutes. Then I will have a residual four minutes to speak. I will start with my alumnus, hon. Mbadi and then hon. Member for Narok. Lastly, I will donate two minutes to the Member for Samburu. Thank you for your indulgence.

Hon. Ng'ongo: Thank you, hon. Deputy Speaker. The Motion by hon. Musimba who is my good friend and classmate for four years---I want to confirm that this is a very bright mind. The Motion is about whether the Speaker has been treating Members with contempt and malice. For that I say, yes. We need to be very clear on this issue. When Mr. Speaker addresses a beautiful lady like hon. Rachel Ameso, in terms such as, "That short one," then that is certainly treating a Member with contempt. The point is that the debate in this House is watched by even our children.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Allow him to have his say.

Hon. Ng'ongo: Hon. Deputy Speaker, I have two minutes only. Protect me from these voting machines. You can see they are here to vote.

Hon. Deputy Speaker: Order, hon. Mbadi! Can you apologise? What have you called your hon. Members?

Hon. Ng'ongo: Hon. Deputy Speaker, I withdraw and apologise. I can see hon. Duale is getting annoyed because I defeated him the other day in Kajiado after he spent a lot of money there.

Allow me to put my point across.

(Loud consultations)

Hon. Deputy Speaker: Order, Members!

Hon. Ng'ongo: Hon. Deputy Speaker, but you can see they are behaving like machines. Yes. If they cannot allow me to talk, they are behaving like machines.

Hon. Deputy Speaker, I want to conclude my speech. After saying that the Speaker treats Members with contempt--- I would like to urge the Speaker to listen to us. I would urge the Speaker not to listen to A.B. Duale because he is among the people who

are misleading him. Mr. Speaker needs to be able to handle political pressure. We do not want a House where hon. A.B. Duale comes out as the Speaker.

Hon. Deputy Speaker: Your two minutes are over. It is the chance for hon. (Ms.) Tuya Soipan now.

Hon. (Ms.) Tuya: Thank you, hon. Deputy Speaker. By all means, I am not a voting machine like hon. Mbadi claims. We are on this side. Thank you, hon. Musimba for donating the two minutes to me. However, I must say that I am sorry I oppose this Motion in the strongest terms possible.

The allegations pointed out by hon. Musimba are not only vexatious, but also malicious and least of all, unfounded. What we have been treated to is a list of trivialities and very generic statements. By all means, hon. Musimba has blown things out of proportion. A Motion addressing the question of integrity of this honourable House is very timely. I thank hon. Musimba for giving us a chance to speak to the question of integrity of this Eleventh Parliament. The Motion is also targeting the wrong person; the hon. Speaker is the wrong target. This is because when Members of this honourable House are, say, faced with grave allegations of sexual assault where is the hon. Speaker in that? When the hon. Members of this House are faced with grave allegations of corruption and rent seeking, I do not remember the Speaker, hon. Muturi, being a Member of any Committee. So, he is not part of that. We must go back to soul searching and redeem the integrity of this House. By all means, hon. Musimba and hon. Members who have supported this Motion, please, know that you have come with dirty hands seeking equity because we need to be cleaning our House rather than pointing fingers at the wrong target.

Thank you, hon. Speaker.

Hon. (Ms.) Leshoomo: Asante sana Naibu wa Spika kwa kunipatia hii nafasi ili name nichangie Hoja hii. Nashukuru mheshimiwa Musimba kwa kunipatia hii nafasi ijapokuwa napinga hii Hoja. Kwa ukweli sisi sote ni viongozi. Ni sisi tulimchagua huyu Spika. Sisi wenyewe inatupasa tujiheshimu kwanza kabla ya kwanza kumtaja Spika. Kufuatana na yale ambayo tumekuwa tukiona, sidhani tumeonyesha Wakenya heshima katika Bunge hili. Kile ambacho tumeonyesha ni kibaya. Tumejikosesha adabu sana. Tumeona wenzetu wakichukuwa chupa na kumwagia Naibu Spika maji usoni mwake. Kwa hivyo, sisi kama viongozi tujiheshimu kwa vile tumechaguliwa na wananchi ambao wanatuheshimu.

Kuhusu hii Hoja, Mheshimiwa Musimba angechukua nafasi ya kukaa chini na kupendekeza *Kamukunji* ili tuwasiliane na tujadiliane kuhusu makosa tunayofanya humu Bungeni. Ukweli ni kwamba sisi tumefanya makosa makubwa sana na inabidi tuyarekebishe. Mimi ninapinga hii Hoja. *Ninaopose* hiyo kitu.

(*Laughter*)

Hon. Deputy Speaker: Hon. Musimba, hon. (Ms.) Leshoomo has given you a final word.

Hon. Musimba: I thank those last two Members whom I selected. In replying, I must thank you, hon. Deputy Speaker. The epitomisation of this House and, indeed, its symbolism is all within the Mace and the Coat-of-Arms of the great Republic of Kenya.

Any sacrilege to the Mace by whatsoever is a break with convention in all legislatures around the world.

The events of 18th December, 2014 have to go down as the lowest ebb this House has ever sunk to. Where our own Standing Orders require the Speaker to report any disorder in the House or the Chairperson to report any disorder within a Committee, this particular action did not take place. By the time we resumed or session went on, we saw unceremoniously our Mace being led out of this Chamber through the backdoor. This cannot be overstated. We represent the great people of the Republic of Kenya who toil every day and seek to answer the question why they cannot make their ends meet. We, as the dutifully and honourably elected Members, owe a duty to this nation to ensure that we give them hope in the enhancement of their socio-economic and political stature in this great world.

In conclusion, the malice that I have alluded to within the Motion is prevalent as any attack on this House by any Member including the Speaker himself. It is affront to the attack on the democracy of this great nation.

Thank you, hon. Deputy Speaker for this opportunity. I leave it unto this great House to state its position on my Motion.

(Question put and negatived)

(Loud consultations)

Hon. Deputy Speaker: Before the Motion is moved, can the Members who are exiting do so quietly, so that hon. Keynan can move his Motion?

THE SPECIAL REPORT OF PUBLIC INVESTMENTS COMMITTEE

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

THAT, this House adopts the Special Report of the Public Investments Committee on the Recapitalisation and Balance Sheet Restructuring of Telkom Kenya Limited, laid on the Table of the House on Tuesday, 29TH April, 2014.

The privatisation of Telkom Kenya was started in the year 2007. The process was undertaken through bidding to identify strategic partners to purchase 51 per cent shares of Telkom Kenya from the Government of Kenya. The following firms registered with Telkom and purchased bid documents: France Telecom S.A, Telkom South Africa, Reliance Communications of India, LAP Green Network, Alcazar Capital Limited, MTNL (India), VSNL Tata (India) and Sudatel (Sudan).

The following four out of the eight companies presented their bid documents, including technical and financial proposals, prior to the submission deadline: France Telecom S.A, Telkom South Africa (TSA), Reliance Communications of India and LAP Green Network. The four bids were subjected to both technical and financial evaluation and eventually three bidders met both the technical and financial evaluation. These were France Telecom S.A, which had joined in consortium with Alcazar Ltd, at a figure of 390 million US dollars, Telkom South Africa (TSA) which quoted USD282.8 million and Reliance Communications of India which quoted USD221.001 million.

As per the Request for Proposals (RfPs), France Telecom S.A in consortium with Alcazar Capital Limited through the Orange East Africa Limited (OrEA) presented the

highest financial bid of USD390 million and was, therefore, awarded the tender to purchase 51 per cent shares of Telkom Kenya. Therefore, France Telecom officially started its operations on 21st December 2007 and subsequently launched its Orange brand in Kenya.

There are two issues that clearly come out as a result of this privatisation. The first privatisation started in December 2007, barely some few days before the general election of 2007. Secondly, the further dilution of shares, that is recapitalisation, started on 1st December 2012, barely some few months before the general elections of 2013.

The question is: Why would the privatisation of such a serious public investment commence at a time when Kenyans are engaged in an election mood? I will clearly spell out the reasons why whoever was doing it timed it towards the end of 2007 and 2012 when everybody was very busy with the elections.

The Government of Kenya made commitments as a result of this privatisation. The ownership and shareholding structures of Telkom Kenya substantially changed from 100 per cent Government-owned to an entity where the Government was a minority shareholder with 49 per cent. This changed everything in terms of the board structure, management and how the organisation was run.

As a result of this, the Government of Kenya made a commitment to pay Kshs4.9 billion into Telkom without budgetary provision. This was towards the end. What I want to make clear is as a result of this first privatisation--- First of all, our laws require that whenever there is such serious privatisation the Privatisation Commission should be involved. The Communications Commission of Kenya (CCK) should also be involved because it deals with a communications company. Shockingly, the Communications Commission of Kenya did not play any role in the first privatisation where the Government of Kenya sold 51 per cent of its shares.

Secondly, the Communications Commission of Kenya (CCK) also is involved in change of frequencies. There are serious communication issues. The second Government-own and funded agency that regulates communication was not involved. Why will somebody be prepared to undertake such serious privatisation without the involvement of two critical institutions that are charged with oversighting on how privatisation is carried out?

The third entity that was supposed to be involved was the Office of the Attorney-General (AG) but which was not involved. Eventually, the entire privatisation of Telkom Kenya was treated like a private affair. I believe this is the reason why Telkom Kenya which is an offshoot of the old and giant Kenya Posts and Telecommunications Corporation (KPTC), today even with the inheritance of such serious telecommunication infrastructure; Orange Telkom is still do not doing well.

The Government of Kenya made a commitment of Kshs 4.5 million in order to inject further capital and ensure that Telkom Kenya remained afloat. This commitment was made contrary to Section 26(6) of the Public Procurement Act which requires that any procurement entity shall not commence any procurement procedure until it certifies that sufficient funds have been set aside in its budget to meet the obligation of the resulting contract. When the Treasury officials made this commitment, there was no budgetary allocation. Even a cent was not factored in the budget.

The first privatisation was in 2007. The second recapitalisation was in December just a few days to the 2012 General Election. They made a commitment of Kshs 4.5 billion in order to have Telkom Kenya remain afloat without budgetary support. The key Government agencies were not involved. It is because of this that Treasury attempted to make some payments of about Kshs 2.5million by 31st Dec 2012. Telkom Kenya and other shareholders were given an open ended letter which later on contributed to the finer deletion of shares worth Kshs30 billion. This was a programme that was well choreographed by senior technocrats at the Treasury to ensure that taxpayers lost their shares in this company to an entity to date which we have not found out the ownership. The shareholding that has remained mysterious is called Alcazar Capital Limited.

Initially we were told that this company is headquartered in Dubai. After carrying out due diligence and investigation, we realised that that company does not exist in United Arab Emirates (UAE). On the face of it, that is the company that eventually--- It was initially alleged that, that company was in consortium with France Telecom. Eventually, it emerged that nobody knew its identity, shareholders or even the existence of that company called Alcazar. As we debate, we do not know who owns Alcazar Capital Limited, where it is headquartered or whether it exists. It is because of this that eventually the Government of Kenya was forced---France Telecom agreed to write off shares worth Kshs33 billion. You can calculate. If France Telecom was willing to write off shares worth Kshs33 billion in exchange for a shareholding of 9 per cent, you can compute. If 9 per cent is equivalent to Kshs33 billion then what about 100 per cent?

Hon. Deputy Speaker, through such calculations, we realised that the shareholding of the Government of Kenya in Telkom Kenya reduced from 49 per cent to 40 per cent because of the debt that has been written by France Telecom. The Government of Kenya found itself in a very awkward position. This scenario was manmade in the sense that, firstly, the financial consultant who did this was an employee or somebody who was within the reach of the Treasury. This is an issue I will explain later. That is why we believe that Telkom Kenya, which is an offshoot of the defunct Kenya Posts and Telecommunication Corporation, is not doing well in terms of network outreach and other things. They are unable to secure 10 per cent of the market, what Safaricom Limited dominates. What do they do with the entire infrastructure?

Hon. Deputy Speaker, the other thing we realised is that valuation of the entire Telkom Kenya and its assets has been done. Therefore, nobody has the asset register of Telkom Kenya. When we tried to inquire into this aspect, nobody was willing to tell us how much land Telkom Kenya owns. We are aware that in Nairobi alone, there are several prime properties that were previously owned by the defunct Kenya Posts and Telecommunication Corporation, which were later on transferred to Telkom Kenya. Therefore, in the absence of evidence of any valuation carried out, it was difficult for us to ascertain the company's exact asset value. Hopefully, as a result of our recommendations, somebody will eventually unearth the truth.

As a result of the rights of 33 per cent shareholding in Telkom, which resulted in a further dilution of 9 per cent shares, the Government of Kenya shareholding reduced from 49 per cent to 40 per cent. Notwithstanding this scenario, the Government of Kenya committed itself to pay a further Kshs4.9 billion to enable Telkom Kenya to remain afloat. However, this was not done. Eventually, the Government of Kenya lost a further

10 per cent of its shareholding, bringing down its shareholding in the company to 30 per cent. That is where we are today. The privatisation of Telkom Kenya has no value to the taxpayer.

The Office of the Auditor-General was not involved at all in terms of validating the transaction. Having looked at the entire transaction and the entire privatisation process, the Committee made a number of observations: Firstly, the Communications Commission of Kenya (CCK), the Privatisation Commission, and the Office of the Auditor-General were never involved in the entire privatisation process of Telkom Kenya. Although the chief advisor to the Government of Kenya, the entity that has been created to oversee privatisation issues in Kenya, and the entity that is supposed to play an oversight role in the telecommunications sector has not been involved, we were told that this was the most successful privatisation processes that have taken place in Kenya. That is why today Telkom Kenya is in serious financial and operational difficulties. It is because of this that taxpayers are not getting value for money in terms of communications, cheap mobile network and other communication infrastructure-related issues. It is our considered opinion that, to date, the Kenyan taxpayer has not benefited from the privatisation of Telkom Kenya.

Secondly, the Committee has observed that the dilution of the Government shareholding in Telkom was in breach of the licence conditions of the regulator. The CCK was not consulted. The Kenyan authorities never sought the approval of the CCK in ceding the Government's shareholding to France Telecom (Kenya) Limited. In this case, the provisions of Section 23 of the Act, on licensing of Telkom Kenya, have been breached. When an entity has to transfer frequencies, the Act requires that entity to get a pre-approval from the CCK. Telkom Kenya Limited and those who were involved in the privatisation of the company did not find it fit to bring the matter to the attention of the CCK. Again, we realised that something terrible must have gone wrong.

Hon. Deputy Speaker: Hon. Keynan, you will have a balance of 46 minutes when this debate resumes.

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, the time being 6.30 p.m., the House stands adjourned until tomorrow, Wednesday, 25th March, 2015 at 9.30 am.

The House rose at 6.30 p.m.