

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 18th February, 2015

The House met at 2.30 p.m.

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

PRAYERS

MESSAGE

NOMINATION OF DR. SAMUEL NJUGUNA KABUE AS MEMBER OF KNCHR

Hon. Speaker: Hon. Members, there is a Message from His Excellency the President No.4 of 2015 regarding the nomination of Dr. Samuel Njuguna Kabue for appointment as a member of the Kenya National Commission on Human Rights (KNCHR).

Hon. Members, in accordance with the provisions of Standing Order No.42(1), I wish to convey a Message from His Excellency the President regarding the proposed appointment of a member of the Kenya National Commission on Human Rights.

The Message reads and I quote:-

“Pursuant to the Kenya National Commission on Human Rights Act No.14 of 2011, I have nominated Dr. Samuel Njuguna Kabue for appointment as a Member of the Kenya National Commission on Human Rights. The nominee is physically challenged and his appointment will ensure equity in the Commission as per Article 54 (2) of the Constitution.”

Hon. Members, Section 11(7) of the Kenya National Commission on Human Rights Act No.14 of 2011 requires the National Assembly to consider the nominee within 21 days. Further, our own Standing Order No.45 requires that upon receipt of a notification of nomination for appointment to a State office or other office as is under the Constitution or under any other legislation, it is required to be approved by the House. The nomination shall stand committed to the relevant Departmental Committee of the House for consideration. In this regard, this Message together with the curriculum vitae stand committed to the Departmental Committee on Justice and Legal Affairs to undertake the necessary approval hearings and submit their report to the House on or before 5th March, 2015.

Thank you.

PAPERS LAID

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Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Wednesday, February, 18th 2015:-

The Report of the Auditor-General on the Financial Statements of the Geothermal Development Company Limited for the year ended 30th June 2014 and the certificate of the Auditor-General therein.

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

The Report of the Auditor-General on the Financial Statements on the Parliamentary Car Loan Scheme Fund for the year ended 30th June 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Kenya Vision 2030 Delivery Secretariat for the year ended 30th June 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the University of Nairobi Enterprise and Services Limited for the year ended 30th June 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Kenya Marine and Fisheries Research Institute for the year ended 30th June 2014 and the certificate of the Auditor-General.

Finally, the Report of the Auditor-General on the Financial Statements of the Registrar of Political Parties for the year ended 30th June 2014 and the certificate of the Auditor-General therein.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Rachel Nyamai, the Chair of the Departmental Committee on Health.

Hon. (Ms.) R.K. Nyamai: Thank you, hon. Speaker. I beg to lay the following Papers on the Table of the House today, Wednesday, 18th February 2015:-

The Report of the Departmental Committee on Health on the consideration of the Mental Health Bill.

The Report of the Departmental Committee on Health on the consideration of the In Vitro Fertilisation Bill.

Thank you, hon. Speaker.

Hon. Speaker: Hon. David Were, the Chair of the Departmental Committee on Labour and Social Welfare.

Hon. Were: Thank you, hon. Speaker. I beg to lay the following Paper on the Table of the House today, Wednesday, 18th February 2015:-

The Report of the Departmental Committee on Labour and Social Welfare on the petition regarding the removal of the Chairperson of the National Gender and Equality Commission.

Thank you.

NOTICES OF MOTION

RETENTION OF SECURITY OFFICERS IN SERVICE

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

THAT, aware that the Kenya Police Service spends considerable resources on the training of police officers in all cadres; further aware that many of the police detectives are hired by other Government and private institutions as soon as they acquire their necessary expertise and experience; deeply concerned that, that results in delayed and botched investigations and failed conclusion of critical prosecutions plus a high number of acquittals due to perennial shortage of the specialized officers in critical departments such as ballistics, forensics, document examinations, fraud detection, money laundering, trans-national crimes and cyber crime; cognizant of the fact that private employers are able to offer superior terms; this House urges the Government to ensure that any regular police officer, Administration Police officer and prisons officer who benefits from specialized training at the expense of taxpayers' money should serve in the police sector for, at least, ten years before leaving for the private sector or refund the public funds that were used in their training.

NOTICE OF MOTION FOR ADJOURNMENT UNDER S.O.33(1)

SECURITY SITUATION IN BARINGO COUNTY

Hon. Speaker: Hon. (Ms.) Kipchoim, you knew you had business to transact. Do you have a card? Do you know how to operate it? You are not on the screen.

Hon. (Ms.) Kipchoim: Hon. Speaker, pursuant to Standing Order No.33(1), I wish to seek leave to move a Motion to adjourn the House for the purpose of discussing the deteriorating security situation in Baringo South Constituency, Baringo County.

Provision of security to each and every citizen is a key requirement for continued stability and sustainable economic prosperity of the nation. Indeed, Article 238(1) of the Constitution provides that national security entails the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability, prosperity and other national interests.

Since 2005, Mukutani Ward in Baringo South Constituency has been under attack by bandits. We are deeply concerned that since the beginning of this year, over 11 primary schools have not yet been opened. Several schools are being vandalized and houses are being burnt down. In addition, one secondary school and 30 nursery schools have been closed indefinitely. During the same period, 72 people been killed, 52 injured, over 25,000 people rendered homeless, over 14,000 goats and about 8,000 cattle stolen. In the past two weeks, innocent residents have been robbed and killed in cold blood. Looting and destruction of property is going on in broad daylight.

I, therefore, seek for adjournment of the House to urge the Government to move with speed to restore peace and order by dealing with the bandits that are causing unrest in Mukutani Ward, Mochongoi and its environs.

Hon. Speaker: Very well! I see you have the requisite number. I, therefore, appoint that the House shall adjourn at 5.30 p.m. this afternoon to discuss the Motion raised by hon. (Ms.) Kipchoim.

POINT OF ORDER

NAMING OF HON. MEMBERS FOR GROSS DISORDERLY CONDUCT

Hon. Langat: On a point of order, hon. Speaker. I rise under Standing Orders No.107 and 108 to invite you to name the following hon. Members for gross disorderly conduct on 18th December, 2014. The Members in my list are:-

- (i) Hon. John Mbadi, MP
- (ii) Hon. Silverse Anami, MP
- (iii) Hon. (Ms.) Gladys Wanga, MP

Standing Order No.107 talks about grossly disorderly conduct and it reads:-

“107. (1) Conduct is grossly disorderly if the Member concerned-

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

I am convinced that the hon. Members I have mentioned on 18th December, 2014 met much of that criterion of gross disorderly conduct. On that day, my good friend, hon. Ng’ongo, a man I respect - he is my senior from the university and senior professional colleague who is the chairman of one of the biggest parties in this country called ODM, crossed the Floor, grabbed the Order Paper from the Chairman of the Departmental Committee on Administration and National Security, hon. Abongotum, and what followed was total disorder. All the Order Papers were scattered all over the House because of that action. He is a senior Member of this House. I can excuse the other hon. Members who are first-timers, but a Member who is sitting here for the second time, a serious accountant in this country, crossed the Floor and caused the Order Papers to be torn all over this House. It was very shameful. That is why I propose and suggest that if there are any more punitive measures, I would have proposed them so that we maintain the dignity of this House.

That day, we reduced this House to levels we have never seen in this country. I think we have even spread this matter internationally. Subsequently, I saw two other countries - South Africa and another one - did the same. We should not be spreading bad manners. We should only spread good manners in this country.

Hon. Speaker, hon. Anami is my good friend. He took a very big booklet and attempted to throw it at the Speaker. He actually did it. If it were not for some Members who protected you, I do not know what would have happened to you on that day. The book was very big. Even though the Member is a first-timer, that is basic decorum. You do not throw documents in Parliament. That is a serious breach of peace in this House. It shows that if he had anything else, he would have used it in this House. Therefore, I propose that we name him. I also propose that we send him out of this House.

Finally, Ms. Gladys Wanga, a lady of great respect, who we voted to be a Commissioner in the Parliamentary Service Commission - I saw her and everybody saw her pouring some liquid on others. I do not know what liquid it was, but there was some liquid which she aimed at the Deputy Speaker - another lady of great respect. Pouring a liquid substance to a Chair of a Committee is a grave disorder. I want to propose that if there is any further punishment that we can mete out to Gladys Wanga--- I am not personalizing the issue. But it is very shameful that a whole Member of Parliament can pour water on another Member of Parliament.

We must stand up and ensure that this House earns the respect it used to have. I have heard in some quarters the same people who were causing disorder saying that they want to cleanse the House. There is no problem with cleansing the House. In fact, they need to repent. I want to propose that we name them. I believe that the thresholds have been met and they should be named. We should give them a higher punishment than even what is provided for in the Standing Orders.

I propose and request you to name them.

Hon. Speaker: Hon. Members, I have listened carefully to what hon. Benjamin Langat has explained. He claims to rise on a point of order, raising the issues under Standing Order No.107 and has proceeded to ask the Speaker, under Standing Order No.108, to name the aforesaid three Members.

Hon. Members, if you look at your own Standing Orders, that matter is squarely, without assistance, on the shoulders of the Speaker to decide whether or not to name the Members that he has proposed. I have looked at Standing Order No.107. The events that hon. Langat has described are all well known to all of us. Indeed, they fall in the category of gross disorderly conduct. I, therefore, accordingly proceed to name the three Members.

Their names as read out by hon. Langat are John Mbadi, Silverse Anami and hon. Gladys Wanga. Any Member desiring to proceed under Standing Order No.108 (2)? Yes, Member for Nakuru!

Hon. Gikaria: Thank you, hon. Speaker. Now that you have given that ruling, I now move that notwithstanding the provisions of Standing Order No.110, the said three Members be suspended from the services of the House for a period of eight Sitting days, including the day of suspension, for gross disorderly conduct, and the reasons are as my colleague, hon. Benjamin Langat, has stated.

The three are John Mbadi, Member representing Suba Constituency, Silverse Anami representing Shinyalu Constituency and Ms. Gladys Wanga, Member for Homa Bay County. I am a first-timer in Parliament, but a product of the former municipalities. At one time, I served for two-and-a-half years as the Mayor of Nakuru Municipality. During my tenure for ten years that I was the Mayor---

Sorry, hon. Speaker. It is under tanding Order No.108 (2) and it reads:-

“(2) Whenever a Member shall have been named by the Speaker or by the Chairperson, then –

- (a) if the breach has been committed by such Member in the House, a Motion shall be made by any other Member present “That such Member (naming the Member) be suspended from the services of the House” and the Speaker shall forthwith put the question thereon, no amendment, adjournment or debate being allowed.
- (b) if the breach has been committed---

Hon. Speaker: You do not have to read what is in the Standing Orders. You are merely required to move the Motion.

Hon. Gikaria: Yes, I have moved. Basically, hon. Langat has given all the reasons.

Hon. Speaker: Are you moving the Motion that those Members be suspended from the service of the House?

Hon. Gikaria: Yes.

Hon. Speaker: Then move it.

Hon. Gikaria: Hon. Speaker, I now move that notwithstanding the provisions of the Standing Order, the said three Members be suspended from the services of the House for a period of not less than---

Hon. Speaker: That is not your business.

Hon. Gikaria: Hon. Speaker, I beg to move.

Hon. Speaker: Hon. Members, your own Standing Orders are very clear. This matter is really not for debate. The Motion is moved and there shall be no amendment, no adjournment and no debate is allowed. So, the Speaker is merely required to put the question. I, therefore, put the question.

(Question put and agreed to)

(Several hon. Members stood up in their places)

DIVISION

Hon. Speaker: You have the numbers! Ring the Division Bell.

I am sorry there is no debate allowed on this. There are no points of order. There is no room for ventilation.

(The Division Bell was rung)

Hon. Speaker: Serjeants-at-Arms, draw the Bar and close all the doors.

(The Bar was drawn and all doors closed)

Hon. Speaker: Hon. Members, please, take your seats and logout your cards. Hon. Mike Onyura, hon. Wanyonyi, hon. Ababu Namwamba and hon. David Gikaria; please, remove your cards.

Hon. Members, the Question is that hon. John Mbadi, hon. Silverse Anami and hon. Gladys Wanga be suspended from the service of the House.

Hon. Members voting in support or in opposition have 60 seconds to do so. So, you log in and vote now.

Hon. Members, I wish to inform you that I have allowed hon. T.J. Kajwang' to vote manually because he did not have his card. He is the only one who requested.

(Question carried by 101 to 52 votes)

AYES: Ms. Florence Kajuju, Mr. Francis Nderitu, Ms. Beatrice Nyaga; Messrs. Benard Shinali, Benjamin Washiali, George Theuri, Lelelit Lati; Ms. Grace Kipchoim, Ms. Grace Kiptui, Mr. Benjamini Langat, Ms. Hellen Chepkwony; Messrs. Katoo ole Metito, Ibrahim Sene, Abdul Dawood, Jackson Kiptanui, Jackson Rop, James Kamaru, James Murgor, Boniface Otsiula, Jamleck Kamau; Ms. Jane Macharia, Messrs. Johana Kipyegon, John Kihagi, John Serut, John Ndirangu, Ms. Cecilia Ngetich; Messrs. Joseph Limo, Joseph Lomwa, Joseph M'eruaki, Joseph Manje, Charles Njagagua, Ms. Joyce Akai; Messrs. Julius Melly, Julius Ndegwa, Justice Kemei, Kanini Kega, Kareke Mbiuki, Kathuri Murungi, Ms. Soipan Tuyu; Messrs. Kimani Njuguna, Kipruto Barchilei, Kirwa Bitok, Korei ole Lemein, A.B. Duale, Leonard Sang, Ms. Mahbub Fathia, Ms. Maison Leshoomo; Messrs. Alex Mwiru, Christopher Nakuleu, Mark Lomunokol, Alfred Sambu, Ms. Mary Mbugua; Messrs. Clement Wambugu, Cornelly Serem, Moses Cheboi, Cyprian Iringo, Mpuru Aburi, Mutava Musyimi, Ali Rasso, David Gikaria, David Kangongo, Njogu Barua, Onesmus Ngunjiri, Onesmus Njuki, David Karithi, Patrick ole Ntutu, Ms. Peris Tobiko; Messrs. Peter Kinyua, Philip Rotino, Ms. Priscilla Nyokabi, Ms. Rachael Nyamai; Messrs. David Kiaraho, Raphael Letimalo, Abass Mohamed, Ms. Regina Nyeris, Ms. (Dr.) Reginalda Wanyonyi; Messrs. David Were, Robert Pukose, Ronald Tonui, Dennis Waweru, Abdinoor Ali Mohamed, Samuel Chepkong'a, Ms. Annah Nyokabi; Messrs. Samuel Moroto, Silas Tiren, Elija Moindi, Stephen Karani, Elisha Busienei, Ms. Sunjeev Birdi, Messrs. Stephen Ngare, Tiras Ngahu, Ms. Tiyah Galgalo, Mr. Victor Munyaka, Ms. Esther Gathogo, Mr. Waihenya Ndirangu, Ms. Esther Murugi; Messrs. Yusuf Chanzu, Zakayo Cheruiyot, Zebedeo Opoire, Ms. Zipporah Kering and Mr. Arthur Odera.

NOES: Messrs. Athman Ali, (Dr.) Eseli Simiyu, Kamoti Mwamkale, Onyango Oyoo, Abdikadir Omar, Abdikadir Ore, Abdullswamad Nassir, Ms. Alice Chae; Messrs. Andrew Toboso; Benjamin A. Andayi, Makali Mulu, Bishop Mutua, Charles Gimose, Chrisantus Wamalwa, Christopher Omulele, Daniel Maanzo, David Ochieng, Diriye Mohamed, Ms. Dorcas Kedogo; Messrs. Ferdinand Wanyonyi, Fredrick Outa, George Ogalo, George Omondi, Ms. Gladys Wanga, Ms. Halima Duri; Messrs. Ibrahim Abass, Isaac Mwaura, (Prof.) James Nyikal, John Waluke, Ms. Joyce Lay. Messrs. Kenneth Okoth, Manson Nyamweya, Marcus Muluvi, Ms. Mary Keraa, Ms. Millie Odhiambo, Ms. Mishu Juma; Messrs. Moses Injendi, Gunga Mwinga, Nicolas O. Gumbo, Patrick Musimba, Ms. Rachael Amolo; Messrs. Raphael Otaalo, Richard Makenga, Ms. Rose Nyamunga; Messrs. Samuel Arama, Simon Ogari, Suleiman Dori, Timothy Bosire, Wafula Wamunyinyi, Wilber Ottichilo and Ms. Zulekha Juma.

ABSENTION: Messrs. Sakwa Bunyasi and Nelson Gaichuhie.

Hon. Speaker: Hon. Members, the three Members, having been successfully named in the Motion and suspended from the service of the House and the precincts of the National Assembly and Parliament in the first instance for a period of four days, including the date of this suspension will not be able to access any part of Parliament during the period of the suspension. They will forfeit their right of access and all allowances payable to them during the period of that suspension.

Therefore, any of those named Members who are still in the Chamber are hereby asked to withdraw from the Chamber.

Hon. Silverse Anami, hon. John Mbadi and hon. Gladys Wanga! Hon. Gladys Wanga, you are in the Chamber. Kindly, withdraw from the Chamber in terms of the Motion.

(Applause)

(Hon. (Ms.) Nyasuna withdrew from the Chamber)

(Members of the CORD Coalition walked out)

Hon. John Mbadi is making his way into the Chamber. Order, Members! Allow the Leader of Minority Party to make his way.

Hon. Members, I wish to make this clarification, that the other two Members one of whom was nearly making his way into the Chamber now must withdraw from the precincts of Parliament and must not access any of its precincts. The Serjeant-at-Arms and the Clerk are accordingly ordered to enforce that order.

(Hon. Ng'ongo withdrew from the Chamber)

BILLS

Second Reading

THE PUBLIC AUDIT BILL

(Loud consultations)

Hon. Speaker: Hon. Members, is it that we are so excited? Debate on the Public Audit Bill, National Assembly Bill No. 38 of 2014 was concluded yesterday. What remains is for me to put the Question, which I hereby do.

(Question put and agreed to)

(Several Members stood up in their places)

Hon. Members: Division! Division!

Hon. Speaker: Hon. Members, those claiming for a Division do not form the quorum. You have not raised the number. Resume your seats.

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

Hon. Speaker: Hon. Gumbo, you have a point of order?

LIMITATION OF TIME ON PUBLIC PROCUREMENT
AND ASSET DISPOSAL BILL

Hon. (Eng.) Gumbo: On a point of order, hon. Speaker. The Bill we are about to discuss is the Public Procurement and Asset Disposal Bill, 2014.

I wish to move that on the outset of moving this Bill at the Second Reading, notwithstanding the provisions of the Standing Order 97(4), this House orders that the speech on the debate on the Public Procurement and Asset Disposal Bill, National Assembly Bill No. 40 of 2014, be limited as follows:-

(a) A maximum of 60 minutes for the Mover in moving and 30 minutes in replying.

(b) A maximum of 30 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 45 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. Speaker, this Bill is very important for public procurement in Kenya. I know that not everybody may be interested in contributing within the limitations that I have requested. However, those of us who will be directly affected by this Bill would request that we get as much time as possible to discuss it. I am particularly concerned that if you look at Clause 5 of the Bill, it talks about conflicts with the Act.

(Loud consultations)

Hon. Speaker: Order, hon. Members! I think it is fair to listen to the points being made by hon. Gumbo.

Hon. (Eng.) Gumbo: Hon. Speaker, this is important. Essentially, if you look at professional bodies like lawyers, engineers and architects, we have Acts of Parliament which govern the remuneration payable. So, it is important that when a Clause like this aims to supersede those provisions which are clearly provided in law, we need to have a chance to thoroughly interrogate that.

Clause 48 talks about sector-specific procurement and disposal agencies. That is important because it will talk more or less on the same area like what I have talked about. If you look at Clause 88, it talks about international tendering and competition. We have had very many cases where in international bidding, Kenyans tend to play second fiddle. It is important that in this Bill, when we come to international bidding, particularly for

those contracts that require international competitive bidding, Kenyans are treated in a manner that shows that they are the citizens of this country.

Clause 100 talks about procedure for design competition. This is important for us especially as architects, engineers, designers and people who do creative arts. I am aware that not everybody will require the limitations that I have requested, but those of us who have a direct interest in this Bill, particularly based on our professional backgrounds, I would request this House to indulge us. It does not stop anyone from contributing for two minutes, but it allows those of us who have a lot to say on this Bill to have the latitude we need to expound on the clauses that directly affect us and our people.

With those remarks, I beg to move and ask hon. Chepkong'a to second.

Hon. Speaker: Hon. Chepkong'a. Hon. Gumbo, also give us a copy of the Motion, so that we can propose. Give hon. Chepkong'a.

Hon. Chepkong'a: Thank you, hon. Speaker. I rise to second the Motion by hon. Gumbo. As you know, professionals have completely been disadvantaged in the past, particularly those that are coming from professional bodies like that of hon. Gumbo, where their statutory bodies have already set the fees that are chargeable by those professionals. For it to be subjected to this procurement law is inconsistent with the professions of those particular individuals.

I totally support the Motion.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: Hon. Members, therefore, it follows that hon. Gumbo, as always, diligently, save for those Members that have prepared thoroughly to debate this law, will have the time. A maximum of 30 minutes should be sufficient for anybody making any points to make them. It is something that is praiseworthy. I should encourage this from time to time, depending on the nature of the laws being debated in the House. It is a good way to move. So, those who would want to make preparations, please, prepare to debate for a maximum of 30 minutes. However, that is not to say that those who also wish to make casual remarks for two or three minutes for purposes of being captured by some organizations, will not have their time. They will also have their time, but 30 minutes is for serious contributors. Even if you have something for two minutes, you will still have your time, but 30 minutes is the maximum. I thank you hon. Members and thank hon. (Eng.) Gumbo.

Hon. Bowen: On a point of order!

Hon. Speaker: What is it, hon. Kangongo?

Hon. Bowen: Hon. Speaker, I just want to seek your indulgence and clarification about the three Members who have just been suspended. One of them is a Commissioner of the Parliamentary Service Commission (PSC). That Commissioner has just been suspended because of gross misconduct. I believe that the provisions of Article 251 of the Constitution are sufficient enough for the removal of that Commissioner from office. Article 251 says:-

“251(1) A member of a commission (other than ex-official member) or the holder of an independent office, may be removed from office only for -

(a) serious violation of this Constitution or any other law, including a contravention of Chapter Six;

(b) gross misconduct, whether in the performance of the member’s or office holder’s functions or otherwise;“

Hon. Speaker, I believe that hon. Wanga, being a Commissioner of PSC, has violated Article 251 of the Constitution. I seek your clarification on the appropriateness of bringing a petition to this House to remove hon. Gladys Wanga as a Commissioner in the PSC.

Hon. Speaker: Hon. Bowen, of course, nothing limits any Kenyan, including Members of Parliament, to proceed as provided for in Article 251 relating to procedures for removal of a commissioner of any independent commission. So, any Kenyan is at liberty to proceed that way. However, as the Chair, I have no direction as to the removal of any Member from such office. I cannot direct the removal of any member from such office. That aspect is provided for in the Constitution and the procedure is as you have rightly pointed out – petitioning.

Hon. Ochieng, do you also have a point of order?

Hon. Ochieng: Hon. Speaker, I was just surprised that you were entertaining that kind of point of order from hon. Bowen. This House is not a guillotine. We are in the Assembly.

Hon. Speaker: Hon. Ochieng, are you saying that you are surprised for entertaining a point of order?

Hon. Ochieng: Yes I am, hon. Speaker.

Hon. Speaker: Are you also on a point of order?

Hon. Ochieng: No!

Hon. Speaker: I am surprised that I should be entertaining you!

(Laughter)

Hon. Speaker: Yes, Leader of the Majority! Hon. Gikaria, are you also on a point of order?

Hon. A. B. Duale: Hon. Speaker, he is sitting next to a great man.

Hon. Speaker: Leader of the Majority Party, there is a Member raising a point of order behind you.

Hon. Gikaria: Thank you, hon. Speaker. I am just seeking direction though hon. (Eng.) Gumbo has just moved. The limit of the Bill is only three hours. Assuming that we allow people to speak for 30 minutes, some of us might not be able to contribute to it. It is a very important Bill. Much as you have directed that one needs not take all the 30 minutes, it is dangerous. Assuming that you give the Floor to a professional, he will speak for 30 minutes. Maybe, you need to re-direct, so that we do not have just six or seven people speaking on this very important Bill. One may have researched and obtained some useful information. I am not an expert *per se* in this area; I have done some accounting but, maybe, we could spread the debate so that some of us can also speak to this Bill.

Hon. Speaker: Hon. Gikaria, the House has resolved in the manner that it has, unless you are moving for the House to rescind its decision, in which you will have to bring another Motion to do so. The Speaker or any other person presiding over the House is obviously guided by the Standing Orders but, if Members make frivolous, irrelevant or repetitive remarks, they can be stopped or advised accordingly, so that we can have as many Members as possible contributing to the Bill. Part of the reason is - hon. Gikaria - that this Bill, as pointed out by hon. (Eng.) Gumbo, is seeking to amend the already existing Act to bring in some new innovations. It is seeking to amend the Public Procurement and Disposal Act of 2005.

This Bill will be debated in this Chamber and once it is passed, it will be taken to the other House of Parliament. It is one of those Bills that have got constitutional deadlines. It is fair that we give it our best shot. Let us give as many Members as possible, enough time to make their input to this great law. It is obviously a law that is being waited and is going to be watched with a lot of interest by many people in this country and in many other quarters. Although 30 minutes for any other Member speaking may appear to be a lot of time, it is good for us who are allowed to give their input. We are lucky in the sense that the Leader of the Majority Party is the Mover. So, the 45 minutes that his counterpart on the minority side, who has chosen to be present and out as the wind blows, has been given may not even be exhausted.

Since the House has resolved that way, it is something that the Standing Orders allow. Remember that we were going to do the same with the other Bills that were withdrawn the other day, because of the sheer amount of work that has gone into them. This is a very important Bill and, therefore, those who have prepared should be allowed much time. The decision that has been made by the House is good.

Proceed, Leader of the Majority Party.

BILL

Second Reading

THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL

Hon. A.B. Duale: Hon. Speaker, I beg to move that the Public Procurement and Asset Disposal Bill, 2014 be now read the Second Time.

The Public Procurement and Asset Disposal Bill, 2014 is one of the legislations to be enacted by Parliament as a requirement under Article 261(1) of the Constitution. As you recall, this Bill was supposed to have been passed last year, but the National Assembly extended the timeline to allow for drafting of a comprehensive Bill and, more so, conduct wider consultations with all the stakeholders. This Bill, as presented before this House, seeks to repeal the current Public Procurement and Asset Disposal Act. In its new form, this Bill will give effect to the provisions of Article 227 of the Constitution by regulating the purchasing by public entities, public sector bodies, certain utility sectors and asset disposal.

This law is designed to open up Kenya's procurement market to very fair competition. This law aims to promote free movement of goods and services and to put into consideration the disadvantaged groups in our country by giving them preference and reservations in public procurement. That is also in line with the Jubilee Manifesto under the leadership of President Uhuru Kenyatta. The following are the salient features of this Bill:-

Hon. Speaker, Part I of this Bill; that is, Clauses 1 to 6 mainly contain preliminary matters. Clause 2 makes provision for the interpretation of terminologies used in this Bill; terminologies such as "assets". "Asset" as a word has been defined in this Bill. "Public procurement" is defined to mean procurement by procuring entities using public funds. To allow the application of the law with the value under the Constitution, Clause 3 of this Bill specifically spells out the guiding values and principles of public organs and procuring entities in discharging their functions under this Act. They deal with public procurement and asset disposal, national values and principles as provided for under Article 10. They must be followed. Equality and freedom from discrimination as provided for in Article 27 of the Constitution must be a guiding principle. Affirmative action programmes provided for under Articles 55 and 56 of our Constitution must be a guiding principle in as far as public procurement and asset disposal is concerned.

Finally, principles of integrity under the Leadership and Integrity Act, Chapter Six must be a guiding principle in public procurement and asset disposal. To address any potential conflict between the provisions of this law with international agreements that this country has signed or Kenya is a party to, Clause 6 of this Bill makes specific provisions to that effect. Therefore, terms of the treaties and agreements shall prevail.

Part II which encompasses Clauses 7 to 32 of the Bill mainly relates to bodies involved in the regulation of public procurement. How many bodies are involved in public procurement and asset disposal? Such bodies are the National Treasury, the Public Procurement Regulatory Authority (PPRA) and the Public Procurement Administrative Review Board (PPARB). So, Part II of the Bill; that is, Clauses 7 to 32, deals with those bodies which are involved in the regulation of public procurement.

Clause 7 particularly specifies the role of the National Treasury in public procurement and asset disposal. Here, the National Treasury has been mandated to oversee the overall policy formulation with respect to public procurement and asset disposal. In so doing, this Bill proposes to empower it. It gives the National Treasury more powers. Which are those powers? The National Treasury under this Bill has the powers to formulate, evaluate, promote and do research on national and county public procurement and asset disposal policies and standards. So, they will develop the standards. They will promote, evaluate and do research for both the national Government and the county governments in public procurement and asset disposal in terms of policy and setting the standards.

Secondly, the National Treasury has been given powers to develop policy guidelines for efficient public procurement and asset disposal system for the national Government. The National Treasury has the powers to develop and review policy on procurement of common user items in the public sector. Clause 8 of the Bill establishes the PPRA as a corporate body and Clause 9 sets out the functions of that Authority. It is in the Bill. Clause 10 deals with the establishment of a board consisting of seven persons to manage the affairs of the Authority. How to select and the functions of the board are set out in

Clause 10. Clause 15 of the Bill provides for the appointment of Director-General of that Authority, and that will be done by the Cabinet Secretary to the National Treasury. The Cabinet Secretary will do that appointment. This person will be the one to run the day-to-day management of the affairs of the Authority. Clause 33 of the Bill recognizes the role and the responsibilities of counties in the implementation of this Act; by specifically mandating and involving the county treasury in public procurement. This Bill is very important for our county governments. Procurement in county governments is done under a tree. The major problems this country is facing with devolution is how our public resources, how the procurement and asset disposal is done at our county governments. Since this Bill will go to the Senate for consideration, then the county governments, with the enactment of this law, will change the way they do things currently. The role of the county treasury, under the guidance of the National Treasury, will be as follows:-

The implementation of public procurement, coordination, promotion and giving preference and reservations to schemes for small, micro-enterprises and other disadvantaged groups. This Bill is very voluminous. Part II deals with the various bodies that are formed. Part V, Clauses 44 to 55 of the Bill, sets out the provisions concerning the internal organisations of any procuring entity. Clause 44 makes provisions on the primary responsibility of the accounting officer for ensuring that the public entity complies with this Act. So, the accounting officer of any public entity has the sole responsibility to ensure that public entities comply with this Act.

We must ensure that the procurement of goods, works and services of a public entity are within the approved budget of that entity. It is very surprising that public institutions advertise for procurement of goods and services when the money is not provided for in the budget. That is why this law says that you must ensure that the procurement of goods, works and services in any public institution is within the approved budget of that entity. Secondly, it is about constituting all procurement and asset disposal committees within a procuring entity in accordance with this proposed law. They must constitute a specific procurement and asset disposal committee in all the public institutions.

Clause 46 mandates the Accounting Officer to establish an *ad hoc* evaluation committee. So, there should not be a standing evaluation committee which everybody knows, which everybody can bribe and manipulate. Clause 46 says that there must be an *ad hoc* committee. So, today you can be the Evaluation Officer and tomorrow you might not be in that public entity.

Clause 49 of the Bill explains the provisions relating to any procuring entity which has a common interest in terms of consortiums. Therefore, public institutions can form a consortium for public procurement.

Clauses 52 to 68 of the Bill relate to the general procurement principles. Clause 54 of the Bill provides for the conditions to be fulfilled by any person wishing to bid for a contract, a procurement or asset being disposed off. Even conditions are given in law for those who want to bid for a contract. For example, a person referred to under this clause must have the legal capacity to enter into a contract. Two, they should not be insolvent or in receivership, bankrupt, or in the process of winding up. There are people who are given jobs and who apply for a bid when they are under receivership, when they are bankrupt or when they are insolvent. The conditions are that the person must have

fulfilled all the tax obligations and he must not have been convicted of a corrupt practice. We know that there are many corrupt entities that are still doing business with public institutions. So, the enactment of this law will make you close shop.

Part VIII, that is Clauses 69 to 88 of the Bill sets out the basic procurement rules to be adhered to during procurement and asset disposal process. Clause 69 makes provision mandating the authority to issue standard rules for procurement and asset disposal. So, there will be specific standards in dealing with procurement and disposing of assets.

Clause 70, deals with registration of suppliers by the head of any procurement management unit, which has the responsibility to maintain an updated list.

Clause 73, deals with invitation to tender. This is critical because invitation to tender, under this clause--- The person responsible for the procurement is to ensure that there is the preparation of an invitation of tender that sets out the following conditions:-

- (i) the name and address of the procuring entity;
the tender number;
- (ii) a brief description of the goods, works/service; and
- (iii) a statement that those submitting tenders and their representatives may attend the opening of tenders.

Clause 74, deals with amendment of a tender document at any time before the deadline for submitting. The law is very clear, if you want to do any amendments to your tender bid before the deadline, then the law has set out the criteria.

Clause 75 of the Bill deals with the change or withdrawal of a tender. Clause 77 has a provision on the opening of tenders.

Parts IX and X contain Clauses 90 to 114 of the Bill which talk about different methods of procurement of goods and services. Clauses 115 to 134 of the Bill further provide for the methods with regard to procurement of consultancy services.

Hon. Speaker, allow me to emphasize on the following provisions due to their importance under this part. Clause 136 contains provisions on the creation of a procurement contract which must be confirmed through the signing of a contract document incorporating all agreements between the parties and such contract shall be signed by the Accounting Officer. Therefore, all those documents put together should have the signature of the Accounting Officer, or an officer authorized in writing, by the Accounting Officer.

Clauses 160 to 163 of the Bill contain provisions relating to how to keep the inventory control, the asset, the stores, management and distribution of any public entity.

Clauses 164 to 166 further contain provisions on disposal of assets. Clause 166 is important because it deals with the methods of disposal. This may include any of the following: You can dispose of something through sale by public tender, public auction, sale to employee of a procuring entity, a trade-in, waste disposal management, or transfer from one public entity to another public entity.

Clause 174 contains provisions relating to the powers of the review Board. According to this Clause, the review Board is empowered to do the following: It can annul anything the Accounting Officer of an entity has done in the procurement process. It can give directions, substitute decisions and even order payment between parties.

Hon. Speaker, let me assure the House that this Bill generally meets global standards and the best practice internationally. It is a very comprehensive Bill in both scope and coverage within the organs and institutions required to comply with these provisions. This is a Bill that has constitutional timelines. I was shocked this afternoon when the Leader of the Minority Party led his troops in shooting down a constitutional Bill that he contributed to yesterday afternoon. Today, he wanted to shoot down that Bill at the Second Reading. That is where part of the leadership of this country is heading.

The role of a Member of Parliament, whether he is in the Opposition or in Government, is to serve the people of Kenya to the best of their ability. Just because some Members or hon. Aden Duale, as provided for in Standing Order Nos. 107 and 108, have been named and suspended for three days, that does not call for the Public Audit Bill, 2014, which is a very important constitutional Bill, to be shot down by the Leader of the Minority Party. I am sure we can rise to the occasion. I am sure we can do better. I am sure we can work for the people of Kenya.

More fundamentally, hon. Speaker, this Public Procurement and Asset Disposal Bill is important, and is in line with the provisions of Articles 261(1) and 227. In Kenya we will have a fair and competitive way of procuring, looking for jobs and disposing of our assets. Members will agree with me that this House has met all its deadlines. This Bill, with your permission--- I will be very happy that today, or by the close of business tomorrow, we will be through with it. By the end of next week, we can dispose of these two Bills and send them to our colleagues in the Senate, so that they also meet the May 27th constitutional deadline, which cannot be extended again.

With those many remarks, hon. Speaker, I beg to move. I ask hon. Katoo ole Metito, the Chief Whip of the Majority Party, to second.

Hon. Speaker: Hon. Metito.

Hon. Katoo: Thank you, hon. Speaker. I rise to second this very important Bill. I want to start by saying that public procurement is a business process within a political system. Therefore, one needs to properly balance between two elements. Otherwise, it will lead to wasted efforts and poor development results.

The Public Procurement and Asset Disposal Bill, 2014 has tried to reflect the best practices of public procurement and incorporate international procurement standards. This is about doing business the right way. The promotion of new and innovative purchasing methods and strategies, increasing emphasis on the need for best practice and the best value for money in an expanding public procurement market and greater accountability of public purchasers require that the existing guidelines be updated. That is what this Bill is doing. It seeks to repeal and replace the Public Procurement and Disposal Act, 2005. It also seeks to address the vagueness and lacuna in the current Act. It also seeks to clarify, as the Mover has said, the role of the National Treasury as a policy office. Finally, this Bill tries to enhance - the Mover has touched on that - devolution at the county and procuring entity levels.

The Bill provides for these measures as well as trying to come up with ways of reducing corruption risk in the public procurement system and promote transparency, accountability and integrity as required by Article 10 of the Constitution.

Hon. Speaker, this Bill has got 176 clauses. Clauses 68 to 88 set out the basic procurement rules that need to be adhered to during the procurement and asset disposal

process. They try to address the current public procurement challenges as well as facilitate efficient service delivery. There is, therefore, need to remain focused in the management of public procurement for a better country that can take advantage of its purchasing power to help development efforts.

As it has been said by the Mover, the Bill is bringing life to Article 227 of the Constitution, specifically Sub-Article (1), which states that:

“When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent competitive and cost-effective.”

Therefore, we should try as much as possible, through legislation, to reduce the cost of doing business. That will make us an attractive country in the region for the purpose of doing business.

If we improve public procurement as proposed by this Bill, we will make sure that suppliers who would like to participate in the public procurement do not find the procurement procedures irrational or cumbersome. That is why clauses in this Bill are talking of doing it in a non-discriminatory way. Clauses 7 to 32 of this Bill establish the bodies---

Hon. Speaker: There is a point of order from hon. Nyikal.

POINT OF ORDER

NAMING OF HON. MEMBERS FOR GROSS DISORDERLY CONDUCT

Hon. (Prof.) Nyikal: On a point of order, hon. Speaker. I rise under Standing Order No. 107 on grossly disorderly conduct. We are aware, and events in this House corroborate it, that on 18th December, 2014 in this House, there was conduct that was grossly disorderly and, which brought the reputation of the House down; Members behaved in despicable manner. These were hon. Moses Kuria who punched hon. Millie; hon. Joseph Kiuna who went up the Speaker's Gallery and attempted to throw Mr. Muthama over the rails; hon. Muthomi who went up and punched hon. Wetang'ula; hon. Ngunjiri Kimani who bit hon. Arati's hand; hon. Alice Ng'ang'a---

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

Hon. Speaker: Just a minute, hon. Nyikal. The hon. Nyikal is on a point of order. When a Member is on a point of order, another Member cannot purport to interrupt him on another point of order until he finishes. So, you must allow him to complete his point of order.

Hon. James Nyikal, proceed.

Hon. (Prof.) Nyikal: Hon. Speaker, hon. Elijah Lagat during the incident attempted to pull down hon. Millie's pants. This was extremely disorderly conduct. We have, just a few moments ago, indicated that when such incidents occur, there is need for action to be taken. Indeed, some action has been taken. It is not possible that the disorder of the level we had can take place with only two or three people on one side. Both sides

were definitely involved. Therefore, it is only fair that some action is taken against all the people who were involved.

So, in line with Standing Order No. 108, I propose that these Members be named and appropriate action taken against them. In fact, suspension, as we have just seen a few minutes ago, would be appropriate.

Hon. Speaker: For avoidance of doubt, I wish to explain to the Members that hon. Nyikal is perfectly within his rights. Remember that Standing Order No.108 talks of any Member. It is important and fair that Members internalise that “Any Member may at any time, on a point of order, invite the Speaker or the chairperson of committees to name another Member for gross disorderly conduct, but the decision whether or not to do so shall remain with the Speaker or the chairperson”. I took the liberty to read that, so that everybody appreciates that hon. James Nyikal is perfectly within our own Standing Orders. It does not say that, that should happen at a particular time. It is any time. Therefore, hon. Nyikal, you could give me the names.

(Hon. (Prof.) Nyikal gave a list to the Speaker)

These are five names, is that correct? Give me the names. Hon. Millie Odhiambo, hon. Duale and others, I am on my feet. Hon. Members, I have considered what hon. James Nyikal has stated and I proceed to name the following six Members: Hon. Moses Kuria, MP; hon. Joseph Kiuna, MP; hon. Muthomi Njuki, MP; hon. Onesmus Ngunjiri, MP; hon. Elijah Lagat MP and hon. Alice Ng’ang’a, MP.

(Loud consultations)

Hon. Members, I thought you all understood the Standing Orders. My business is to name. I only see Members trying to jump up and down. You need to read these Standing Orders.

(Loud consultations)

Hon. Ababu Namwamba.

Hon. Ababu: Hon. Speaker, before I move this Motion.

Hon. Speaker: Do not address me. Please, just proceed.

Hon. Ababu: Hon. Speaker, I beg to move under Standing Order No.108(2)(a):-

THAT, for breach of Standing Order No.107, the said Members be suspended from service of the House. They are:- Hon. Moses Kuria, hon. Joseph Kiuna, hon. Muthomi Njuki, hon. Ngunjiri Kimani, hon. Alice Ng’ang’a and hon. Elijah Lagat. They be suspended for a period of four days.

Hon. Speaker: Some of those names are not clear.

Hon. Ababu: They are hon. Moses Kuria, hon. Joseph Kiuna, hon. Muthomi Njuki, hon. Ngunjiri Kimani, hon. Alice Ng’ang’a and hon. Elijah Lagat.

I beg to move.

(Question put and agreed to)

(Several hon. Members stood up in their places)

Hon. Members: Division! Division!

Hon. Speaker: Hon. Nyenze, you are used to standing all the time. Hon. Members, the Members upstanding claiming for a Division have the numbers. I order that the Division Bell be rung for 10 minutes.

(The Division Bell was rung)

Hon. Speaker: Hon. Members, please, take your seats. This one should be quick. Serjeants-at-Arms, draw the Bar.

(The Bar was drawn up)

Hon. Speaker: Hon. Members, all of you must log out. Before you log in for voting, let me remind you of the Question which is that the following six Members be suspended from the service of the House:-

1. Hon. Moses Kuria, MP
2. Hon. Joseph Kiuna, MP
3. Hon. Muthomi Njuki, MP
4. Hon. Ngunjiri Onesmus, MP
5. Hon. Elijah Lagat, MP
6. Hon. Alice Ng'ang'a, MP

Those hon. Members who are coming in to vote, please, do so quickly. You have 60 seconds to log in and vote. Those of you without cards can come to the front; on the left and the right.

(Question put and the House divided)

Hon. Members, take your seats now. It is not the end of life. What is the name of this man? Hon. Members, I will nullify that vote. Hon. Members, please, let us be honest and mature. If you have a card from either side and it is not working, can you make that known to the Clerk, and you must come now? Hon. Shakeel. Hon. Shakeel!

(Loud consultations)

If they are not working there is nothing wrong. If it is not working then we have nullified what had happened. Hon. Members, we have nullified what had happened. So, any Member whose card is not working should come in front. Is that the case hon. Onyura?

Hon. Onyura: Yes.

Hon. Speaker: Come here. Please, you cannot sit there and your card is not working. This is because once we start voting--- Remember you are going to vote afresh. What is that one doing now?

You cannot be moving around. Hon. Nyikal, if your card is not working--- Hon. Outa, if your card is not working, come with it and register here. Remember there are Members who do not have cards and they have all reported. These are the Leader of the Minority Party, the Minority Whip, hon. Regina Ndambuki and hon. T. J. Kajwang'. They reported even earlier. They do not have cards and even you. All of you who are seated, are all your cards working?

Hon. Members: Yes.

(Loud consultations)

Hon. Speaker: Hon. Members, log out first. Have you done that?

Hon. Members: Yes.

Hon. Speaker: Hon. Members, you have 60 seconds to log in. Hon. Members, remember that those of you who are up here will not be allowed to go down until voting has ended. Vote now. *Hujamaliza?* No point of order during Division, please. There are others who do not have cards and others whose cards are not working. Hon. Mwanyoha has a card but it is not working so, are these others.

Hon. Members, can you resume your seats? Hon. Members, just resume your seats. Some of you are not even as hawk-eyed as I am. I will give you the names of those who have come in after voting ended and for avoidance of doubt, these are:-

- (1) Hon. Jimmy Angwenyi.
- (2) Hon. Joel Onyancha.
- (3) Hon. Benjamin Washiali.
- (4) Hon. Otsiula Boniface.

(Applause)

Hon. Members, I am not going to announce this particular result now until I get the printout, so that if there is a Member who has voted twice, they will be punished in accordance with our Standing Orders. This is because we must follow the rules to the letter. Let us get the printout. We must get the printout. Hon. Members, it is actually against the Standing Orders for the doors to have been opened for those Members to come in. The doors should not have been opened. These doors should remain in place just like the Bar.

Hon. Members, we are waiting for the printouts. This is because that is what is going to help us get the correct numbers of the people who voted, because of those who did not have cards and those whose cards were not working. If there is a Member who is recorded as having not had a card or had a card that was not working but is shown to have voted, that is voting twice and it is misconduct.

Just a minute! Hon. Nassir, you are unlikely to even educate me on this. Hon. Members, the reason I am saying this is so that once we get the printout, we will go

through it. That way, we will know who has voted how many times. We need to relax until we get this list.

Hon. Members, take your seats. I want to make the announcement that I do not think it is honourable for us to have the Serjeant-at-Arms standing to guard the Mace. It speaks volumes. I want to say from here that the Speaker is at liberty to invoke Standing Order No.1 and mete out any sentence available in the Standing Orders for any conduct that results in the defacing or dismemberment of the Mace.

Hon. Members, these are the results: Total number of Members present and voting - electronically, 110 Members and manually, 22 Members. That gives us a total of 132 Members who voted. Electronically, Ayes are 54 Members and manually, 9 Members. Noes, electronically, 56 Members and manually, 13 Members.

(Motion negated by 69 to 63 votes)

The Motion is, therefore, defeated.

(Applause)

Ayes: Bishop R. Mutua; Dr. Kibunguchy; Messrs Okoth, Ganya, Wakhungu; Ms. F.I. Ali; Mr. F. K. Wanyonyi; Ms. Ombaka; Messrs Mulu, Nyamweya, Muluvi, Oyugi; Ms. Keraa; Messrs Onyura, Kisoi; Ms. Khamisi; Messrs Outa, G.W. Omondi, Oyoo, Ogolla; Ms. Ibren; Eng. Gumbo; Mr. Maanzo; Dr. Nyongesa; Messrs Wangamati, Elmi, Ababu, Momanyi; Ms. Amolo; Prof. Nyikal; Messrs Otaalo, Makenga; Ms. Ghati, Ms. Nyamunga; Messrs Andayi, Mohamed Diriye, Arama, Kobado, S. S. Ahmed, Onyango, Ogari, Koyi, Ramadhani, Kasuti, Bosire, Wetang'ula, Mlolwa; Dr. Ottichilo; Ms. Kedogo; Mr. Nassir; Ms. Lay; Messrs Nuh, Nyenze; Ms. Katana, Ms. Muia; Messrs Odanga, Kajwang', Olum, Mwadeghu, Bady, Mwanyoha; Ms. Shakila Mohamed, Ms. Juma.

Noes: Mr. Katoo; Ms. Tuyu; Messrs Farah, Dido; Ms. Gathecha, Ms. B.N. Nyaga; Messrs Langat, Serem, Iringo, Nanok, Gikaria, Karithi, Wekesa, Lagat, J. K. Chege, Eric Keter; Ms. Mathenge, Ms. Kajuju; Messrs Nderitu, Konchella, Dukicha, Rop; Ms. Banticha; Messrs Murgor, Serut, Waiganjo, Limo, Manje, Kanini Kega, Murungi, H. K. Njuguna, Moi, Bitok, A. B. Duale, Aramat, Lomunokol, Mohamed Abdi, Ole Sakuda, Cheboi, Aburi, Njuki, Koinange, Rotino; Ms. Kanyua; Mr. Letimalo; Ms. R. N. Wanyonyi; Messrs Tonui, Bunyasi, Chumel, Karani; Dr. Munyaka; Messrs Cheptumo, Chanzu, Abdi, Cheruiyot; Ms. Munene; Mr. Sang; Ms. Leshoomo; Mr. Kimaru; Ms. Machira, Messrs Alfred Keter, J. K. Bett, J. K. Ng'ang'a, Ngunjiri; Ms. Mitaru, Ms. Kiptui; Mr. B.K. Bett; Ms. Sunjeev.

(Loud consultations)

Hon. Speaker: Hon. Members, order! I am informed by the Clerks-at-the Table that these results and the lists are verifiable at the Table by any doubting Thomas.

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(Loud consultations)

Hon. Speaker: Serjeant-at-arms, open the doors.

Hon. Nassir: On a point order, hon. Speaker. We are aware that our colleagues voted twice and it is very evident. We would like to know the names of those who voted twice.

Hon. Speaker: You are out of order. I have said that anybody doubting the results can check with the Clerks. It is not with me. We are not going to engage in a debate on a Motion that has been decided one way---

(Hon. S.S. Ahmed took away the Division List)

Hon. Speaker: Hon. S.S. Ahmed, you are carrying the list, are you not? Bring it back. It is not your property. Leave the list with the Clerks. Anybody who wants to check is at liberty to do so. There is no other copy. Bring it here.

(Hon. S.S. Ahmed returned the division list)

Hon. Members, you must be honourable. Check from here. Some of you are saying that you are anti-corruption crusaders, but if you can really behave like that---
Order, hon. Members!

(Loud consultations)

Hon. Members, take your seats. As I indicated, I will apply the Standing Orders extremely viciously with regard to issues of conduct in the House. I hope that hon. Members are aware, and this is important, that what you have transacted is a Motion like any other. Our rules are very clear. Now, so that we move forward in that knowledge, once the House has resolved a matter one way or another, it may not be re-introduced in the House in the same form until after six months are over. Those are our own Standing Orders. So, hon. Members be accordingly informed.

I am not going to entertain points of order on this. It must be something outside of this.

(Loud consultations)

Hon. Gikaria: Thank you, hon. Speaker. I want to bring to your attention the fact that hon. Okoth of Kibra crossed to this other side and collected two cards from--- Maybe it is now for him to return the cards where he got them, because there are Members who were here, and left their cards behind. That he went and plucked the cards from the places they were left is not acceptable. This is the kind of conduct that we are talking about.

Hon. Speaker: Very well. Let us not dwell on that, hon. Gikaria. Hon. Okoth, surrender the two cards, or whatever number of cards you picked, to the Clerks- at-

theTable. Some of you are saying that you are crusaders for human rights and anti-corruption! Just surrender the cards that you picked to the Clerks-at-the-Table.

(Hon. Okoth returned the cards)

Hon. Members, that business is over. That business happened through interruption by way of a point of order by Dr. James Nyikal at a point when hon. Katoo ole Metito was making his contribution. We resume business.

Yes, Hon. Katoo.

(Resumption of Debate on Bill)

Hon. Katoo: Thank you, hon. Speaker. Let me continue with seconding this Bill. If you look at Clause 158, it allows a candidate to participate in any procurement proceedings without discrimination. The only reservation that I have is the categories of persons included. It just talks of disadvantaged groups, micro and small enterprises, but there is need to specify the percentages and maybe this will come at the Committee of the whole House stage.

(Loud consultations)

Hon. Speaker: Order Members! We can hardly hear hon. Katoo. Those of you who are excited about one thing or another other, please, go and exercise your excitement elsewhere and not in the Chamber here, we can only transact serious business. Excessive laughter is also not good.

(Laughter)

Laughter is also not good, especially when it is very loud like that from hon. Jimmy Angwenyi. Please, laugh in a low voice.

Hon. Katoo: Thank you, hon. Speaker. Although in Clause 158 of the Bill there is a proposal for candidates to participate in procurement proceedings without any form of discrimination, there is also need to specify the percentages that should be allocated to those disadvantaged groups and marginalised women and youth. It should not be left open, or to the procurement entity to decide how much allocation should go to each group of candidates.

Still under that clause, it is very important that it be specified that there will be reservations for counties. Within the counties, there should also be reservations for sub-county units, namely constituencies, cities and urban areas in terms of procurement. We know that when we devolve procurements proceedings, there could be a lot of marginalisation within a county in terms of constituencies. The Bill specifies that there should be an allocation for sub-county units.

In the Government, commodities and services are a direct cost to the taxpayers. Therefore, procurement officials are obliged to obtain the best possible quality and price. This has been specified in the Bill.

Another important clause in the Bill is Clause 90, which provides for open tendering, which shall be preferred in terms of procurement methods for the procurement of goods, works and non-consultancy services. In Clause 91, there are several forms of tendering. For instance, there is direct procurement or direct tendering; this is where, in most cases, corruption comes in. It is important that when direct procurement is used as a method of procuring, all the firms from which the tenderers have sought goods and services should also form a good representation. There should be a wide sample of all the potential bidders in the market that is concerned. There should be no restrictions for administrative concerns. There should be enough reasons for using that form of tendering.

This Bill also tries to address overpricing in the market, especially in the public sector. When we are procuring, some people under-price and then they win a tender, then later on they engage in a lot of variations, saying that there have been some unforeseen expenses. Clause 44 tries to define the primary responsibilities of an Accounting Officer to be ensuring that public entities comply with the Act and try to stop any form of overpricing that may arise. That is why it was said that all procurement entities should remain within the approved budget and stop over-pricing. This is a way of siphoning the taxpayers' money.

You will remember that on 13th August last year, His Excellency the President, Hon. Uhuru Kenyatta, launched the Electronic Procurement and Payment System, with a call to all public servants to embrace transparency, accountability and prudent use of public resources to ensure that Kenyans receive quality services. This Bill is trying to emphasize that. We should stick to that and make Kenya a more attractive destination for investment.

The Bill is also going to encourage more local suppliers to increase their sales through Government contracts. When these contracting authorities are inviting bidders, they should ensure that recently established firms without previous experience in public contracts are not excluded from the invitation to tender. These firms should be helped to grow. They should be encouraged by allowing them to tender for small contracts initially and then, subject to satisfactory performance, they can progressively go to larger, or more complex, contracts.

If you look at Part I of the Bill, there are new important provisions. For example, new procuring entities have been introduced. The constitutional and independent offices have now been allowed to be procuring entities. The county governments that were not procuring entities before are now allowed to procure within counties. Diplomatic missions and pension funds for public entities are also now allowed to procure. That is a transformation which is very important.

In Part II, between Clauses 7 and 32, many national organs have been given some clear roles to avoid overlapping. For example, the roles of the National Treasury have been explained by the Mover. We have the roles of the Public Procurement and Oversight Authority, its advisory Board and the Public Procurement and Administrative Review Board clearly explained in the Bill. This will help when there will be complaints as one

will go to those bodies. The roles are so distinct, and include reviewing, operationalising, regulating, enforcing and monitoring procurement policies.

There is also the Public Procurement Oversight Authority Board, to which members are now going to be recruited competitively by the Public Service Commission through the proposed panel.

Again you have the National Treasury nominating eight members through professional bodies. I have talked about the importance of county government responsibilities. These bodies have been given powers to ensure that there is compliance to these procedures. The powers are set up in Clauses 34 to 43 of the Bill and they include investigation, inspection to see whether work is being done in accordance with specifications; regular assessment, review and audit as well as debarment. They are now allowed to do debarment for a minimum of three years to avoid briefcase contractors. It is also allowed in the Bill for parties to seek judicial review against any investigative or debarment order.

The issue of procurement of contracts is now defined in the Bill, under Clauses 135 to 155, where the Accounting Officer has been given the responsibility of preparing a contract line that awards and ensures that any complex or specialized contracts are first cleared by the Attorney-General. This is very important. You will remember the Anglo-Leasing and Goldenberg scams. I remember at some point the Attorney-General of the Republic of Kenya said that he was never involved in the withdrawing of those contracts. The Bill now makes it mandatory, specifically under Clause 135; that any public contract worth more than Kshs5 billion must be cleared by the Attorney-General first before anything is done. That is very important.

There is also the issue of preferences and reservation in the procurement, under Clauses 156 to 159. This is in accordance with Article 227(2) of the Constitution, where it gives preference to local contractors and local suppliers. It says very clearly that Kenyan firms should be given first preference in any procurement process. Even where goods are to be procured and not wholly or partially manufactured in Kenya, the Accounting Officer now shall give a report on evidence of inability to procure locally manufactured articles, materials and supplies; only mined in Kenya. Therefore that eligibility for preference is very much welcome.

Hon. Speaker, I want to end by saying that this is a move in the right direction, especially in ensuring that there is accountability and transparency in the management of public funds. This is an area which has been shrouded with a lot of secrecy. I would especially like to invite the relevant Committee and Members to look into what is called 'restricted tendering'; especially when it comes to people saying that a tender is restricted for security reasons. This House has the obligation of ensuring that 'restricted tenders' are clearly defined, so that some public officers do not take advantage of that excuse to unnecessarily get money out of taxpayers' pockets.

With those remarks, I beg to second.

(Question proposed)

Hon. Speaker: Just to alert the House, it will rise at 5.30 to discuss Motion for Adjournment moved by hon. Kipchoim.

Yes, hon. (Eng.) Gumbo.

Hon. (Eng.) Gumbo: Hon. Speaker, I want to thank you for giving me the opportunity to contribute to this important piece of legislation.

Public Procurement in Kenya today has in more ways than one become a labyrinth, a miss-miss which in more ways than one stands in the path of national development.

(Hon. Speaker left the Chair)

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

It is granted that Article 227 of our Constitution calls for fairness, equitability, transparency, competitiveness and cost-effectiveness in public procurement of goods and services. However, the qualities of fairness, equitability, transparency, competitiveness and cost-effectiveness must seek the optimal convergence between cost, quality and---

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Rarieda just hold on for a minute.

Member for Kipkelion East, what is out of order?

Hon. Limo: Thank you, hon. Temporary Deputy Speaker. I seek your indulgence given that the Public Procurement and Asset Disposal Bill is very. I wish to bring to your attention the fact that the relevant Committee has not looked at it and---

The Temporary Deputy Speaker (Hon. Kajwang'): Can you address me on what is out of order?

Hon. Limo: Hon. Temporary Deputy Speaker, there is no report from the relevant Committee on this Bill. Therefore, Members are not able to contribute to it in a detailed and effective manner from the point of view of the relevant Committee because it has not been looked at by the Committee.

The Temporary Deputy Speaker (Hon. Kajwang'): You may have a point but why do you not allow this Member to midwife his thought process, to be fair to him, so that he can debate and then after that you can say what you want to say?

Member for Rarieda, continue. Then after that, you can raise what you are talking about, hon. Limo. Could you give him the microphone?

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I was saying that much as Article 227 of our Constitution calls for fairness, equitability, transparency and cost-effectiveness in public procurement of goods and services, those qualities of fairness, equitability, transparency, competitiveness and cost-effectiveness must seek the optimal convergence between cost, quality and time. Time and again in our country, we have had cases where a procurement process was bogged down and it became a lengthy process lasting up to five years. You may achieve the aspect of quality and cost-effectiveness but whether it is goods or services that are to be procured, it is clear that there will be losses inherent to time if a procurement process takes so long.

Therefore, even as we debate this very important constitutional Bill with clear constitutional timelines, it is important that at all times focus is not lost. Much as we hope to have a fair, equitable, transparent, competitive and cost-effective procurement process,

that process must also be concluded within a time that makes it possible for us to transfer the use that is intended to the beneficiary. I have looked at this Bill in detail and I will just try to go through it quickly, because I am aware that at 5.30 we will have to adjourn to discuss a matter of national importance.

I am glad that looking at Clause 2 on interpretations, we have brought the aspect of citizen contractors. This is important. I am a person who has held and who believes strongly that the fact that you are a Kenyan, you must confer certain benefits when procurement of goods and service is being undertaken in Kenya.

Hon. Temporary Deputy Speaker, on page 3255 of the Bill, we have a definition of “consultancy services.” It is interesting that whereas in the Bill “consultancy services” is defined as predominantly of intellectual technical and advisory nature, I am concerned that definition is not in tandem with the realities in our country. Kenya has numerous professional bodies. You are a member of the Law Society of Kenya (LSK). I am a member of Association of Consulting Engineers of Kenya (ACEK), the Institution of Engineers of Kenya (IEK) and a registered consultant. These are professional bodies of repute. It also looks a bit contradictory that while this definition of “consultancy services” does not, *per se*, capture professional services, “professional bodies” and “professional services” is captured under the definition of “service.” So this is something that we will have to look at.

I have also looked at the definition of contract period. Those of us who have been engaged in contracts will tell you that sometimes there is a *lacuna* because what do you really envisage and pronounce as the contract period? Would it not be the period within which you start the procurement of the contract at the time at which it can be used by the intended beneficiary?

So when you say, for instance, that the contract period means the period between contract signing and the end of defects liability period, that itself possess a *lacuna* that also needs to be addressed at the Committee Stage.

The definition of “public procurement” on page 3257 is important because I have seen cases in my life as a professional where even private organisations insist on procuring their goods and services using public procurement procedures. Would that then be allowed if we were to go with this definition of “public procurement”? I think the definition of “procurement professional” on page 3258 is important. I do not want to name names; I do not want to disparage any college here but recently we saw what was happening with a college here in Nairobi which was claiming to be training professionals. It was basically a conveyor belt for sale; purchase; buying and selling of certificates. These days you go to offices particularly outside Nairobi and you get someone who clearly is not a trained procurement professional. So I think this definition really must guide the principle of this Bill so that we weed out quacks from the profession of procurement.

On page 3260 of the Bill, I have seen the definition for “registration of suppliers.” I am aware that in our country today, there are public entities which still continue to procure goods and services using lists of suppliers that they have in their rolls for over five years. That clearly is a violation. That clearly is an attempt to leave out other cadres of our society. The definition of “services” on the same page is a good one because clearly when you are talking about services, Kenya today--- A short while ago, I had the

privilege to attend a conference of engineers in Tanzania and I was pleasantly surprised as Member of Parliament. I was pleasantly surprised to learn that the total number of engineers in our country, Kenya, is more than twice the total number of engineers in Uganda, Tanzania, Rwanda and Burundi combined. Clearly, we have made major strides in developing our professional services and the professionals have a role to play.

The definition of “tender security” is important. We have many aspiring Kenyan business people especially the youth. Some of us standing in this House today started our professional outfits when we were still in our twenties but one of the major impediments was this insistence that for you to provide a tender security it had to be from a reputable bank. Where do you get the collateral? So it is very gratifying to note that in this definition we are now, at least, opening it up so that tender security will not just be confined to bank guarantee but you can also submit an insurance guarantee.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Member for Rarieda, it looks like you want to tackle a new idea.

Hon. (Eng.) Gumbo: Yes, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): I intend to interrupt you. Would that be right place now to anchor it and then you can take the balance of your minutes next time?

Hon. (Eng.) Gumbo: Yes, hon. Temporary Deputy Speaker. If you could just let me finish one last item on definition - it is just one - then I can finish.

The Temporary Deputy Speaker (Hon. Kajwang’): You do not have time and I was trying to see when I can interrupt you when you have just finished the idea that you were prosecuting.

Hon. (Eng.) Gumbo: No problem; I am much obliged.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Just resume your seat but you will have a balance of 15 minutes when the House next resumes.

Hon. (Eng.) Gumbo: How can it be 15? I have not even used five.

The Temporary Deputy Speaker (Hon. Kajwang’): Twenty minutes, I beg your pardon.

Hon. (Eng.) Gumbo: He is trying to rig out my time.

The Temporary Deputy Speaker (Hon. Kajwang’): Sorry. So 20 minutes when the matter is listed again and I presume tomorrow on the Order Paper but it also means that you must be in the House when it is first called.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, my attendance in the House speaks for itself.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, make sure you are there because then you will forfeit it if you are not on your feet as you are soon required.

Hon. (Eng.) Gumbo: Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Hon. Member for Kipkelion East, can I hear you now? Give him the microphone. Make it brief because I seem to understand what you are trying to prosecute.

Hon. Limo: Hon. Temporary Deputy Speaker, what I was trying to say is that there was a concern when we were discussing the Bill on the Public Audit. I am a Member of the Departmental Committee on Finance, Planning and Trade and that Bill came when it was already being transacted in this House. My feeling is that even if we

are not going to backtrack on what is happening now, we are setting a bad precedent that when a very important Bill is coming to the Floor of the House, the relevant Committee is not given time to look at it. It is not even in the agenda. So if we allow this to continue especially on the Bills which are constitutional in nature, we are going to lose out in terms of the relevant Committee not being able to talk to experts. We come up with a summary which is meant to guide hon. Members when they are contributing. We want them to contribute from an informed point of view.

The Temporary Deputy Speaker (Hon. Kajwang'): There being no report before the National Assembly, what is your preference?

Hon. Limo: Hon. Temporary Deputy Speaker, I was seeking your guidance. Hon. Temporary Deputy Speaker I would appreciate if in such a case you use your discretion. I have said that the relevant Committee has not looked at it. It is upon you to decide if we can put it off to a later date but on the hand we are really worried because most of the constitutional Bills should be---

The Temporary Deputy Speaker (Hon. Kajwang'): Okay; you have made the point. Can we now give direction?

Hon. Limo: I stand guided.

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, you have made the point. The point you are making is very valid. I have had that kind of problem when I have been on the Floor but the Standing Orders that you have--- Are you looking at your Standing Orders? Do you have a copy? Can you borrow from the colleague behind you? Do you have it?

If you choose to look at Standing Order No.127 (4), and without reading, it supposes that there should be before the Assembly reports within 20 calendar days. The words are:-

“...or if the committee’s report is not presented when it becomes due, the Bill shall be ordered to be read a Second Time---”.

Even though there is no report before the Assembly, the Bill will still be read a Second Time that notwithstanding. Paragraph (5) states:-

“If for any reason at the commencement of the Second Reading the report of the Committee has not been presented, the committee concerned---”

This particular one presupposes that the committee is seized of this function. If for some reason it is unable to give the report, then it should report progress to the House on how far we have reached and what we have done with it. It goes ahead to state that failure to present the report shall be noted by the Liaison Committee for necessary action.

So, the only action that is here before us is for Liaison Committee. This matter should be noted to the Liaison Committee for necessary action. However, speaking from the Chair, those are good words that should have been said when the leadership of both sides of the House was here. No Bill should be discussed in the Assembly without a report. That is the only way the hon. Members are able to interact with the proceedings and do what is called public consultations with Bills. It is the only way we can tell what other stakeholders are saying. It is a very serious point. However, the Standing Orders only give me the discretion to order that it be noted by the Liaison Committee which I so order. The Clerk of the National Assembly will then take it over with the clerk to the

Liaison Committee and show that this is a constitutional Bill that should not have come to us without a report. Thank you so much for raising it.

Hon. Members it is 5.30 p.m. and I am advised that there is an hon. Member who has a Motion. Member for Baringo, are you in the Chamber? What is the problem? Are you not Grace Kiptui?

Hon. (Ms.) Kiptui: Hon. Temporary Deputy Speaker, I am the County Women Representative for Baringo County.

The Temporary Deputy Speaker (Hon. Kajwang'): I see, and both of you are Grace. So, hon. Member for Baringo South, what is it that you have in mind?

MOTION FOR ADJOURNMENT UNDER S.O.33(1)

SECURITY SITUATION IN BARINGO COUNTY

Hon. (Ms.) Kipchoim: Pursuant to Standing Order No.33(1), I wish to seek leave to move Adjournment Motion for the purpose of discussing the deteriorating security situation in Baringo South Constituency, Baringo County.

Provision of security to each and every citizen is a key requirement for continued stability and sustainable economic prosperity of the nation. Indeed, Article 238(1) of the Constitution provides that national security entails protection against internal and external threats to Kenya's territorial integrity and sovereignty of the people, their rights, freedoms, property, peace, stability, prosperity and other national interests.

The Temporary Deputy Speaker (Hon. Kajwang'): Hold on. You should have stopped at your first full stop so that you get leave to enable you move the Adjournment Motion. However, leave is hereby granted.

The (Ms.) Kipchoim: Hon. Temporary Deputy Speaker, since 2005, Mukutani Ward in Baringo South Constituency has been under attack by bandits. It is deeply concerning that since the beginning of this year;2015, over 11 primary schools have not yet been opened. Several schools are being vandalized and houses are being burnt down. In addition, one secondary school and 30 nursery schools have been closed indefinitely. A total of 72 people have been killed, 52 injured and over 25,000 people rendered homeless. Also, over 14,000 goats and about 8,000 cattle have been stolen. In the past two weeks innocent residents have been robbed and killed in cold blood. Furthermore, looting and destruction of property goes on in broad daylight.

I, therefore, seek adjournment of the House to urge the Government to move with speed to restore peace and order by dealing with the menace of the bandits causing unrest in Mukutani and Mochongoi divisions.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member for Baringo South you have done a good job and you can now resume your seat. This is a Motion that does not require seconding. Every Member who is going to speak should only do so for five minutes and at the end of the day no Question is put.

Hon. Member for Laikipia West, the Floor is yours.

Hon. Karani: Thank you, hon. Temporary Deputy Speaker.

I would also want to add my voice to this very important Motion because of the situation in my constituency. I neighbour hon. Kipchoim's Constituency because Laikipia West borders Baringo South. As you may remember, there was that ugly incident in Kapedo and the police went there to restore order. The people who were affected decided to run away from that area and sought refuge in my constituency. We welcomed them as we always do, but as for now the situation has gone out of hand. It is two weeks now since I invited the security committee from Senate to visit the place and assess the situation. While the Committee, including hon. Senator Haji, were at a place called Kamwenje, those bandits fired some shots in the air to register their presence and to show that they did not care. Last night about 107 goats were stolen and escorted towards the Baringo area. We sent a security team from our county and on their way, so many armed people from that area accosted them and so they had to run away back to our place. The situation is very bad.

I join in the sentiments of hon. Kipchoim. The schools in my constituency started closing today and the situation is terrible. We are calling upon the Government to use all the machinery available to restore order in the area. We want those pastoralists who do not own any land in our area to be driven back to their places because our hospitality has been overstretched to the limit and we are not ready anymore. If the Government wants to be fair to us like they are always fair to everybody else in the country, we want them to expel those herdsmen who do not own any land in our area. We are not worried as leaders from Laikipia. In fact, we are ready to be handcuffed like our counterparts in Narok as we fight for our people.

I support.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member for Vihiga, the Floor is yours.

Hon. Chanzu: Thank you, hon. Temporary Deputy Speaker. I also want to support this Motion of Adjournment and sympathize with my sister and my brother on this issue of insecurity. This is a problem not only in these two areas, but in almost all parts of the country. If you listen to the news or read the dailies – of course, we do not have coverage in all the parts of the country - I think it is unfortunate that even after many years of Independence--- We saw what happened to our colleague here in the capital city.

It is a big shame. There is a time in this city when the Government had started deploying some aircraft to monitor what was happening around. However, I do not know what happened. That is what we need to do because criminals are getting more sophisticated every day. When they do something and they are apprehended, they go and-- It is their profession. So, they are getting more sophisticated every now and then. The Government now needs to get sophisticated. We must spend money on this. In this Parliament, a number of times we have talked of putting a lot of money on some of the invisible items like intelligence and so on. However, I do not know whether this works because some of the crimes happen and we are just talking about postmortem when it has happened. For instance, it was yesterday when somebody was addressing the issue of the former Member of Parliament who was murdered in Syokimau.

Every time something happens, the Government says they are going to apprehend those who have committed the offence. They say that yet people have already died. We should be proactive. The Committees dealing with security in this Parliament need to devise some method to advise the Cabinet Secretary. The Cabinet Secretary alone as an entity may not have as much information as all these Members put together. So, there should be an open session like when we normally have a *Kamukunji*, but a lengthy one where Members can make suggestions. Locally, Members understand the situation and the root causes of these problems. However, somebody else appointed like a Cabinet Secretary does not know the area and he may not have a solution to these problems. We require sophisticated equipment and surveillance in these places. It is interesting that once an incident happens, everybody forgets about it. Even in our own villages, we forget and then we are ambushed like what *Mheshimiwa* is talking about. So, the Committees on security must work very closely with the Ministry.

Now that we are approaching the issue of coming up with budgets, we need to propose equipment which can do this not in a reactive way but proactively before these kinds of calamities befall people. I remember there was a time when massacres happened in Bungoma. When we were talking about the events in Bungoma, they had shifted to a place in Busia. From there you hear they have now shifted to the Coast, Kapedo and other areas. So, the Government must be proactive in all these matters. That is why one of the main reasons why the Government is elected is to take care of the security of the *wananchi*.

I support. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Igembe Central.

Hon. Iringo: Thank you, hon. Temporary Deputy Speaker. Let me thank my colleague for bringing this Adjournment Motion after experiencing insecurity in her constituency. However, this is a national problem. It is all over. A lot of concerted efforts should be made by the security forces and all concerned to curb this menace. I find it a double-edged problem where security forces may have got their lapses and they are not doing what is supposed to be done and also we have got age-old cultures within our communities or some members of the Kenyan population who believe that cattle rustling is a way of life. Unless there is a lot of effort to remove this culture from these people, it is becoming a big problem. For instance, in my constituency which borders Isiolo and Samburu counties, we are losing animals and human beings every day and night because of cattle rustling. They usually come for these animals at a certain time of the year, especially in December when they have some rituals and ceremonies in their places. So, we are prepared every end of the year for people to come for our animals. Until now they say that Meru is the ATM where they pick animals from. It is quite unfair.

We also have a problem with our security forces, especially the police. For example, we are yet to recruit the lot which was supposed to be recruited the other time. There is a shortfall of over 10,000 police officers. The recruitment may be due again. So, we are talking of another 10,000. The security personnel who are supposed to be doing this job are also inadequate.

Secondly, the security forces themselves and the Cabinet Secretary for Interior and Coordination of National Government, who was one of us in this House, should

deploy soldiers or officers giving priority to where these incidents occur. You may find a roadblock on a highway with 10 to 20 police officers and yet people's cows are stolen, houses are robbed and other crimes are happening here and there. You find 10 or 20 police officers manning a roadblock, five sitting on this side of the road and five on the other side. You find 10 banks in close proximity to each other and each has got two to three officers whereas they can use four officers to guard all those banks. I feel we misallocate the human resource which we have in the police.

This problem of insecurity has even affected the education of our children and jobs of some breadwinners like teachers. The North Eastern children are not learning because their teachers are in the streets making noise because of the same insecurity. It is high time the forces or the powers that be, including our own committees in Parliament, sat down and put their feet together.

Every other day the Government is sending vehicles to the police officers and Deputy County Commissioners. However, you find those vehicles parked at the station because they have no fuel. I wonder why you would give a vehicle and you do not give fuel. For example, today the Officer Commanding Police Division (OCPD) in my constituency called requesting me to give him some Kshs10,000 to fuel his Land Cruiser so that he can take these criminals to court or visit a certain crime scene. So, why do you give a vehicle without fuel? These things could be prioritised so that once you give a vehicle it is put into proper use. Let us redeploy our personnel correctly. Let us give the resources required for the police officers. Let us recruit more police officers. Let the *NyumbaKumi* initiative be implemented. Let all the leaders come together on this matter.

I support.

The Temporary Deputy Speaker (Hon. Kajwang'): You know we have to struggle with this issue of how Members leave their cards in the Chamber. You hold the queue for other Members who are willing to contribute. It is something which we need to find out how to deal with. The presidium will deal with this issue.

(Hon. (Ms.) Kiptui stood up in her place)

Why are you excited, hon. Member for Pokot? You are actually on your feet. Why are you on your feet? You want to answer me? I do not expect an answer from you now except then that the presidium will take an action on this. Hon. Member for Baringo.

Hon. (Ms.) Kiptui: Thank you, hon. Temporary Deputy Speaker for this opportunity. I am the Member for Baringo County where this problem that my sister has sought an adjournment for is rampant. We have had this problem for a very long time and we do not see a solution in sight. In fact, the latest attack was yesterday where bandits descended on an area called Dam in Arabal area and others were busy in a place called Lamaiwe in Mochongoi.

Right now, our people are feeling hopeless and impunity is running amok in the county. They do not see the security forces reacting or if they do, they do so in the morning. The bandits have discovered that the security forces do not come at night and so, they attack at night. I would like to advise the security forces of this country to understand the tactics of the bandits if they really want to sort out the problem.

Since the beginning of the year, we have buried very many people. Every so often, we are called to raise money to bury people killed in bandit attacks. Our people are very insecure and cannot concentrate in their daily economic activities. They are running away and the children are not in school. People in the lowlands are pastoralists while the ones in the highlands are farmers and when they mix, there is a lot of disharmony in the area. This displacement is a problem for them because they lack food, clothing and shelter.

This issue must be dealt with once and for all. Even as we talk, the security forces should be deployed to go and quell the banditry that is going on, so that these people can live in peace. I went to the office of the Cabinet Secretary, but he is out of the country. The Acting Inspector General should address this issue now, even before the night fall because people are saying that they may be attacked at night.

The Temporary Deputy Speaker (Hon. Kajwang'): You know Members, one of the things that amaze me with a Motion such as this is that we are just going round lamenting. Is it possible that we could now give solutions; putting teeth in the matter? If it is the Chairman of the Administration and National Security Committee, why can you not address him with some definite issues that he can take up with his Committee, so that the people you are addressing in the Government out there, we as a National Assembly are able to arrest and get them to work? But if you are going to lament, add data and issues, after we have done all that, where are we now?

I will invite the next speakers, but please say things that will make us as a National Assembly really work on these fellows that are not doing their job out there. Member for Chuka/Igambang'ombe.

Hon. Njuki: Thank you, hon. Temporary Deputy Speaker for this opportunity to speak on the insecurity issue. Insecurity does not only affect the cattle rustling areas, but it is everywhere in this country. Although there is no country in the world that we can say is safe, there are parts of the world where the security of citizens is usually taken very seriously.

I have not had the privilege to live in a cattle rustling area although I have neighbours like the people of Igembe North who have that problem. From what I hear, this is normally a cultural problem which was used to train morans to tease each other even during marriages. One of the easiest ways of sorting this problem - because it is not possible to get one policeman per village or one policeman per citizen - is by the community itself outlawing it. I come from a community which has a very strong government called the *NjuriNcheke* and I am very sure if this was happening in my place, the *NjuriNcheke* would sit down and solve the problem. However much as the Government we try to stamp it out and we do not get the political will from the politicians and the community itself, it may be a bit difficult. I may not completely dwell and indulge in this issue without getting into trouble with my friends who understand it better, but I think there is serious need to change that culture and the attitude of the people. Already, this practice is outlawed in our laws. Cattle rustling, that is an excuse to kill, maim and steal property should not be allowed. It should be criminalised and they should do the same as a community.

Having said that, insecurity that we find in other parts of the country, where we do not have excuses like cattle rustling, could be brought about by laxity by the security forces. They may be feeling that the Government has put in place all the necessary

measures to curb this. We have insecurity deep in the villages where villagers turn against each other and brothers and sisters turn against each other. These are some of the things that, as a country, we need to address.

We have a new Cabinet Secretary and people seem to be feeling that the problem of insecurity will be solved all of a sudden just because we have a new Cabinet Secretary. It is important for us to implement the *NyumbaKumi* initiative, which apparently seems to be fading away. If in every village we have people who know the criminals in the village, it will be very easy for the people to police themselves. I have been to areas in this country where the *NyumbaKumi* initiative is seen as an agent of the Government and those people---

The Temporary Deputy Speaker (Hon. Kajwang’): Sorry, you are talking about the *NyumbaKumi* initiative. Is it a policy of the Government, which has been codified by a Sessional Paper?

Hon. Njuki: Yes, it is a policy of the Government being implemented by the former Provincial Administration. It is there. It is right in the village.

The Temporary Deputy Speaker (Hon. Kajwang’): In a Sessional Paper? Is there a Sessional Paper on that policy?

Hon. Njuki: Hon. Temporary Deputy Speaker, it is in place. I am very surprised that you have never heard of *NyumbiKumi* initiative. It is there.

The Temporary Deputy Speaker (Hon. Kajwang’): Well, I am talking to you from the National Assembly. I am not talking to you outside there. That is why I am asking if there is a Sessional Paper on the *NyumbaKumi* initiative in this House.

Hon. Njuki: Hon. Temporary Deputy Speaker, there may be no Sessional Paper on this and there may be no Sessional Paper when we talk about cultural issues where we say a community can use its own local government like the *NjuriNcheke* to sort out cultural problems like cattle rustling. The *NyumbaKumi* initiative has been in place and whether it is accepted widely or not, it is in place and I feel that it is one of the things that can sort out this problem.

I can see that my time is running out, but I believe that the solution to the problem of insecurity is with us and it is possible for us to tackle it head on, if only we try to have a local solution.

The Temporary Deputy Speaker (Hon. Kajwang’): Let me change to the Member for Tiaty, the Chairman of the Committee on Administration and National Security. I am sure he has more information on this. Let us hear him out.

Hon. Abongotum: Thank you, hon. Temporary Deputy Speaker. I join hon. Members in supporting that there is rampant insecurity in the part that was mentioned by the Member and the neighbouring areas. I have issues with my friend, hon. Emanikor; issues in Turkwel and all over the place.

Hon. Temporary Deputy Speaker, we recently met with the new Cabinet Secretary and gave him a litany of those issues that are affecting the pastoralists. We recommended that for this problem to end once and for all, we need to disarm pastoralists comprehensively and simultaneously. We need to have a special budget to ensure that all illegal gun holders in the cattle rustling-prone areas are disarmed. You do not disarm one community; all of them should be disarmed. A special budget will take care of that issue. If *wananchi* are allowed to own guns, then we are headed in the wrong direction.

Secondly, I remember the Cabinet Secretary indicating that he was planning to actually register all the illegal firearms, so that they can be monitored and tracked. Number one is disarmament. Number two; we want deployment of the Rapid Deployment Unit officers from the Administration Police (APs). They look more efficient. They should be deployed in that particular area. We also want a team of Anti-Stock Theft Unit officers, headed by capable officers, deployed in that specific area.

Hon. Temporary Deputy Speaker, because of drought, pastoralists at the moment are roaming all over the place without due consideration to matters of jurisdiction and without respecting traditional boundaries. They have that habit. So, the chiefs must also be told that their people must actually stick to their boundaries because by extending them, they are going to cause a lot of problems.

We want to implement the resolution of Bomas One because we had quite a number of resolutions. We also want the police to be assisted by the Kenya Police Reservists, previously referred to as “home guards”. The home guards can really supplement the work of the police. We have seen in other places where they have home guards; at least, there is some semblance of peace and security. I recommend the deployment of Kenya Police Reservists in area where we do not have them, like Tiaty so that they can supplement the work of the police.

Hon. Temporary Deputy Speaker, we need to open up Suguta Valley. Quite a number of the pastoralists are from the Suguta corridor. The Government is in the process of opening it. There is that policy being conceptualised but we need to open up that area. We have discussed with the Cabinet Secretary but we want it in action so that the area can be open and the Government will be in a position to deal with those crooks.

The issue of *NyumbaKumi* is a good idea. It will replace the community policing that used to be there, which seems to be irrelevant these days. It does not work. So, we want to support the *NyumbaKumi* initiative. I am sure that if it is supported, it will make a lot of difference.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Chair of the Committee on Administration and National Security, with a lot of respect, a policy does not become a policy until you have come and laid it before the National Assembly so that it is a national policy. You do not go to a stadium and say that there is this policy and expect it to be a policy. So, why is it not possible for that side of the Government to lay it before the Assembly, so that it becomes a public policy that can be enforced? Give him the microphone.

Hon. Abongotum: Hon. Temporary Deputy Speaker, the policy is at the level of being conceptualised. The structures are being put in place by a Committee headed by a very able former Provincial Commissioner, Mr. Kaguthi. I am sure when the structures are in place, it will be brought to this House for approval. However, I am sure that it is working in some way.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): As soon as the Committee Chair mentioned ‘disarmament’, I saw a lot of interventions on my screen. Instead of those interventions, why do you not just wait to contribute? If you may have not liked

what he said or if you have a different opinion, just debate. You do not have to go on record by way of point of order.

Member for Mukururweni, the Floor is yours.

Hon. KabandowaKabando: Thank you, hon. Temporary Deputy Speaker.

The question of security has repeatedly come to the Floor of the House and indeed has engaged the Executive and Parliament very much exhaustively. Therefore, your query that we need to be very deliberate in putting programmes that will make sure that we intervene to bring some change so that, as we ventilate, we have comprehensive programmes on the ground, is exactly what many people would ask. Among many issues, as it has been suggested, the question of attitude also needs to be addressed. Cattle rustling is also a generational issue; it is like a rite of passage. It happened in the old days. It happened 30 years ago. It is happening today. Therefore, it is like a vicious cycle. Children are bequeathed with the culture of rustling and attacking neighbours for an award, including marking of the bodies of those who engage in the annihilation of other ethnic groups or sub-tribes.

The National Youth Service (NYS) would play a very critical role. A specific budget should be segmented for those marginal parts of the country so that the NYS can go to the field and marshal activities that will engage the youth in programmes that will change or drastically and radically alter their attitudes. As that is being done, there should be utilisation of the county and Constituencies Development Fund (CDF), specifically in the sub-sector of education and more particularly in bursaries, so that the young males can be rehabilitated at the tender age of 13 or 14 by being contained in boarding secondary schools. That way, there can be collaboration between the Ministry of Education, Science and Technology and the Ministry of Devolution and Planning through the NYS so that education empowerment, youth rehabilitation and cultural attitudinal change can be internalised comprehensively. That would mean a major shift from the way things are being done. Otherwise, sending policemen is okay. It is required and should be very urgent but we should internalise that matter so that we captivate these people to nationhood and patriotism and decapitate their reliance on quick income generating activities like rustling, which is illicit and not different from thuggery and other forms of crime, including drug abuse. That is why the Ministry of Education, Science and Technology headquarters at Jogoo House should have this programme going forward, particularly on fees; so that we address the marginal areas. The little money available through the CDF and county government funds should assist in those areas. Otherwise with the way things are happening, we will still find alienation of a greater generation in those areas because of the stagnation and inertia at Jogoo House.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, Member for Kacheliba.

Hon. Lomunokol: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity.

This is a matter of national importance. As you are aware, security overrides all other human needs. Going by Abraham Maslow's hierarchy of needs theory, security is very important. You can afford to miss other things but you must be secure. A lot of Motions for Adjournment have been raised in this House. I am sure that many of the deliberations we have made are gathering dust on shelves in our government offices,

simply because this Government does not take the issue of insecurity in pastoral areas very serious.

In fact, there is this notion that it is normal for pastoralists to fight. Hon. Temporary Deputy Speaker, we are aware that the state of insecurity is wanting in the whole country. We have witnessed our own members losing lives. People tend to react a bit when people fight or when people are killed in urban areas. However, I am sure that we also lose our people in pastoralist areas every day and especially in Kacheliba where I come from.

We have so many good reasons that if implemented can make the Government stop this problem. That includes recommendations by scholars and even borrowing from what other countries have done.

I would recommend a disarmament process that is not discriminative and targeting a particular community. This is because the entire country is not secure now and guns are all over. We must wake up to the reality that we need to secure our people.

This issue is not isolated to Baringo alone. It is happening in other places. I would also say that it would be prudent if our Government sets aside rangelands for grazing and have security agents accompany pastoralists when they have to move to a particular place for grazing. Kenya Police Reservists (KPRs) must be stationed in specific kraals to be able to watch on criminals who are out to confuse or cause mayhem to communities.

We are in one country and the issue of not living together is not possible. We must coexist because Kenya is ours and we must encourage communities to live together and also fight these criminals in isolation. We must not condemn entire tribes or try to tribalise this issue because you are aware that other than cattle rustling, we have other forms of conflicts all over.

Hon. Temporary Deputy Speaker, I neighbour Uganda which has succeeded despite the fact that it is a very poor country. That is because of the spirit and the attitude that the Government has. It has successfully disarmed and made its people realise sustained peace.

It is unfortunate that every time such an issue occurs we try to brand tribes. We have perceptions which need to be changed. These perceptions cannot help us because as I speak to you today, many Kenyans have changed. We are only left with very few ignorant criminals who we will be able to defeat if we join our efforts. They are just criminals like *Al Shabaab* who we need concerted efforts to fight.

Hon. Temporary Deputy Speaker, the approaches we have had before like the reactive kinds of disarmaments are not helpful. We need to engage communities in providing solutions because there are homegrown solutions which can be permanent. This will be the case if we borrow from the communities or decide to work together with them.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Kajwang): Member for Turkana East, even as you rise, go back to what I have said. If you are going to lament, and we are unable to implement, then we are not executing our roles as the National Assembly.

We need to use effective tools. One of those tools which I can advise and you are free to take the advice or notis to bring a Petition which will land in that Committee which will in turn investigate that issue and make specific recommendations which must

be acted on by the Government. If the Government does act on them, then we have an Implementation Committee which will make sure that those civil servants are brought to book.

We have a lot of good ideas but now even the TV has been switched off and they are not listening. They do not even know what we are doing here. I do not know whether we are going to photocopy the HANSARD and send to them so that they see what we said here. We are just lamenting amongst ourselves and we know what to do but there is no way we are going to give it out there.

So, hon. Members, let us go in the direction that helps us out there. Yes, Member for Turkana East.

Hon. Ngikor: Thank you, hon. Temporary Deputy Speaker for giving me this chance to make a contribution on this Adjournment Motion.

We are not blaming anybody. However, the issue of security has been spoken inside this House, outside there and nothing is coming out. I support what you are saying 100 per cent because we need to come up with a way forward on how we can address this issue. When we talk of the good news of the new Cabinet Secretary as everybody is mentioning, we need to understand that the Cabinet Secretary cannot do this work alone. If the Government was wise enough, after removing the former Cabinet Secretary, the whole system and structure of security including the Committee on Security that we have in Parliament should have been changed so that a new system would be in place to address this issue. Now, the Cabinet Secretary alone cannot go far with this work. We are going to continue talking about this every now and then and nothing will be gotten out of it.

The other issue is that of deployment of security forces in areas which most of us have already told the Government where to put these officers. Like in my area where I border hon. Kamama, we have told the Government where to place the security people yet nobody has done it. The other way to address this issue is to have officers where those bandits pass through.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Turkana East, those areas are not there. Do not be suggesting by gesticulation that those areas are somewhere so that you make the Members comfortable.

Hon. Ngikor: Thank you, hon. Temporary Deputy Speaker. The other issue is that of the vehicles which the Jubilee Government is bragging about every now and then. They are saying that they have given vehicles to the police. Those vehicles are there but vehicles without fuel are useless. They are just packed there at the police stations doing nothing.

On the issue of fuel, they have decided that those vehicles can be fuelled using cards. In places like Turkana East where there is no petrol station, the officers drive 230 kilometres to Lokichoggio or Kitale which is 400 kilometres from Lokori to go and just fill the tank and not even carry a spare drum. So, it is always a trip of going to fill the tank and coming back. Are we addressing the issue of security or just of that officer going to Kitale and coming back? The Government will have to address the issue of fuel so that it can be bought there and not having vehicles travelling all those kilometres.

The other recommendation I can give is taking affirmative action in development of those areas. People of areas like Tiaty which I sympathise a lot with have no schools,

hospitals or even a church to give spiritual nourishment to communities there. We need to give affirmative action to those areas.

Remember my time was taken by the Temporary Deputy Speaker himself when he was trying to direct me. There is need to give affirmative development action to those areas where people are doing those bad activities so that they can engage in development and leave the bad things they are doing around there.

The other issue is that one of opening the Suguta Valley which borders Baringo, Turkana and Samburu counties. If we can open that area of Suguta, this issue of bandits along that area will be a gone case because that is their hideout area. So, we need to open up that area.

The other issue is that when we talk of the leadership where we need to think about what we are---

The Temporary Deputy Speaker (Hon. Kajwang'): All right. Thank you. That was all the time we have. Now that I have listened to Member from Turkana East, I must listen to a Member from Pokot South.

Hon. Losiakou: Thank you, hon. Temporary Deputy Speaker. To begin with, I do not know why you are the one on the Chair when this issue of security particularly in our region comes in. I think you are a blessing to us.

Allow me to say this: It is true what Members are saying and we have said this on a number of occasions. I would like to pinpoint the issue in Baringo specifically. The context is that there are two communities living in Baringo. These are the Pokot community in Tiaty and the Tugen on the other side of Baringo. As much as we also look at laxity in our security forces and the issue of lack of fuel, that is not the problem; Leaders are the problem. I want to ask leaders to take responsibility for what they are saying. Leaders must be responsible in what they are saying. This is because when Moi was the President of this country, there was peace in Baringo for all the 24 years. So, what has happened? I want to urge my colleagues to change how we talk to the people. Let every Member of the Baringo community feel that they are Members of the county. These people are living together and they must live together. When leaders try to isolate one community, it is not proper. I am advising that in as much as we are looking for security agents, let us look at ourselves. Whatever is being said by leaders is not helping. That is the truth. If you look at some people in Baringo, certain communities are feeling that they are not even part of the county. They are even suggesting that should there be a review, they will move to another county.

Those are the salient and very important things that we need to address. A policeman cannot address that issue, it is the leadership. So, I am urging my colleagues, the elected Members of Parliament and leaders of both communities, let us speak in one voice and be honest to each other. Let us not isolate communities.

Secondly, the issue of isolating a community like one Member earlier said is bad. There was a problem in Kapedo of which we know. Communities moved from Kapedo because of drought. How do you demarcate? How can you allow your cows to die when there is no grass there? Those cows will move whether you like it or not. They will even go to look for grass. I am saying this because we have to be realistic. This is our country. I am suggesting that the leadership, including chiefs and the Deputy County Commissioners (DCCs) work out a strategy that ensures communities talk. I will give an

example. Why are Pokots who are living along the Uganda-Kenya border not complaining? It is because there is a very good structure of talking in that sense.

Finally, we have recommended to the Government and we are waiting to create a special Ministry to take care of interests of all these pastoral communities so that there is interaction. Between Pokot and Turkana, there is a vacuum in terms of no-man's land and we have suggested to have communities criss-crossing the borders. Let us make roads to allow communities to work together. The idea of isolating communities will not work in this country. Let us unite our people. Let us not bring supremacy in between. It will not help our communities. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): All right, I have five minutes to go. In my wisdom or lack of it, I want to ask the Member for Baringo Central to speak. However, as you speak, please, do so also on behalf of the Member who has brought this Motion. This is because I suspect that you can easily identify with the issues that she wants to bring across.

Hon. Mwaita: Thank you, hon. Speaker for giving me the opportunity to contribute ---

The Temporary Deputy Speaker (Hon. Kajwang'): The reason I have asked this Member to speak is because looking at the Motion hon. Members---

Hon. Mwaita: Hon. Temporary Deputy Speaker---

The Temporary Deputy Speaker (Hon. Kajwang'): Hold on. Let me justify something so that Members are comfortable. Looking at this Motion, the facts we are dealing with are largely in Baringo area. The Member himself is from Baringo South. So, when I see a Member from Baringo Central rising to speak, I am tempted to allow him to speak. Proceed.

Hon. Mwaita: Thank you, hon. Temporary Deputy Speaker. In my time, I want to donate two minutes to hon. Sambili.

The Temporary Deputy Speaker (Hon. Kajwang'): No, do not donate. Just speak.

Hon. Mwaita: Okay. Thank you, hon. Temporary Deputy Speaker. First, I thank the Mover of the Motion because the issue at hand, which is cattle rustling, has become a serious menace in Baringo County. Indeed, in the whole of North Rift, it has become a national disaster. Maybe, before I proceed and mention two things, I want to clarify and correct my friend, the immediate speaker, who said that in Baringo County, there are two communities; that is wrong. In Baringo County, we have the Tugens, Njemps which is a Maa speaking community, the Turkana and the Pokot. So, it is not correct when he says that there are two communities. He needs to be corrected. He comes from West Pokot County. He should not speak for Baringo County; rather he should speak for West Pokot.

Secondly, I have said that cattlerustling has become a national disaster. I recall in the last Parliament, there was a special select committee which went round this country collecting views and reports were given. We have raised the matter as leaders from Baringo County to the new Cabinet Secretary for Interior and Coordination of the National Government, hon. Nkaissery. We have even done a write up and we are expecting him to implement this in order to bring this menace to a close.

Hon. Temporary Deputy Speaker, I will not waste a lot of time talking about the effects of cattle rustling. As the Mover had said, 15 schools have been closed. Yesterday,

schools were vandalised. I recall one case of Arabal Primary School which was vandalised yesterday by the same bandits and robbers who take our animals. They removed iron sheets and desks and burnt them. They also burnt houses. Well, over 25,000 people within Baringo South which used to be my constituency in the last term have been displaced. These are Internally Displaced Persons (IDPs) who should be compensated by the Government the way they are compensating the post-election violence IDPs. These issues have been raised to the Government and we expect action. We expect it to be implemented.

Thirdly, it is the question of lives lost. Hundreds of lives have been lost from 2005 up to and including January, 2015. I recall that on 5th January, 2015, I lost a cousin who was a watchman guarding Arabal Primary School. He was gunned down brutally in the afternoon while he was guarding a school into which Government money was put.

Fourthly is to give the way forward. I want to support what other leaders have said about the question of police reservists. As a matter of urgency, let the Government implement and recruit police reservists who have been proposed in Baringo, Tiaty, Baringo North and Baringo South counties immediately in order to address this.

Fifthly is the question of operation. I know Operation Kenya Defence Forces (KDF) are in Kapedo, but they are not doing much. We would want the operation to mop out all those illegal occupants particularly the aggressors who have moved in and displaced the 25,000 people we were talking about in Baringo South. They should move to their area. Even if they are looking for pasture, there are better ways of looking for pasture. You do not shoot the owners of the land, burn their houses, close schools and kill people in order to get pasture. This is not the way to go in the 21st Century.

Finally, it is the question of affirmative development. Let the Government implement affirmative development in the areas within Baringo County. It should open security roads and boarding schools. It should also put the Equalisation Fund to use so that some of those areas can be opened so that these fellows who are going around stealing cows can be confined in schools and be taught. There is also the question of religion. They can also see the light, be saved and stop killing people.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Alright, this Motion was brought as a matter of national importance. When such Motions are brought, we are concerned that the National Assembly should express itself.

I am seeing a lot of interest that Members have to debate this issue. Therefore, I will use discretion out of Standing Order No.1 as read together with Standing Order No.30. I will extend the House for only six minutes. We will have two speakers from each side taking only two minutes and we will start with the hon. Member for Kwanza. Take exactly two minutes.

Hon. F. K. Wanyonyi: Hon. Temporary Deputy Speaker, I want to thank you for giving me that time. First of all, I want to brief this House that I come from an area where we have had these problems. My solution to this is that there should be cross-border discussions among the leadership. We have done that in Trans Nzoia and West Pokot. We have had that in the past. Hon. Moroto is here to confirm it. We have had regular meetings. Therefore, I am suggesting that for us to have this behind us, let us have the elected leaders and religious leaders meeting regularly to be able to iron out these

problems. This will enable us to move out and I think that is the solution. We had that problem in West Pokot and Trans Nzoia and today we have no problem at all. In fact, our children are intermarrying.

Secondly, I also want to suggest that the programme on disarmament as suggested by the Chairman should be the first thing to be done. However, as you do the disarmament, there should also be surveillance within our borders of Somalia and Ethiopia. This is because the moment you disarm the community, there is still some proliferation of small arms from neighbouring countries. Therefore, the programme should be in such a way that there is surveillance at the border.

Thirdly, we should be able to have these schools opened. If possible the Kenya Police Reservists (KPRs) should be posted there. This House passed a Motion for the KPRs to be paid. They are the only ones who are best known to be able to help in the area. I suggest that because the provision is there, the Ministry in charge of internal security should be able to----

The Temporary Deputy Speaker (Hon. Kajwang’): Let us have the Member for Alego Usonga. Take two minutes.

Hon. G. W. Omondi: Thank you. I was a little bit worried when the security problem was being given to the people who are---

The Temporary Deputy Speaker (Hon. Kajwang’): Use your two minutes wisely.

Hon. G. W. Omondi: Yes. I am using them wisely. The problem with security in this country does not just affect the people who are directly involved. In our projection for our economy we are factoring in insecurity and it is chasing away foreign investors and actually frustrating local investors. When insecurity occurs in some areas, it receives adverse media coverage hence causing foreign and local investors to say that, that is a no go area.

So, it is high time this thing is looked at in details. The people concerned who are police officers and security men should be vigilant. We need to know what is going on. I do not think we need to pass laws here to change them. It is laxity that is within our security forces.

I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Over to the other side, let us have the hon. Member for Kapenguria.

Hon. Chumel: Thank you for also giving me this opportunity to air my voice on what is happening.

First, I want to thank you and the people of Homa Bay for what you did. Mr. *Mapambano* was my friend. I am happy because of where the seat went. In Kapenguria, we also celebrated. You have heard what my colleague from Trans Nzoia said. For a long time, we had a big problem in that area which was caused by politicians. When he and I came in, things are now changing in that area. Although we have issues here and there we always suppress them. In December, a Pokot was gunned down. He was riding on a motorbike. After a day, a Luhya was gunned down. We came together and made sure that nothing went beyond us. Our people listened to us. The culprit was arrested and the matter ended there. The people we are questioning are the police; they are not doing their part.

Hon. Temporary Deputy Speaker, I know that I have only one minute. I want to echo what my colleague, Pkosing said. I want the people of Baringo to understand this: On Sunday, I was attacked twice by highway robbers at Turkwell which is between Turkana and Pokot. It was at 1.00 p.m and somebody was killed. Also in the evening attack somebody was injured and we took him to Kapenguria Hospital.

The Temporary Deputy Speaker (Hon. Kajwang'): All right, the last two minutes, Member for Baringo North.

Hon. Cheptumo: Thank you, hon. Temporary Deputy Speaker. I would like to say that the issue of insecurity in our country is really serious. Baringo County, that is both Baringo South and Baringo North constituencies are faced with serious security challenges as has been said by my colleague from Baringo South. I would like to say that the Government has the responsibility to ensure that the safety of the Kenyan people in Baringo County and other parts is guaranteed. The provision for the Kenya National Police Reservists is, perhaps, the best solution that I would propose as a way of managing this problem. I am saying that because the inhabitants of those areas understand the terrain of the area. They are able to manoeuvre and follow the raiders and even assist in recoveries and in stopping this menace.

I have a Motion before the House next week where I am calling upon Government to establish a special fund. This is because this cattle rustling problem has caused untold suffering. People are dying. We have a lot of widows and widowers. There are people who are millionaires today and yet tomorrow they are paupers. On the other hand, those who were paupers yesterday because they have come to steal, turn into millionaires the following day. It is so serious a challenge to our national stability that we have to take a serious step---

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Mogotio, one minute.

Prof. (Ms.) Sambili: Thank you, hon. Temporary Deputy Speaker. I would like to say that this issue of insecurity is a very sad one. We are ashamed as Members of Baringo County because people are wondering why no solution has been found. The 25,000 people from Baringo South have moved to Mogotio Constituency causing pressure on food, water, schools and other essential services. I would like to suggest that we equip our boarding schools in these areas. Secondly, we enforce the original boundaries. Thirdly, we mark all the animals that belong to the four communities that are in Baringo County so that everybody knows their animals.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang'): The time being 6.40 p.m, this House stands adjourned until tomorrow Thursday, 19th February, 2015 at 2.30 p.m.

The House rose at 6.40 p.m.