

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 13th February, 2014

The House met at 2.30 p.m.

[Speaker (Hon. Muturi) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

NON-PAYMENT OF PENSION TO FORMER KDF EMPLOYEE

Hon. Speaker: Hon. Members, Standing Order No.225 (2) (b) requires that the Speaker reports to the House any petition other those presented through a Member. I, therefore, wish to convey to the House that my office has received a petition regarding non-payment of pension benefits to a former employee of the Armed Forces who retired in 1992. The petition, signed by one Capt. J.N. Wafubwa, is praying that Parliament:-

(i) reviews the Kenya Defence Forces Act, 2012 to re-introduce a Pensions Appeals Tribunal to ensure pension matters are resolved amicably; and,

(ii) compels the Defence Council to reassess the petitioner's pension benefits and pay him what is due to him.

Hon. Members, this petition shall stand committed to the Departmental Committee on Defence and Foreign Relations for consideration. The Committee is requested to consider the petition and report its findings in accordance with Standing Order No.227 (2).

Thank you.

Hon. Members, I will suspend the other Communication until a few more Members have come into the Chamber because of its import.

Next Order!

PAPERS LAID

The following Papers were laid on the Table:-

The Report of the Auditor-General on the Financial Statements of Chama cha Mwananchi for the year ended 30th June, 2011 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of Chama cha Mwananchi for the year ended 30th June, 2012 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of New FORD-Kenya for the year ended 30th June, 2011 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of New FORD-Kenya for the year ended 30th June, 2012 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of the Truth, Justice and Reconciliation Commission for the year ended 30th June, 2011 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of the People's Party of Kenya for the year ended 30th June, 2012 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of Mazingira Green Party of Kenya for the year ended 30th June, 2011 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of Mazingira Green Party for the year ended 30th June, 2012 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of Kenya Accountants and Secretaries National Examinations Board for the year ended 30th June, 2011 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of the Competition Authority for the year ended 30th June, 2013;

The Report of the Auditor-General on the Financial Statements of the Export Promotion Council for the year ended 30th June, 2013 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of the Ethics and Anti-Corruption Commission for the year ended 30th June, 2013 and the Certificate of the Auditor-General therein;

The Report of the Auditor-General on the Financial Statements of Geothermal Development Company Limited for the year ended 30th June, 2013 and the Certificate of the Auditor-General therein;

The Constituencies Development Fund Board Report for the month of December, 2013;

The Tenth Monetary Policy Committee Report of the Central Bank of Kenya;

The 32nd Monetary Policy Statement of the Central Bank of Kenya.

Thank you, hon. Speaker.

(By hon. A. B. Duale)

Hon. Speaker: I believe that save for the four Members who were independent candidates, this must be an opening that the Reports of the Auditor-General on financial statements of some political parties have already started flowing in. It is encouraging. We hope that the reports of the rest of the political parties will also follow, so that the Ababu

Namwamba chaired Public Accounts Committee can have a look at how political parties have been fairing in the management of their finances. This exempts hon. John Serut, hon. Gatobu, hon. Musimba and hon. Wesley Korir, who do not belong to any political parties. So, they do not have to be reported on by the Auditor-General.

Yes, hon. Chepkonga.

The Report of the Departmental Committee on Justice and Legal Affairs on the Law Society of Kenya Bill, 2013.

(By hon. Chepkonga)

Hon. Speaker: Is there any other Member with a Paper to lay?

Next Order!

STATEMENTS

Hon. Members, in keeping with the Chair's directive in the last Session, we intend to continue with the programme as laid out then but today, given that there are no responses to Statement requests, I will indulge the various Members who have made requests for Statements to seek them today, Thursday being the day set aside for receiving responses to Statements because there are no responses. The Members who have sought Statements can get the earliest opportunity to get responses.

We will begin with hon. David Wafula Wekesa.

REQUESTS FOR STATEMENTS

RESETTLEMENT OF SQUATTERS IN TRANS NZOIA

Hon. Wekesa: Hon. Speaker, pursuant to Standing Order No.44 (2)(c), I hereby request for a Statement from the Chairperson of the Departmental Committee on Lands concerning the settlement of squatters in the country, particularly in Trans Nzoia County. In the past, the Government settled squatters from outside Trans Nzoia County while ignoring the plight of the existing squatters in the county.

The Chairperson should inquire into and report on the following:-

(i) whether the Government has a database of all the squatters in the country and if so, how many are from Trans Nzoia County;

(ii) why the Government, in its policy on resettlement of squatters, does not consider giving priority to squatters who originate in areas they marked for resettlement of squatters;

(iii) when the Government plans to seek the approval of Parliament to replenish the Settlement Fund to facilitate the re-settlement of squatters; and,

(iv) what plans the Government has to re-settle all squatters in the country, particularly those in Trans Nzoia county.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Alex Mwiru, you have not activated your card?

Hon. Mwiru: Hon. Speaker, I am using my neighbour's card.

Hon. Speaker: Who is your neighbour?

Hon. Mwiru: It is hon. David Were, hon. Speaker.

Hon. Speaker: Very well.

Hon. Mwiru: Hon. Speaker, I am sorry, I was a little bit irresponsible today. I could not carry my card with me. So, I am using my neighbour's card.

This is a matter which was raised in the last Session. We have already been working on it as a Committee. We also have a very big scope in terms of settling all the squatters in this country. So, I urge my colleague to give the Committee one month to finish the job.

Hon. Speaker: What is your reaction, hon. Wafula?

Hon. Wekesa: Hon. Speaker, while I am not objecting to the request by my good friend, allow me to say that the Statement to this request is amongst those that collapsed with the last Session of this Parliament. I believe that by then, the Committee had made some progress on this matter. So, why should it take the Committee such a long time to bring the Statement?

Hon. Speaker: Yes, hon. Mwiru.

Hon. Mwiru: Hon. Speaker, one thing I would not wish to do to this House is bring something that is not comprehensive enough to address the problem that is already in this country. Squatter settlement in the country is a huge problem. We have realised that the scope is for the country, and not only for Trans Nzoia County. Therefore, we need to collect data so that we can follow it up as a House even for future settlement of squatters in other parts of the country. Therefore, one month is reasonable. We will be able to bring something substantive to this House. I beg him that he bears with me because the matter that we have to deal with is very sensitive.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Wafula, as you know, we have allocation to express ourselves about the process of Statements and so on. I have sympathy to both you and the Committee Chairperson. The Chairperson is not the repository of the information that you are seeking, yet I appreciate that it is absolutely necessary, in terms of Article 95(1) for you to have this information for the benefit of the people you represent. That is why I have been saying that we need to come up with innovative ways of ensuring that a mechanism is put in place for this House to interrogate in plenary the repositories of this information. The Committee Chairman is asking for a month. I am sure that if you go back to the constituency, your constituents will not understand if you tell them that the Statement is with a Committee. They will ask: "What is a Committee? We thought you were going to ask the Government."

So, it is a very big challenge, especially for elected Members. The people you represent here will not understand you if you tell them that a matter that concerns them is with a Committee. They will say: "But the Committee is not the Government. We thought that it is the Government which has this information." It is a big challenge but I hope that we are all thinking actively about this matter, so that when we come up with proposals sooner than later, we will be able to address the situation to some finality.

So, let us allow the Committee Chairman the time that he has pleaded for and hope that he will get a report that will satisfy not just hon. Wafula but other Members,

like hon. Chris Wamalwa, hon. Pukose and several others whom I am sure also represent an area where the answer would apply.

Yes, hon. Chris Wamalwa.

DISTRIBUTION OF FERTILIZER IN THE COUNTRY

Hon. Wakhungu: Thank you hon Speaker, Sir. I rise pursuant to Standing Order No.44(2)(c) to ask for a Statement from the Chairperson, Departmental Committee on Agriculture, Livestock and Cooperatives regarding distribution of fertilizer in this country. We are approaching the planting season and farmers are eagerly waiting for the distribution of fertilizer by the Government. In the Statement, the Chairperson should inquire into and report on the following:-

i) the level of distribution, stating the type of fertilizer being distributed as per the regions and whether the Government has conducted any soil analysis through sampling to inform the said distribution of the fertilizer; and

ii) measures being taken by the Government to ensure that farmers receive the right fertilizer, and whether farmers will receive any lime to supplement the fertilizer due to high level of acidity in soil which has been caused by usage of DAP.

Thank you.

Hon. Speaker: Hon. Noor

Hon. Nooru: Thank you, hon. Speaker. While I appreciate the Statement requested by hon. Wakhungu, I think he knows that the function of agriculture has been devolved to counties and that question could have been directed to governors. However, on our part we are going to answer within two weeks.

Hon. Speaker: Hon. Wakhungu.

Hon. Wakhungu: It is unfortunate that the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives is not aware that the distribution is being done by the National Cereals and Produce Board, but not the Ministry of Agriculture. The National Cereals and Produce Board is not devolved and it is under your docket, Chairman. We know very well that food security in this country is very critical and fertilizer is a very critical component. So, it will be very important for him to summon the National Cereals and Produce Board who are in charge of the distribution to know when this is going to be given. Many times, this subsidized fertilizer has been arriving when the planting season is already over. This is the time to know what is happening.

Hon. Speaker: Yes, hon. Nooru

Hon. Nooru: Hon. Speaker Sir, I am very much aware that the ministry is still in charge of fertilizer distribution, not National Cereals and Produce Board. The National Cereals and Produce Board just acts as an agent for the ministry, of course, they have the facility to do the distribution. However, we are through with distribution of fertilizer for the short rains, that was 42,000 metric tonnes. We still have 100,000 metric tonnes of fertilizer that is still arriving. I will give a comprehensive answer in the next two weeks.

Hon. Speaker: Hon. Wakhungu

Hon. Wakhungu: Two weeks is okay, hon. Speaker.

Hon. Speaker: Very well, we move to the next one, hon. Aluoch

POLICY ON UPGRADING OF ROADS IN CONSTITUENCIES

Hon. Aluoch: Thank you, hon. Speaker. Pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of Transport, Public Works and Housing Committee regarding the Government's policy of upgrading at least 20 kilometers of roads to meet the standards in each constituency. This policy was communicated in the last Parliament and the roads were to be identified by the respective Constituencies Roads Committees. Regional Managers of Kenya Rural Roads Authority had followed up the details of the roads by November 2013, but as I speak now before this House nothing has been done on the ground. In the circumstances, I would request the Chairperson to inquire and report on the following:-

- i) the status of the preparations to implement the project before the onset of the heavy rains;
- ii) status of funding by the Treasury by the projects;
- iii) the challenges the Government is facing in implementing this project; and
- iv) the measures being taken to overcome these challenges.

Hon. Speaker: Hon. Mahamud

Hon. (Eng.) Mahamud: Thank you, hon. Speaker. We will be able to avail the answer to the Statement Request maybe in three weeks' time. It has not been a policy yet; there was a Motion passed in this House in the last Session and the Ministry is trying to figure out how to implement it. We will be able to give an answer in three weeks' time.

Hon. Speaker: Hon. Aluoch

Hon. Aluoch: I only hope that funding for this project is factored in the Supplementary Budget coming before the House. I can take three weeks but I hope that before the end of the three weeks, work will have started all over the Republic.

Hon. Speaker: Hon. Maj-Gen. Nkaisery

POLICY ON EMPLOYMENT/PROMOTION OF CHIEFS

Hon. (Maj-Gen.) Nkaisery: Thank you, hon. Speaker. Pursuant to Standing Order No.44(2)(c) I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the employment and promotion of chiefs and assistant chiefs by the Ministry of Interior and Coordination of National Government.

Hon. Speaker: Hon. Maj-Gen. Nkaisery, I am sure you want it from the Chairperson of the Departmental Committee on Defence and Foreign Relations.

Hon. (Maj-Gen.) Nkaisery: No, national Security.

Hon. Speaker: I just wanted to draw his attention because I could see he was conversing with somebody else, so that he can hear what you are requesting.

(Laughter)

Hon. (Maj-Gen.) Nkaisery: Thank you, hon. Speaker. I will have to repeat. Pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security

regarding employment and promotion of Chiefs and Assistant Chiefs by the Ministry of Interior and Coordination of National Government countrywide. In 2010, after my request, the Government created a number of locations and sub-locations in Kajiado Central Sub-county. Four positions of Chief Grade II and five positions of Assistant Chief Grade II were advertised and interviews conducted. Names of successful candidates were forwarded to the Regional Commissioner for approval and the same was approved, but appointments were not made according to the results of the interviews. The Assistant Chief whose sub-location was upgraded and he has been an active chief had passed the interview with flying colours but was denied promotion. His position was re-advertised so that a political sycophant's relative could get the position.

Now, the Chairperson should inquire into the following:-

- i) why the position of chiefs in Kumpa and Orinie Locations and Impiro Sub-location were re-advertised when in actual fact successful candidates were approved and appointed;
- ii) the timeline within which these officers can get their rights and appointments made;
- iii) the role of the Cabinet Secretary for Interior and Coordination of National Government in the appointment of Chiefs and Assistant Chiefs countrywide; and
- iv) if the law was flouted, what is the Kenya National Assembly going to do to prevent a recurrence of the same.

Thank you, hon. Speaker

Hon. Abongotum: Thank you, hon. Speaker. Hon. Maj-Gen. Nkaisery has raised very fundamental issues, especially on the appointment of Chiefs and Assistant Chiefs. He has raised the issue of nepotism and even mentioned the role of the Cabinet Secretary. I will respond to the rest in a weeks' time, but the role of the Cabinet Secretary in the appointment of chiefs is basically minimal. Usually, after the interviews by the District Commissioners, names are forwarded to the County Commissioner who forwards them to the Regional Commissioner who then forwards to the Permanent Secretary. The Permanent Secretary then writes letters of appointment. That is the position and policy as it is at this point in time. I do not know the role of the National Assembly, maybe hon. Speaker may give guidance on this matter. Our role is actually to enact the law; the Chiefs Act and then there are officers who are supposed to implement that law. Maybe hon. Speaker you can address it, so that my good friend, hon. Maj-Gen. Nkaisery, can get satisfied. I will respond to other issues in a week's time.

Hon. Speaker: Well hon. Maj-Gen Nkaisery, in fact even as you concluded I got a bit alarmed that you were asking hon. Abongotum what the National Assembly can do, yet you are very well versed with provisions of Article 95. Among the roles is oversight of all State organs without exception and I have taken liberty on numerous occasions to even repeat, for avoidance of doubt, that State Organs as defined in Article 260. Also as found in Article 1, they include the National Executive, Parliament, Judiciary and other independent tribunals. This is for avoidance of doubt so that people do not go to the streets and say that they are above something.

The oversight of those is the sole prerogative of the National Assembly. Therefore, hon. (Maj-Gen.) Nkaisery, unless you would like to turn a blind eye to that

enormous responsibility, bring legislative proposals here. If any resolution of the House is not acted on, we have our own Committee on Implementation. We would like to know who it is, at what level and with whose authority it is not acting as we have resolved. However, hon. Kamama has said that he will respond in a week's time.

Hon. (Maj-Gen.) Nkaissey: Thank you, hon. Speaker. That request was deliberate so that the Committee will find out whether somebody made a deliberate effort to deny these individuals their rights. I wanted the Committee to make their recommendation because it was purposely put. So, that recommendation should come to the House so that it can take necessary action.

Thank you, hon. Speaker.

Hon. Speaker: Very well. In the Judiciary and especially, in the British model; English Jurisprudence, there is a saying that justice is as long as the judge's foot. So, if a judge is in a bad or good mood or dull, justice becomes as long as any of those moods.

For the second time and in exercise of my discretion, I allow hon. Mohamed Shidiye because I am in a good mood to seek his Statement.

Hon. Shidiye: Thank you, hon. Speaker. May you stay in good mood forever.

(Laughter)

REVOCATION OF MINING LICENCE ISSUED TO VANOIL

First, I want to apologise for coming late. Pursuant to Standing Order No.44(2)(c), I would like to request for a Statement from the Chairperson of the Departmental Committee on Energy, Communication and Information regarding the revocation of mining licence to a private company.

Hon. Speaker, you might be aware that there is a Canadian firm by the name Vanoil which has been operating in my area in Block 3(A) and (B) in Modogashe/Lagdera Basin, Garissa County.

This company has been exploring oil and gas in that block for the last five years and has done a commendable job. They have spent a whopping figure of US\$32 million. If you translate that money to Kenya Shillings it will be about Kshs2.5 billion. This company's licence was supposed to be extended but it was denied the extension.

I want to seek the following clarification from the Chairperson of the Departmental Committee on Energy, Communication and Information:-

- (i) under what circumstance the company's licence was revoked; and
- (ii) how much the taxpayer and Kenyans lost in terms of job opportunities, contractual opportunities and in terms of business.

With regard to that, will it be prudent to allow them to continue with their work because there is no way they can go to--- They have lost so much and they cannot pull out of the place.

Hon. Speaker, I would like to get a Statement from the Chairperson because this company has already employed many people who are at a loss. There are very many creditors and their suppliers out there are really suffering.

I would like to get a clarification from the Chair with regard to this company because these are investors and you cannot chase them informally like that.

Thank you, hon. Speaker.

Hon. Speaker: Well I have sympathies because of the issues you have especially those that touch on the residents. Of course, I suspect that Parliament will find itself in an increasingly awkward position if it becomes the one to enforce contractual obligations between parties, whether those parties are individuals or Government. However, for the reasons that you have mentioned that it affects the people whom you represent and others, I would like the Chairperson of the Departmental Committee on Energy Communication and Information to express himself.

Yes, hon. Kamau.

Hon. Kamau: Thank you, hon. Speaker. I understand your sentiments but I think we are also in a very good mood today and we should provide a good answer within the next two weeks, the best way that we know.

Thank you.

Hon. Shidiye: Most obliged, Hon. Speaker.

Hon. Speaker: Before we hear the Leader of Majority Party, let me grant this chance to hon. Mwinyi Omar, the Member for Changamwe. Yes. Obviously, that size suggests Changamwe!

(Laughter)

Hon. Shimbwa: Thank you, hon. Speaker. We pray that you will be in that mood for quite a long time so that, at least, we enjoy contributing in this House.

I rise this afternoon to raise a complaint. Hon. Speaker, you gave a directive to the Departmental Committee on Energy, Communication and Information to table the report on the KPRL issue but nothing has happened to date. The people I represent are very much apprehensive and are worried a lot. I pity myself because I do not have any answer to give them. It is not a good situation one should find himself in.

Hon. Speaker, I appeal to you to intervene on this matter and direct that Committee to state when we will get this report because it is long overdue.

On the same breath, I also request your to intervene and ask the Chairman of the Departmental Committee on Administration and National Security, hon. Kamama, to report to this House about insecurity on the highways especially Molo and Nakuru where---

Hon. Speaker: You see my sympathies do not extend that far hon Mwinyi!

(Laughter)

Hon. Shimbwa: Yes, hon. Speaker, Sir.

Hon. Speaker: You sought to ask when the report is going to be tabled on the Kenya Petroleum Refineries Ltd., issue.

Hon. Shimbwa: Yes, hon. Speaker, Sir.

Hon. Speaker: You know you are not in a public rally now; that is where people say anything under the sun. You cannot come here and request one thing and then you think it is an opportunity to---

Hon. Shimbwa: No; they are just two issues, which affect my constituency.

Hon. Speaker: No! No! No!

Hon. Shimbwa: I stand guided, hon. Speaker, Sir.

Hon. Speaker: When were you last in Molo? Just concentrate on Changamwe.

Hon. Shimbwa: No! It is actually an issue in Changamwe, my constituency.

Hon. Speaker: Hon. Mwinyi, you are out of order. Yes, hon. Kamau.

Hon. Kamau: Regarding the particular issue concerning the hon. Member, his Statement request was actually answered on the Floor of this House. The only thing remaining was to table the report. The Committee on its own volition went ahead to come up with a report, but a time came when we were to hold joint sittings with Public Investments Committee (PIC). We sat together with the Chair, PIC to discuss when we could hold the sittings on the issue of European Space Agency (ESA). Unfortunately, I am informed that the PIC is now doing it alone. Perhaps, you can give us some direction on that. We do not want fights between the two committees.

Hon. Speaker: Did you talk about some fights.

Hon. Kamau: Yes, hon. Speaker, Sir, political fights. You know some of these things are really political. As you can see there is the issue regarding the railway, where the PIC was literally locking horns with the Committee on Transport, Public Works and Housing.

(Applause)

We do not want to take that route ourselves, but be a little bit mature. We want to know the exact direction to take.

Hon. Speaker: Is this the case, as per my understanding, where the Statement sought by the Member was actually delivered?

Hon. Kamau: Yes, hon. Speaker, Sir. It was delivered as requested by the Member but the committee on its own volition went ahead---

Hon. Speaker: That is a different thing?

Hon. Kamau: Yes.

Hon. Speaker: So, the Member has no business going beyond what he had sought. Has he ever seen that Statement?

Hon. Kamau: Yes, he was here and even thanked the Committee for doing a good job.

Hon. Speaker: Maybe he was absent. We will look at the HANSARD and see whether the Statement was issued. It might have been issued when he was absent. You know, we are not in a political rally in Changamwe.

(Laughter)

We are just saying we will look at the records. If the Statement has not been tabled, then we will have it tabled, so that you can have an opportunity to look at it and seek clarifications. If it was tabled, then we will follow up and find out whether you were present or absent on that day, and give the appropriate directives. But I cannot do it now, because I do not keep the HANSARD here. Now, this is not opportunity for debate.

About the report, the Chair has said that they have tabled the report. We will look at the HANSARD.

Hon. Kamau: Hon. Speaker, indeed, the Statement was tabled, but the report has not been tabled. The report is on how ESA acquired 50 per cent share holding of KPRL and other details. We were supposed to hold a joint committee sitting with the PIC, notwithstanding the Statement sought by the Member.

Perhaps, hon. Speaker, you can give us some guidelines or direction on how we will proceed on the matter, because, understandably, we are told the PIC is on it as I speak right now and, apparently, they are not involving our committee.

Hon. Speaker: Well, for now hon. Mwinyi, we will check the HANSARD to see whether, indeed, the Statement you sought was ever tabled. If it was tabled then the matter will just rest at that. About the report, we cannot proceed on it, because the matter is before a committee and we cannot discuss it in plenary, before the committee tables it. We will resolve the other administrative issues that have arisen.

Yes, hon. Diriye.

MEASURES TO CURB INSECURITY IN WAJIR

Hon. Diriye Mohamed: Thank you, hon. Speaker. Pursuant to Standing Order No.44(c), I wish to request a Statement from the Chairperson of the Committee on Administration and National Security regarding the deterioration of the security situation and the loss of life in the area bordering Wajir South and the Dadaab refugee complex, including the death of one Yusuf Mohamed Bule, who was killed by unknown assailants on 9th February, 2014. In his Statement, the Chairperson should inquire into and report on:-

(i) measures being taken to improve the deteriorating security situation in Wajir South and the area bordering the refugee complex;

(ii) reasons for failure to recognize this area of Wajir South refugee border as a security hot spot, requiring special attention because it also borders Somalia;

(iii) why additional security patrol vehicles and other logistic support have not been provided at this hot spot security area;

(iv) why an Administration Police post has not been opened at Shimbir Bul and Naambara locations since these areas have experienced rampant insecurity in the last few months;

(v) measures being taken to bring the killers to book, including the killers of Yusuf Mohamed Bule, killed on 9th February, 2014.

Thank you, hon. Speaker.

Hon. Speaker: Yes, hon. Kamama.

Hon. Abongotum: Thank you, hon. Speaker. This being a weighty issue, I want to respond in two weeks' time; we will expedite it.

Hon. Speaker: Yes, hon. Mohamed Diriye, are you agreeable?

Hon. Mutava Musyimi, Chairman of Budget and Appropriations Committee, I am aware that you approached the Chair. Departmental Committee Chairs should appreciate the point the Chairman of the Budget and Appropriations Committee is about to make,

because it will also guide us on how we proceed in the next few days. Yes, hon. Musyimi

POINT OF ORDER

REVIEW OF SUPPLEMENTARY ESTIMATES BY DEPARTMENTAL COMMITTEES

Hon. Musyimi: Much obliged hon. Speaker. As you are aware, the first Supplementary Estimates for 2013/2014 were submitted by the National Treasury to this august House. Thereafter, the Supplementary Estimates were laid on the Table on 12th February, 2014 and before the Budget and Appropriations Committee.

Hon. Speaker, as my Committee prepares a report on the Supplementary Estimates, I wish to draw the attention of the Chairpersons of the Departmental Committees to the Standing Order No.216(5)(a) which provides that the Department Committees shall investigate and inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments.

Indeed, in processing the Supplementary Estimates, as is the case with the Annual Estimates of Expenditure, Standing Order No. 235(3) applies. This Standing Order provides that upon being laid before the House, the Estimates shall be deemed to have been committed to each Departmental Committee without question put, for each such committee to deliberate upon according to their respective mandates.

At this stage, the Chairpersons of the Departmental Committees may raise issues related to Ministries and their dockets, if any. In this regard, each Departmental Committee should consider, discuss and review the Supplementary Estimates according to its mandate and submit its report and recommendations to the Budget and Appropriations Committee as soon as practically possible, but not later than close of business on Tuesday, 18th February, 2014.

(Applause as hon. Ababu entered the Chamber)

Hon. Speaker, I am aware of the bit of excitement. This report should be submitted to my Committee as soon as possible, but not later than closure of business this coming Tuesday, 18th February, 2014. That is important because it will allow the Budget and Appropriations Committee to finalize its report on the Supplementary Budget for 2013/2014.

This communication has been shared with the respective Committee Clerks.

Hon. Speaker: I hope that the Clerks and, indeed, the Chairpersons of various Departmental Committees really take note of those timelines. I know that time is very short but nevertheless, it is important because the Budget and Appropriations Committee is required to take into account the views from various Departmental Committees in coming up with their report, which shall constitute the resolutions likely to be adopted by the House and to be transmitted to the National Treasury thereafter. Therefore, it is

absolutely important that the Chairs of Departmental Committees take note. It is absolutely important.

STATEMENT

BUSINESS FOR THE WEEK COMMENCING 18TH TO 20TH FEBRUARY, 2014

Hon. A.B. Duale: Thank you, hon. Speaker. Pursuant to Standing Order No. 44 (2)(a) I rise to give the following Statement regarding the business appearing before the House the week beginning Tuesday 18th February, 2014.

On behalf of myself and the House Business Committee (HBC), I wish to take this early opportunity to welcome hon. Members back to the House after a long period of recess, well deserved. It is my sincere hope that the recess provided ample time to my colleagues to meet with their constituents and bond with their families. It is also my prayer that colleagues have had time to re-energize themselves in readiness for this Second Session since our in-tray for business is already full.

Hon. Speaker, allow me to report to the House that for the first time, the HBC retreated for two days just before the beginning of this Session. Part of the objective of the retreat was for the Committee to appreciate the envisaged business for this year and draw a calendar for the House. At the end, we all appreciated that the business of the House this year is enormous. I have no doubt that colleagues on both sides of the House are up to the task. Indeed, the report of the First Session published by the Clerk of the National Assembly and which is now in circulation, is a testimony that when it comes to business, the collective record of this House speaks for itself.

Hon. Speaker, I want to overemphasize that the business ahead of us this Session is quite heavy. Just as a way of highlight, the Budget cycle itself has a very tight statutory timelines starting from the introduction and consideration of the Budget Policy Statement to the passage of the Division of Revenue Bill and the County Allocation of Revenue Bill; the laying and consideration of Estimates and finally, the passage of the Appropriations Bill.

All this, we must do before the end of April this year. This in addition to other business such as the VAT (Amendment) Bill, the Procurement (Amendment) Bill, the Police Bill and the *Uwezo* Fund Regulations There are also other Motions which the HBC has scheduled for debate. This includes the Motion for the nomination of hon. Members to the Pan African Parliament and the one regarding the approval of Members to the Parliamentary Service Commission. These two Motions were deferred during the last Session.

Hon. Speaker, the HBC is cognizant of the fact that there are eight Constitutional Bills to be considered by this House and passed before 27th August, 2013. In our meeting last week, the Commission for the Implementation of the Constitution (CIC) confirmed that while one of the Bills is ready for publication, most of the other Bills are under-development.

May I take this early opportunity to request the Constitutional Implementation Oversight Committee (CIOOC) to start engaging CIC, the office of the Attorney-General, the Kenya--- (*inaudible*)

Hon. Speaker, before the House are a number of bilateral treaties that are supposed to be ratified. These treaties have been referred to the respective Committees for review. I, therefore, want to urge the Committees involved to do their part to avoid last minute rush. Some of these treaties include; The Climate Change and the Air Surface Agreement between Kenya and different states. Lastly, we have the Doha Amendment to the Kyoto Protocol.

Hon. Speaker, regarding the business for next week, the HBC has lined up several items. They include; the *Uwezo* Fund Regulations Bill, 2013, the Law Society of Kenya Bill, 2013 and the Marriage Bill, 2013, if they are not concluded today.

Finally, the HBC will meet on 18th February, 2014 at the rise of the House to consider business for the rest of the week. I now wish to lay the Statement on the Table of the House.

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

Hon. Ng'ongo: On a point of order, hon. Speaker. I have two issues to raise with regard to the Statement read by the Leader of Majority Party. Whereas I appreciate and thank the Leader of Majority Party for that elaborate Statement on what we intend to deal with in the coming week, I would request that the VAT (Amendment) Bill which is sponsored by myself be given some priority. This is because this Bill was necessitated by the outcry about the cost of living. Therefore, I would urge the HBC through the Leader of Majority Party who is a prominent Member of that Committee to give it some consideration and to give it priority in terms of the business of next week.

Finally, I would have raised this issue earlier, but it is even better that I am now raising it with the Leader of Majority Party. I appreciate that some of the legal documents that are required from Treasury or rather the Supplementary Budget was brought in good time, but there is one item that we expected from the Treasury by 15th February, 2014 and this is the last day before 15th February, 2014. There is a requirement in law, and that is under the Public Finance Management Act, that we receive the Debts Management Strategy Paper before 15th February, 2014. Hon. Speaker, unless I missed it, I do not think that has been tabled in this House. Could we get an indication when that will be brought to the House? This is because we need to discuss the current debt status, projected debt status and the strategy to handle public debt in this country.

Hon. Speaker: Well, indeed, at the last leadership meeting hon. Makali Mulu presented a chronology of those requirements and among them is the last one you have just raised. It is correct that the Debts Management Strategy is a requirement under the Public Finance Management Act. Perhaps, Leader of the Majority Party you could respond.

Hon. A. B. Duale: Hon. Speaker, yes, the one on the VAT, I am sure the House Business Committee (HBC) is aware and we will put it, at least, for Second Reading next week. However, we still expect the Departmental Committee on Finance, Planning and

Trade to look into that amendment Bill and table a report before the House before we go to the third and final stage.

Hon. Speaker, I agree that 15th February is the constitutional timeline provided for the Cabinet Secretary for National Treasury is to table certain documents, including the one mentioned by hon. Mbadi and even the Budget Policy Statement. Since 15th February is a non-parliamentary sitting day, then on the next sitting day, which is Tuesday, the Cabinet Secretary will definitely be ready to provide those documents, that is, including the one he raised and the Budget Policy Statement.

Hon. Speaker: But the Budget Policy Statement cannot be submitted after 15th February, 2013 which is the requirement. The interpretation of the law is that if the day Parliament next sits is beyond 15th February then he must present it, or submit it, at least, to Parliament latest by tomorrow when we can acknowledge receipt. Tomorrow is 14th February, 2013. This is because the Cabinet Secretary has not come to the Chamber as yet. So, the submission should be made latest tomorrow.

Hon. A. B. Duale: Hon. Speaker, the submissions will be done by tomorrow and then, of course, the tabling will be done on Tuesday for all those documents.

Hon. Speaker: Precisely.

Hon. (Dr.) Eseli: Hon. Speaker, I heard the Leader of Majority Party mention something about the pending constitutional Bills that have to be passed by August. He suggested that the Constitutional Implementation Oversight Committee should get involved. Yesterday, I know you dealt at length with the issue of non-performing committees. The CIOC is a very crucial committee as we implement the Constitution. However, as matters stand now we have let the CIC run away with the ball and do everything as they wish.

Hon. Speaker, I think it is important that the CIOC leadership wakes up and starts taking matters seriously because so far, with constitutional implementation, the CIOC has been missing in action.

Hon. Speaker: I think that is not an indictment on the Chair of the CIOC. The Chairperson of the CIOC has raised concern about human capacity. The Clerk that is clerking the CIOC is the one clerking the Departmental Committee on Agriculture, Livestock and Cooperatives and we all appreciate how busy that Committee is. So, what we have done as the administration of Parliament is that starting next week, we have sourced for and found a suitable and experienced clerk to clerk CIOC. I believe we all fully appreciate the critical role that the CIOC plays in terms of the work expected in the Sixth Schedule in the Constitution.

It is only fair that once we give the Clerk then we list all those Bills which have got timelines for 27th August, 2014. This is because other bodies which are required to be involved in the generation of those Bills, that is, the Attorney-General's Office, the State Law Office, the Kenya Law Reform Commission and the CIC--- They are the ones who should--- The whole of last year, which Bill did they bring other than the ones that we had to get involved in and demand? They want to spend all their time in seminars, workshops and publishing critiques of everything and anything under the sun. They have forgotten that they are required to bring to Parliament those Bills which have got those deadlines. It is unfortunate that even as we sit now none of those Bills have been generated. They will start bringing them as Members are preparing to go on recess in

August. That is when all of them will most likely start coming in. It is for that reason that I really appreciate what you have just said, hon. Dr. Eseli. Indeed, the role played by the CIOC is very crucial. We will ensure that starting next week, you are up and running if you are also in that Committee. Therefore, hon. John Baiya, do not feel agitated; it is not an indictment on your chairmanship.

Hon. (Ms.) Odhiambo-Mabona: Hon. Speaker, I want to thank the Leader of Majority Party for what is laid down in terms of the business of the House. What I would like him to clarify is something in relation to the Private Members' Bills. Yesterday we had a few, which is a good move. We, however, have Bills, for example, I have three Bills right from the last Parliament which I drafted myself. All that is required is just a review of the Bills. It is now three years. This shows that there is a problem with our Legal Department. What I want to know, I do not know if it is from the Leader of Majority Party or yourself as the Chairman of the Parliamentary Service Commission, is what you will be doing to help fast-track and help the Legal Department. This is because if I can draft and three years later only review is impossible, then there is a problem.

Secondly, on the matters that go to Senate for approval like the Members of the Pan African Parliament, my name was proposed and it is taking months. The Constitution has provided a very clear way to go. If that is not put in place--- We cannot be put in limbo, it is either we are Members of Pan African Parliament or we are not and we accept and we move on. We have accepted and moved on over many things. So, we can also accept and move on if we are not Members of the Pan African Parliament. I cannot be sitting in one Committee purportedly because I am in Pan African Parliament and yet I am not. So, if the Senate is slow in doing their work then really we can put the constitutional mechanisms in place to force them to do their work.

I would want the Leader of Majority Party to explain to us what he has put in place to fast-track the issues that are pending that we send to the Senate and they are not taking any action on them.

Finally, I have had a few phone calls where members of the public, because we provided them space under the Constitution on public participation--- I am trying to follow up on the issue and if I find evidence I will table it before the House. The things that we pass here, if you look at the HANSARD and the final Act sometimes they are not the same. So, you find that we take a lot of time and convince our fellow Members and we actually get an amendment of some Act on the Floor and it is recorded in the HANSARD as such. However, the final Act contains a totally different thing. So, hon. Speaker, I do not know what is in place to track that so that there is sanctity of the work of Parliament and so that other people are not legislating outside Parliament.

Hon. Speaker: Hon. Millie Odhiambo, surely as the person that has moved or proposed certain Bills, it is your responsibility to follow up so that if there is a complaint you are able to say clearly that: "At this stage, my Bill has stuck." However, I want to assure you that the Legal Department has been beefed up. More experienced staff have even reported in the last one week and, therefore, that would not be a problem.

However, on something that you said that you moved three years ago, I am sorry. I am unlikely to respond to that because then I was doing other things. I was not doing this work. So, three years ago, hon. Millie Odhiambo, you must have been in the Tenth Parliament. So, it is unlikely that I could give an answer. If you proposed a Bill three

years ago and you know very well until last December when we amended our Standing Orders Bills used to lapse, then it is quite possible that that could have been the fate, but I do not want to express myself with finality. However, I want to just assure you that legislative proposals by Members will be given greater attention now that we have beefed up our Legal Department because indeed it is fair that we need Members moving as many proposals as possible. Where a Member discovers as you have alleged, and I want it to remain allegation, that the final product that is assented to is different from what may have been passed by the House, I think it is only fair to raise it first of all with the Committee and the Clerk's Department so that if there are matters which are not substantive they can be corrected. I am sure in the Tenth Parliament you remember you made corrections to The Elections Act. There were some mistakes that you had made. I believe around Section 22 or thereabout of The Elections Act. However, the Leader of Majority Party can respond to the rest so that we know whether you are actually a Member of the Pan African Parliament (PAP) or you are just a Member of only Mbita.

Hon. Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, I think you have answered the other two issues. Yesterday, we had a Private Member's Bill by hon. John Sakaja. We have two Bills by hon. Mbadi and many other Bills which have been published. So, I am sure by Tuesday the House Business Committee (HBC) will fast-track the printing of Bills. In the last Session, we never did very well as far as Private Members' Bills are concerned but this time with more staff, we will do better.

Hon. Speaker, I want to speak on the issue of PAP and if the leadership of CORD can listen to me, it will be good since they are busy discussing I do not know *kalarusi* or something else.

(Laughter)

If the leadership can listen to me, I want to speak on the issue of PAP. If hon. Mbadi can allow me, this House had the opportunity to pass four great names which were hon. Millie Odhiambo, hon. Rachel Shebesh, hon. Z.K. Cheruiyot and hon. Shukra Hussein, the great Member of Parliament from my county. Something happened and I want Millie Odhiambo, a very aggressive Member of Parliament to help us, with the Leader of Minority Party. The problem is between two nominees, one from the Senate in the name of hon. Janet Ong'era and my good Member of Parliament from my county, hon. Shukra Hussein. I want to ask today on 13th February, the CORD leadership to rise to the occasion and let hon. Shebesh, hon. Millie Odhiambo, hon. Z.K. Cheruiyot and hon. Shukra to represent this great country. It is a matter of ten minutes for the CORD Coalition to decide between hon. Janet Ong'era and hon. Shukra Hussein. That is the quagmire. It is not about the Senate. We had a session with the Senate's HBC and the Speaker. The quagmire is in leadership.

Hon. Speaker, that is why I am asking the Leader of Minority Party that if he needs my assistance, I can fix it free of charge. I can look for my very good friend, the former Prime Minister, the former Vice-President and the Senator of Bungoma County and sit with them. They are my colleagues, but please we do not want hon. Millie Odhiambo, hon. Shebesh and hon. Z.K. and other great leaders to be embarrassed in PAP.

They were there. Our colleagues refused to be locked out. It is not the Speaker of the National Assembly to solve it, it is not for the Speaker of the Senate to solve it, this is a coalition leadership matter. We will not bring names again here for this House to decide, this House has decided.

Hon. Nyenze, my good friend, the country is looking at you and this Parliament is also looking at you. You better go to your office and solve this problem once and for all.

Thank you, hon. Speaker.

(Applause)

Hon. Speaker: I can see that the hon. Leader of the Minority Party is up to the task.

Hon. Nyenze: Thank you, hon. Speaker for giving me this opportunity. I just want to put the record straight. CORD met and we approved the four names that were passed here in this House. So, it is not a coalition problem. We approved the names of Millie, Shukra, Shebesh and Z.K. So, let Jubilee not blame us. I think the problem lies with the Senate. They are the ones who said that National Assembly gave four names instead of three and that is where the problem is. It is not on the side of CORD; it is not on the side of Jubilee; it is on the side of the Senate. It is about the relationship of the Senate with that of the National Assembly. So, we have resolved that matter and it will not be repeated. Those names were approved by this leadership and we support what Parliament passed.

Thank you, hon. Speaker.

(Laughter)

Hon. Speaker: Leader of Majority Party.

Hon. A.B. Duale: Hon. Speaker, I want to go on the HANSARD because hon. Millie Odhiambo and John Mbadi who had the privilege to serve in the last Parliament will attest to that. I will speak my mind.

Hon. Speaker, I have a copy of the correspondence in my office. I do not want leaders to run from the fire. There is a contestation between hon. Senator Janet Ong'era of CORD in the Senate and hon. Shukra Hussein of CORD in the National Assembly. I had the privilege even to talk to the CORD leadership in the Senate and these were hon. John Muthama, the hon. Abdirahman who by then was the Acting Leader of the Minority Party and the Speaker of the Senate. They are saying that if we get a letter from the leadership of CORD, be it inside the House or outside then it will be okay. This House approved four names, two were from the Jubilee coalition and two were from CORD. In the Senate, we had one from the Jubilee coalition.

Hon. Speaker, I want you to give guidance because people will blame you. People will blame the hon. Speaker of the Senate, hon. Ekwe Ethuro. The crux of the matter in PAP is between hon. Janet Ong'era and hon. Shukra Hussein. There is no contestation on hon. Millie Odhiambo, Rachel Shebesh, hon. Z.K. Cheruiyot and Senator Murkomen. The issue is between two leaders. Hon. Francis Nyenze, you can run away, but you cannot run away from the issue of the day. We want our membership in PAP. Rise to the

occasion and look for the CORD leadership and solve this problem. We want our colleague's representation in PAP. Do not hide your head under the sand. You have done it for too long. You cannot do it anymore.

Hon. Nyenze: Thank you very much, hon. Speaker. This issue of blame game will take us nowhere. It is good to be truthful and accurate. If these Members accepted that list and we wrote to the Senate that we accepted it and even hon. Janet Ong'era is not even contesting the decision that CORD took, why should the Leader of Majority Party blame us? The National Assembly has given four names and the Senate feels that one name is not enough. You cannot blame CORD because we did our part and we have accepted that.

Hon. (Ms.) Odhiambo-Mabona: On a point of information, hon. Speaker.

Hon. Speaker: Hon. Millie Odhiambo, what is the information? The Deputy Leader of Minority Party, do you want the information?

Hon. Nyenze: Yes, I want it.

Hon. (Ms.) Odhiambo-Mabona: Hon. Speaker, I wish to inform the Leader of Minority Party that we read the letter that was sent by the Speaker of the Senate; me and hon. Shebesh, and it was clear. They said that the Senate must give a given number of Members and the National Assembly must give. So, it is really a way between the Senate and the National Assembly.

However, the Senate is trying to pig ride on the fact that at one point there was a disagreement in CORD, which to some extent hon. Duale was right, up to some months ago. That was sorted but as it is now, it is a problem with the letter that was sent to the Speaker of the PAP, which both hon. Shebesh and I saw. We were sworn in, we were allowed to go in, but we were not allowed to debate. Because I and hon. Shebesh are equal to the task, we still stood up on points of order and spoke anyway. But for the ones who had come, they were put outside. So, they were spectators. It was embarrassing because on the same day that we went, the issue of the ICC was on the Table. So, we were sitting like flower girls and the ICC was being debated. So, they better either put us there as Members of the PAP or choose others, but Kenya cannot be discussed at the PAP while Kenyans are there as choir leaders cheering people on.

Hon. (Ms.) Shebesh: Hon. Speaker, it is true that there was a letter from the Speaker of the Senate on why the Senate believes that they should have two names, but subsequently, and you know it, there was a communication. I called you and there was communication by the President of the PAP after our intervention as a team, that all the Speaker of the PAP needs is a letter signed jointly by you and the Speaker of the Senate approving the names. That was after our intervention as a team.

Therefore, it does not stand anymore that it must be two people. That is a choice of a country and we made it clear. We made it even clear what the role of the Senate was. So, what stands now on record including in the HANSARD, is contrary to what my good colleague, hon. Millie is saying that we were flower girls, we were not. We debated fully on the ICC issue and on the West Gate issue. I sent the HANSARD here and I even brought the report of the PAP. You will see that hon. Millie and I participated fully as Members. Hon. Millie left after the first day and that is why she does not know what happened on the second day.

I am saying that I brought the report. What currently stands, and it is good for all the Members to know, is that the President of the PAP is waiting for a letter signed both by you and the Speaker of the Senate, to just show that there is no contention on the list. Therefore, it does not need to be two or three Senators. On the issue of whether we spoke, in fact, we are even in Committees and I am sitting in the Finance Committee of the PAP. So, I want to say that hon. Millie and I are full Members of the PAP. Those who are still in contention are hon. Zakayo Cheruiyot, hon. Shukra and Senator Murkomen.

Hon. Speaker: Well, I would want to let that matter rest at that point. However, it is important also to appreciate that because we are two Houses of Parliament, there is an agreement on how to share especially in leadership of international organisations. The sharing is that the leadership of the PAP or communication, especially to do with matters on communication, is domiciled in the Senate. But that of course, does not mean that the Senate provides the majority membership to the PAP, which appears to be misinforming the goings on. The Commonwealth Parliamentary Association (CPA) is domiciled in the National Assembly and so is the ACP/EU Parliamentary Union, which is domiciled in the National Assembly. The IPU is domiciled in the Senate. That means that whoever it is that we sent to those international meetings, for instance, if it is the CPA, the leadership of the delegation that attends will be from the National Assembly. If it is ACP, the National Assembly provides leadership of the delegations. When it comes to the IPU, the leadership of the delegation will be from the Senate. Of course, it is a completely different thing when it comes to the PAP, because that is a Parliament. It is more often than not that Members will be sitting in Committees and what they discuss in the Committees will be reported to the plenary of the PAP. So, it becomes a bit difficult to talk about leadership of a delegation. I know this may be sending gitters sometimes to people, but that is the way things are. It is a Parliament, it has legislative functions and therefore, it deliberates as well. Therefore, it becomes very difficult for you to say that you are leading the delegation. You do not go there for conferences unlike the other organisations. They go there for serious Parliamentary business at the PAP.

You leave it to the leadership of the two Houses and before the PAP reconvenes in May, I hope we will have resolved those problems. I also understand that there is agreement within the CORD Coalition as to who should be in PAP. Just leave it to us and we will see how we will best address it. We have just resumed and as you know, the Senate is still; emphasis on the word “still”, on recess.

COMMUNICATION FROM THE CHAIR

IMPLEMENTATION OF SECURITY CONTROLS IN PRECINCTS OF PARLIAMENT

Hon. Members, I want to make this Communication. I had intended to make it earlier, but I thought we will have more Members in the Chamber.

As you are aware, Parliament is a very vital installation in our Republic and has very many high profile occupiers, occupants and visitors, who include large members of the public, college and school students who visit Parliament, apart from of course, suppliers and contractors for various reasons. To safeguard Members, staff, visitors and

property of Parliament, agencies responsible for protection of Parliament have been directed to implement the following security controls at all access points into the precincts of Parliament, this includes the KICC, Protection House, Harambee Plaza, Continental House, County Hall and all other buildings that belong to the Parliamentary Service Commission:-

(i) Only vehicles bearing valid security car stickers will be allowed access into Parliament. Vehicles without valid car stickers shall be denied entry.

(ii) Drivers are required to fill vehicle register at the entrance before entry.

(iii) All vehicles are subjected to security search before entry into Parliament. Anyone who declines vehicle search shall be denied entry.

(iv) Passengers are required to disembark and are directed to the Public Gate for screening before being allowed entry.

(v) Only the Member, the driver and their bodyguard may continue directly to the parking area within the Parliamentary buildings.

(vi) All persons seeking entry into the buildings shall be subjected to body and baggage screening at the doors.

(vii) Persons who declare or are found in possession of firearms shall be required to show proof of authorized ownership. The firearm shall, thereafter, be kept by the Serjeant-at-Arms and returned to the owner on exit.

(viii) Any person who declines to be subjected to screening shall be denied entry.

(ix) Members may entertain a maximum of two visitors within the precincts of Parliament at any time.

(x) Members are requested to report any suspicious persons or objects observed to the Serjeant-at-Arms.

Hon Members, as we are all aware, security is a responsibility for everyone. Co-operation with the security staff at control points by Members and their guests will go a long way in demonstrating how serious security is being taken at Parliament. I, therefore, urge for your full co-operation and this Communication will be distributed to each Member for avoidance of doubt.

Thank you.

Hon. A.B. Duale: Hon. Speaker I do not want to challenge your ruling or your Communication, but I really want to raise one fundamental issue to that Communication. While I welcome it, I think we are under the threat of terrorism. We needed that guidance. I am sure Members will agree with me, we do not want to cause social instability in our families. You can imagine you are with your spouse; wife or husband then you are told that your wife should step out and go to the Public Gallery. That will cause problems back at home and, particularly, if you come from Nyeri and some other counties.

(Applause)

(Laughter)

You may see Members coming to the Chamber with bandages. Hon. Speaker, I really plead with you that you make that small amendment that, when we are carrying our

small babies--- Some of us are still young. Some Members pick their kids from school and, maybe, our spouses. You can only make that amendment with your indulgence. We really thank you for that. I am sure hon. Ng'ongo was looking at you when you were talking and saying: "Now, this place is out of bounds for our special ones."

I beg to support your Communication.

Hon. Speaker: Well, I think it is also fair to state that Members' spouses are encouraged to apply for permanent passes for the duration that you are a Member. They will be issued with passes to allow their entry. Hon. Members, this is not an occasion for debate, anyway. Security matters are not an occasion for debate.

Next Order.

(Loud consultations)

We must go to business.

BILLS

Second Reading

THE NATIONAL POLICE SERVICE (AMENDMENT) BILL

Hon. Speaker: Hon. Members, in exercise of my discretion and upon being requested and having acceded, the business appearing as Order No.8 is removed from the Order Paper. It will be brought another day upon the decision by the House Business Committee (HBC). Therefore, it is removed. We will go to the next business.

(Bill deferred)

Second Reading

THE LAW SOCIETY BILL

Hon. A.B. Duale: Hon. Speaker, I beg to move that the Law Society Bill be read a Second Time.

Hon. Speaker, the Law Society of Kenya (LSK) Act Cap.18 is the current legal regime that governs LSK.

(Loud consultations)

Hon. Speaker, please, ask hon. Members to consult in low tones.

Hon. Speaker: Hon. Members, hon. Keynan, even as we withdraw, please, let us allow business to continue.

Hon. A.B. Duale: Hon. Speaker, I was saying that the LSK Act Cap.18 is the current legal regime that governs LSK. Article 10 of the Constitution articulates national values and principles. It is upon that basis that those national values and principles must be observed by every person in this country. Some of the values include the rule of law,

human dignity, equity, social justice, good governance, human rights, integrity, transparency and accountability. Article 10 of the Constitution that has those values and principles makes the LSK Act as it is presently constituted, not wholly amendable to include them. That is why, in order to conform to the spirit of the Constitution, it became necessary to repeal that Act and put in place a very comprehensive legal framework that encompasses such values and principles.

Hon. Speaker, there were reforms under the new Constitution like the reforms in the Judiciary. Once we reformed the institution of the Judiciary that we have today, it follows that we must also regulate and reform the private legal practitioners. So, in order to promote a sustained, fair, affordable and equitable access to justice in our country, LSK – which is an institution that I have a lot of respect for – needs to respond to the modern era of the concept of good governance. For example, the essential elements such as the administrative and the financial infrastructure of the Law Society of Kenya (LSK) must be in consistence with the international best practices. The attributes and the functions of the LSK as prescribed in this Bill seek to facilitate and create an efficient and effective functioning of a professional body.

Part I of the Bill contains preliminary provisions while Part II of the Bill establishes the LSK as a body corporate and provides for functions which include the advancement of the rule of law and the administration of justice.

Part III of the Bill deals with the membership of the LSK. Clause 8 of Part III of the Bill provides for special membership while Clause 9 provides for the honorary membership of the Society. Clause 10 empowers the Council to make regulations for non-practising members while Clause 12 provides for the rights of the various categories of membership of the Society both non-practising, special and the honorary Members. Clause 13 provides for the termination of membership to the LSK and empowers the Council in consultation with the Chief Justice to carry out determination on the grounds of such terminations.

Hon. Speaker, Part IV of the Bill sets out the governance organs of the Society. This includes the Council, the secretariat, the branches of the Society and the Annual General Meeting (AGM).

Clause 17 of the Bill provides that the management of the Society shall vest in the Council whose mode of election is provided for, again, in Clause 19 of the Bill.

Clause 23 of the Bill empowers the Council to establish committees for the better performance of the functions while Clause 24 of the Bill provides for the establishment of branches of the Society. The branches of the Society are specified in the Schedule to this Act. Clause 25 of the Bill empowers the Council to nominate a representative to statutory or public bodies.

Hon. Speaker, Part V of this Bill provides for the secretariat of the Society. Clause 26 provides for the appointment of the secretary of the Society through a competitive and transparent manner while Clauses 27 and 28 deal with the function and the structure of the secretariat.

Part VI of the Bill sets out the manner in which the meetings of the LSK shall be conducted while Clause 33 of this Bill which is before Parliament today deals with the resolution of the Society. Clauses 34 and 35 provide for the voting procedure of the meetings of the LSK.

Part VII of the Bill contains the miscellaneous provisions while Clause 38 provides for the preparation and audit of the financial accounts of the LSK before the end of every financial year.

Clause 40 empowers the Council to establish thematic committees like any other institution in order to assist and advise the Society in its functions or performance while Clause 41, which is the last one, empowers the Council to make regulations.

Part VIII of the Bill contains the savings and the transitional provisions.

Hon. Speaker, that is the genesis of the LSK Bill. I want to take this opportunity to also raise something that is fundamental to the people of this country.

Today, the Member for Othaya, the great hon. Mary Wambui lost her seat and as a coalition we will go all the way out to make sure that she gets back to this House.

(Applause)

I want to look at the functions and the petitions that went throughout this country after the general election, both at the level of the High Court and at the level of the Court of Appeal. We have seen a lot of inconsistencies in the dispensation of justice in our country. There was a petition by the Member for Matungulu which he lost and he went for a by-election. Today, Hon. Mule is a Member of this House. However, a month ago, the Court of Appeal sitting, I think in Machakos because I cannot remember, made a ruling that there was no necessity for the by-election of the hon. Member for Matungulu. My question is: What could have happened in a scenario where hon. Mule lost his seat and another Member was elected, he came and was sworn in and yet the Court of Appeal gave that verdict?

Hon. Speaker, we had the case of Lamu where the Independent Electoral and Boundaries Commission (IEBC) logistically spent enormous resources of taxpayers' money. It was close to Kshs100 million. On the eve of the election, the Court of Appeal upheld the election of the great Governor of Lamu.

Again, we had the scenario for the Member for Lungalunga, hon. Khatib Mwashetani. The High Court nullified the election of our colleague, hon. Khatib Mwashetani. The National Treasury used enormous resources, again, close to Kshs100 million to prepare for the elections. Again, on the eve of the by-election, the Court of Appeal upheld the election of hon. Khatib Mwashetani. Hon. Speaker, I will talk, talk and talk.

Hon. Speaker, that does not send a signal of a reformed Judiciary; that does not send a signal that the Judiciary is working together under the able leadership of Dr. Willy Mutunga. It is food for thought. I am sure that Members in this House are greatly concerned. If the Judiciary wants us to respect the three arms of the Government then we expect, just like in Parliament where we have the Speaker who is the Chair of the Parliamentary Service Commission (PSC), not to give inconsistent and contradictory communication.

We cannot have a Judiciary where one hand nullifies an election and the other one upholds the election. This is the case and yet the IEBC has used enormous resources that belong to taxpayers. This is food for thought. I think it is better when Members discuss these issues under the LSK Bill, 2013 which is before us.

Hon. Speaker, with those few remarks, I beg to move and request the great Member for Meru County and one time Vice-Chair of the LSK, hon. Florence Kajuju, to second this Bill.

Hon. Speaker: Yes, hon. Kajuju.

Hon. (Ms.) Kajuju: Thank you hon. Speaker, for this honour. I rise to second this Bill. Before I second it, let me congratulate the leaders of the Law Society of Kenya who held their elections on 6th February, 2014, where I also voted. I give them my blessings, as they proceed to serve the Society and the people of Kenya in the right manner they deserve.

In seconding this Bill, I found out that it clearly sets out the issues that affect lawyers since time immemorial. It is worth noting that the LSK has been operating with an Act that was passed way back in 1948. Time has come when we need to pass a homegrown Act that is going to govern the standards of practice for the lawyers in Kenya.

I acknowledge the fact that we have over 10,000 lawyers in Kenya who are duly admitted by the LSK and the High Court of Kenya. Under Section 2 of this Act, it generally deals with the interpretation of various terms that have been used in this Bill. Of importance in this Bill, which I must point out to this House, is the functions and objects of the Society, as set out under Section 4 of this Bill. You will find that among other functions of the Society, it has the capacity to guide members of the public in matters concerning their activities and are legal in nature.

When I served in the LSK as its Vice-Chair, we formed a Public Interest Litigation Committee. The powers of this committee were derived from Section 4 of the then Act. It is important for the LSK as a body to have the legal capacity to govern and guide the public so that they can bring on board issues of public interest and also participate. We have seen instances whereby the LSK has come in as a body and joined proceedings or suits that have been filed by institutions as *amicus curiae*; as a friend of the court.

(Applause)

Let me take this honour to welcome *Mhe.* Mary Wambui to this house and tell her to take heart, we will stand with her.

Hon. Speaker, the LSK has been able to join these proceedings as a friend of the court and participate in guiding the court in the matters that are of public interest and nature. Another function of the LSK is to provide continuous legal education, under Section 4, to its members. What this means is that lawyers can continuously be able to access legal training and be up to speed with various laws which are passed, either within the Republic of Kenya or internationally, so that they can always give the best to the people of Kenya.

Unlike other institutions, you will find that the LSK is ready and willing to undergo self regulation and that is set out under Section 4(k) and (l). The LSK has a way in which it disciplines its Members. This is by setting up a disciplinary process and mechanism where any dispute filed against a lawyer can easily be addressed and a resolution made. Under Section 6 of the guiding principles, the LSK is compliant in as

far as the Constitution is concerned. This section also sets out the fact that it has to be guided by issues of constitutionalism, justice and the rule of law.

What is of key in the Constitution is the fact that the public must be allowed access to justice. The LSK has appreciated that fact and ensured that it is able to facilitate access to justice, especially to persons who are challenged financially. Hon. Speaker, you appreciate this having practised law from the other side, that we are able to give *pro bono* services. That is free services to persons who want to access justice without paying or they are incapacitated in one way or another in terms of paying for legal services. I appreciate the LSK for the particular interest they have in access to justice.

They also protect the public interest as I had submitted earlier and they bring all these issues on board through the Public Interest Litigation Committee. The LSK has not forgotten the issues of cross border legal practice and this I appreciate them for being the Chairperson of regional integration. The LSK members can be members of the East African Law Society (EALS). By the mere fact that you are a member of the LSK then through your subscription, you automatically become a Member of the EALS. This is good for purposes of deepening, widening, thickening and tightening the East African integration process.

This Bill recognizes persons who have not necessarily been trained as lawyers and they can also become members of the LSK, not to practise but as honorary members. I would encourage members of the 11th Parliament to also apply and become honorary members of the LSK, because it is a special body within the Republic of Kenya. We shall give you that particular recognition if you deserve.

Under Section 13, a Member can be struck out of the roll of advocates; which I proudly signed in 1995. If one is found by the disciplinary committee to not have duly followed the ethical practice and professional conduct, they can easily be struck out by the LSK. That goes to show that this is a body which has opened itself up and is not shy of punishing members who have not participated in the activities of the Society and have committed unethical conduct, which is not becoming of an advocate.

Under Section 18 of the Bill, there is a governing council through which the LSK operates, where decisions and policies are made and left to the management under the secretary of the council to implement. Of importance in this Bill is the recognition by the LSK of the young minds getting admitted to the legal practice day in, day out to enable them participate in the governing council. Under Section 18, a member of the LSK can qualify to become a member of the governing council, if they have been in practice for two years from the date of admission. This is a plus because the young lawyers must have an opportunity to rule, govern and administer justice to our people through the governing council of the LSK.

The LSK Bill also recognizes Chapter 6 of the Constitution. Under Section 18(d) it indicates that persons who are to be elected to the Council of Legal Education must meet the provisions of Chapter 6 of the Constitution. As a fact, that is normally the procedure in electing our members.

Under this Bill you will also find that for elections to be conducted by the LSK, the IEBC must be keen and conduct the elections to ensure they are free and fair. Under

Section 20, the IEBC conducts elections on behalf of the LSK or such other body that might be in place at any given time in the conduct of elections.

Under Section 24, you find that the LSK appreciates devolution of legal services; it has set up eight branches through which the Society is governed and therefore the activities of the LSK are able to be felt on the ground. In the previous Act, Nairobi branch was not there but in this Bill, they have recognized the 4,000 members who are practising in Nairobi and have given them a branch so that they can easily reach their leaders and be able to engage with the governing council.

Another issue that is worth noting is the fact that through the LSK, there are branches in which particular towns had been placed, but they could not get services closer to them. A good example is Thika Town which in the previous Bill was under the Mt. Kenya LSK branch, but services from this branch were not accessible. The Committee on Justice and Legal Affairs has placed Thika Town under the Nairobi branch. Now, it is easier for them to access the services from Nairobi High Court and Milimani Law Courts. We also recognized Nyahururu Town which used to be under Mt. Kenya, LSK branch. We took it to the Rift Valley branch. This is a Bill that really needs--

Therefore, I beg the hon. Members present in the House today, that you give our people this opportunity as the Law Society of Kenya to do their part.

With those remarks, I second the Bill.

(Question proposed)

Hon. Speaker: Do not worry hon. Members; I have all the requests. But we have to do some balancing act. Hon. Millie Odhiambo-Mabona.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Speaker for giving me this opportunity to support this Bill. In supporting this Bill, I want to say that it is not an entirely new Bill, but it is really an improvement or an overhaul of an existing Act. I want to take this opportunity to congratulate the LSK for conducting the recently held elections in a very peaceful manner.

Hon. Speaker, I think for the first time there were concerns that there was a lot of political interest. I want to encourage the Society to refrain from being affected by national politics and to maintain the standard that it has always upheld, of ensuring that the LSK serves the purpose for which it was created. Over the years, the LSK has done a sterling job and I want to congratulate the new office that was elected.

Before I go ahead, I want to encourage my sister, hon. Mary Wambui, for the loss of her seat. I want to encourage her as a woman who has vied in a single member constituency. I know how difficult it is. Indeed, in this Parliament our numbers have reduced. I want to say that I am thankful for affirmative action that has hidden our nakedness because if we did not have the 47 women on the special seat, we would have actually reduced in terms of percentage, but the 47 women have covered our nakedness. So, indeed, if hon. Mary Wambui losses her seat, our number will reduce from 16 to 15. Therefore, even though we are in a different political divide, on this one I stand with you and I support you as a fellow woman.

Hon. Speaker, I want to also revisit what hon. A.B. Duale raised when he was moving this Bill, he raised concern over the number of cases and the varying decisions that are coming from this court that does not seem to establish any precedent. That is worrying. I want to agree with him that our Judiciary has not fully embraced reforms. We want to encourage that they need to embrace reforms. But on the other hand, I want to say that it is an indictment on our IEBC that they need to learn to do elections well. I want to reiterate a call that I have made ever since, that we need a new IEBC because it did not serve this country well and that is why we see this plethora of cases.

Hon. Speaker, I want to say that I am happy with this Bill and I will not go to all the details, like the Mover and the Seconder have gone through; save that I want to be happy with the principles that are espoused in the Bill; the principles of access to justice, which the LSK stands for. I would also want to say that I am very happy with the principle of public service. I did my masters degree in Public Service Law. Indeed, I was in the Committee on Public Service. Therefore, even as a Member of Parliament, I actually practice that.

However, I would want to move at a later date that it has not complied with the constitutional standard of ensuring gender equity. I know that some of the positions are elective and hence automatically ensuring gender equity is difficult, but we can cure that by law. I know that usually, at the LSK things are conducted through our AGM, but we will not have had it by the time we are moving the amendments. If we do, I will actually attend and move the case, but if not I would want to move it here because it is a constitutional requirement of the two-thirds majority. It must be articulated very specifically in the law.

[Hon. Speaker left the Chair]

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

Hon. Temporary Deputy Speaker, the other issue of concern to me is that I am very happy that this Bill provides for paralegal personnel. But in the same spirit of providing for paralegals, I think we need to provide a standard. Over the years, I have trained paralegal personnel. One of the things that we are doing is to work towards standardizing the profession so that not everybody just wakes up and says that he is a paralegal. One needs to have gone through some uniform and standardized training to qualify even to support a lawyer as a paralegal. The way we have left it here, it defines a paralegal as a person who gives lawyers support services. A person who sweeps my office may be giving me support services. That does not qualify you as a paralegal. We need to look into that.

Hon. Temporary Deputy Speaker, I would like to say that I am very happy that we provided issues on cross-border legal practice. I know there is a Bill that is coming here that is trying to cushion hon. Members so that when we leave, we are able to be accommodated. I know that it has elicited a lot of reactions from the public which are not positive. But the reality is that a lot of times, when our hon. Members leave this august House, they are not employable because people do not want to touch politicians with a

five-foot ball. If we provide for this cross-border practice, it means if I am not acceptable at home, I can go and practise in Uganda, Tanzania, or Rwanda. So, I am very happy with this openness that allows us to use our skills and techniques across the borders.

Finally, I want to say that I am very happy especially with the professional approach that this Bill takes. Yesterday when we were talking about the issue of ranking, hon. Members were not very happy with what I was saying. We can borrow from the LSK because I know when you are seated there exalted as the Chair, you will order me out. But when you look at the roll of advocates, I am still your senior. In the same manner, I am still the senior of hon. Kaluma whom, when I pass Homa Bay to go to my constituency, I salute. But in the profession, I am his senior. So, I would want to encourage that we continue with this professionalism and that is the culture the LSK and us lawyers have and I would want it enhanced in the House.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you, the indomitable lady from Mbita. I want to confirm that you are my senior and I love the varlour with which you do your things. Let us step on to matters which are more business.

There is a Member who wants to give a Maiden Speech. Do I not hear foot thumps for this hon. Member? You have the opportunity to proceed to the Dispatch Box and deliver your beautiful Maiden Speech as we listen in silence. Please, note that you have ten minutes to do that.

The Member for Nyaribari Chache (Hon. Richard Nyagaka Tongi): Hon. Speaker, I am hon. Richard Nyagaka Tongi. I rise today before this honourable House humbled by the arduous responsibility placed upon me by the democratic people of Nyaribari Chache who I have just sworn to serve diligently, faithfully and honestly. I am greatly thankful to them for giving me the opportunity to serve them in this capacity which gratitude can only manifest itself in my service to them.

First, let me thank God who has given me the opportunity and the strength and the tenacity to be here today. With the words of a high school chemistry teacher resonating in my mind, I am going to make this speech a semblance of a proverbial skirt that is long enough to cover what is vital, but short enough to keep all of you engrossed.

To be elected as a Member of the Eleventh Parliament by the great people of Nyaribari Chache is, indeed, an honour which honour I do recognize carries with it a lot of responsibilities. As I proceed, I would first like to acknowledge the honourable men who preceded me in representing the people of Nyaribari Chache Constituency in this House. I acknowledge hon. (Dr.) Simeon Nyachae; hon. Andrew Omanga; and the very able one hon. Chris Bichage from whom I have taken over the mantle to serve the people of Nyaribari Chache.

My agenda in this House will entail among many other things to protect the interest of the people of Nyaribari Chache in this House just like most of you are doing to represent your people. Therefore, it will be simple, basic and greatly intertwined with the agenda of most of the hon. Members in this House, great men and women who were democratically elected and who I would think have one thing and one thing only as their main goal, which is improving the lives of their people.

My agenda shall, therefore, focus on the youth and women empowerment, agriculture and tourism all geared towards economic development in the great

constituency of Nyaribari Chache. Hence I believe that if all of us clean the front of our houses, the entire world would be a very clean environment to live in.

Concerning the youth, there are various challenges that bedevil the youth, including unemployment which has given rise to insecurity, alcoholism, and family abandonment. Poor representation of challenges facing the youth has led to a misconception by the youth that they are not heard or represented or understood by the Government. Projects like the *Uwezo* Fund, the Youth Enterprise Development Fund (YEDF) and *Kazi kwa Vijana* (KKV) Programmes are yet to be meritoriously felt in Nyaribari Chache. I will endeavor to do the following: Support and sponsor legislation that will take into account the development of the youth; ensure that the young generation is effectively informed and empowered to access facilities already mentioned above; and ensure that the county governments do not promote clanism and tribalism in employment. In a way, this has become a barrier for the young people who want to start their families because I am told that if you are working in one county you cannot transfer your services to the next county and hence if you marry a lady from one county, you cannot stay as a family for as long as both of you are keeping the jobs at the county. So, my agenda will be to ensure that that is not enhanced. If there is a way we could control it, I will team up with the people of the right mind to support it.

With regard to women and the old and access of equal opportunities in all spheres of life: As a son of a woman, a husband and a father of two beautiful girls, I refuse to robe behind the myopic belief that women do not possess the capability, intelligence and competence to undertake and excel in main tasks bestowed upon them. I will ensure that all are treated with respect and dignity irrespective of their sex or marital status in society. I will also ensure that money set aside for the old age is accessible and given out on merit.

On this point I want to acknowledge, like my colleagues ahead of me have said, that the Member for Othaya, we are proud of you. You are a courageous lady and we will do everything we can to support you to get back your seat because I believe that way we will be encouraging the ladies to come forward and do what they must do to win and support the country.

On healthcare, I will lobby the Government to upgrade Kisii Level V Hospital to a referral hospital acquiring the same status and facilities as Kenyatta National Hospital to better serve the western Kenya region. We appreciate that this hospital serves not only the Kisii, but also people from lower Nyanza Province, Rift Valley and the Maasai community. We think that when we get it upgraded to that level, we will be able to support and ensure that there is quality healthcare given to the people. I will also support and initiate other health centres in Nyaribari Chache with the support of the Government and, of course, with the support of the donors.

On education, I will support primary education in Nyaribari Chache by ensuring that learning environment is conducive which then follows that we need, at least, four national schools of the caliber of Alliance High School and Starehe Girls to support the children who are going to leave Standard Eight.

On poverty eradication and economic empowerment, I will promote and initiate SACCO movement by setting up cottage industries for the various raw materials found within the constituency. I will expand hospitality industry which is already flourishing to

tap into tourism, support housing projects to ensure that each and every citizen in the constituency has an affordable roof over their heads and also exploit the constituency's rich culture, beautiful land and breathtaking resources. My plan remains that the full potential of Nyaribari Chache Constituency should be exploited. It is important to mention at this point that I am the Member of Parliament representing the larger Kisii Town which is cosmopolitan and, therefore, there will be need to support and get every support that I can get to ensure that people there live in harmony and that they support each other in every way they can.

In conclusion, I want to remember the words of Murray and I quote:

“If leadership serves only the leader, it will fail. Equal satisfaction, financial gain and status can all be a valuable tool for a leader, but if they become the only motivation they will eventually destroy a leader. Only when service for a common good is the primary purpose are you truly leading “.

In these words I find solace, purpose and drive to lead the people of Nyaribari Chache with a view to chart new hopes and ambitions for them. It is important for me to mention that my motto in the campaign was that I wanted to aspire to inspire before I expire. I believe by being here today I am inspiring quite a number of young people out there who will now then believe that it is possible that you can come from a challenged environment and still end up in such an honourable place.

Hon. Temporary Deputy Speaker, I would like to take this opportunity to thank my campaign team, the church leadership which prayed for me so seriously, the party members who accepted me when I was thrown out by my former party, my supporters, and, of course, my dearest family for the support leading up to and during the campaign. I would also like to thank my dear wife Stella who worked so hard to ensure that we get the victory; my dad and mum who kept me in daily prayers that encouraged me a lot; and my lovely kids who endured without complaint the long absence and the cost of emotion during the petition in the High Court and Court of Appeal and campaigned by default praying.

I want to acknowledge that today, so far, I am the only Member of Parliament who has won a petition through the High Court and the Court of Appeal and I am here today to represent the people of Nyaribari Chache.

In conclusion, with conviction that this skirt is just right in length I wish to conclude my Maiden Speech by welcoming all my fellow honourable Members to what I consider to be the best constituency in Kenya for a plate of *matoke* if and when they have time.

Thank you, hon. Temporary Deputy Speaker. May God bless Nyaribari people, this House and Kenya. Amen.

(Applause)

The Temporary Deputy Speaker (Hon. Kajwang): Thank you. We have been listening with a lot of patience but as you will come to know, this is a House of rules and the rules only take us to ten minutes. So, keep time strictly but we want to thank you very much for your Maiden Speech.

Let us go back to the business. I see requests here but before we go to them, hon. Member for Homa Bay Town, what is the matter?

Hon. Kaluma: Thank you, hon. Temporary Deputy Speaker for giving me the opportunity to stand and address an issue after the long Maiden Speech. I am standing under Standing Order No.97 (1) to move that the time for debating the Law Society of Kenya Bill now before us be reduced to five minutes. I am saying this being alive to the new matters arising in the Bill. Of course, the Law Society of Kenya Act has been there before. We know the changes being made. This will also give the best opportunity to the majority of the Members of the House to really contribute to the law that goes to govern this critical sector.

Hon. Temporary Deputy Speaker, I am also looking at our Order Paper and, of course, in the Departmental Committee on Justice and Legal Affairs we know that there are several Bills also awaiting debate in the House. So, I wanted to urge the Members and indeed the Speaker as the Chair presiding that we reduce this time to five minutes so that we confine our contributions on this Bill to matters that can help revamp the Society and we go to other businesses.

Thank you, hon. Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much. Is somebody seconding that? Hon. Kaluma, do you have someone to second this? Can I see your intervention button?

Hon. Kaluma: Hon. Temporary Deputy Speaker, I have agreed with hon. Dennitah Ghati, the Member of Parliament for Migori County to second the Motion.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, Member for Migori.

Hon. (Ms.) Ghati: Thank you very much, hon. Temporary Deputy Speaker. I wish to second the Motion and I wish to say that because we have another equally critical Bill that we are all looking forward to discussing, I wish to request that we probably give it the five minutes that my colleague has requested so that we can fast track this and get into the other order of business. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): I do not want to subject this to a lot of debate but I am seeing interventions and I can guess that they are related to the discussions of the two Members. So, I will propose the Question very quickly to see if we have a consensus on it to be able to move.

*(Question, that debate be limited
to five minutes proposed)*

Hon. Members: Put the Question.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, I would until I saw the lady who described herself as my senior. Member for Mbita, what is the problem?

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I have spoken and I have been given ten minutes. So, I come to equity with clean hands. I think I made this remark yesterday and I want to repeat it. This is a House of debate and I am personally really perturbed at the trend that we are taking, that we want to reduce every debate to five minutes or three minutes. Even

from what I can see and I have not been able to see the slots there but *prima facie*, I suspect there are not many people who want to speak to this Bill.

Hon. Temporary Deputy Speaker, I think we need to also be guided by the Chair that there is time normally allocated. If we do not finish this Bill today, the time will be there up to tomorrow but whenever we reduce time to five minutes we are developing a very negative culture in this House. Some Members who do not have things to say will speak for three minutes and some will speak for two minutes but whenever we reduce time to three minutes because maybe I am interested in the next Bill or the next one, we are reducing the substance of debate on the Floor of this House.

So, I really oppose.

The Temporary Deputy Speaker (Hon. Kajwang’): I hear you. Since I do not see more interventions does that mean that there is a consensus? Yes, Member for Kasipul Kabondo. I am reading “Kaspul” and not “Kasipul”. That is what I am reading. Okay, you may proceed.

Hon. Onyango: That correction must be done, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Well, that is what I am reading. Proceed, please.

Hon. Onyango: It is Kabondo Kasipul. Thank you, hon. Temporary Deputy Speaker. In reference to what the Leader of Majority Party gave us as guidance on matters that are coming for debate next week, this matter has been listed that in case the business is not concluded today then it comes up next week. So, we have no business reducing the time; let Members debate. I am not of the opinion that every time there is an issue you try to reduce the time for debate. It is just that a Member has risen and has been seen but there is no serious debate on these matters. I still concur with the others that this is a House of debate and you have to be given time to check on the issues and bring out the best. You may not be supporting or opposing but you may bring out both the good and the bad so that by the time we are making the final decision, we have wealth of information over the matter.

So, I beg to oppose.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. I hear you. That is why you see that the Speaker’s Chair is neutral about these things. It is your House to debate and it is you who has brought that Motion. So, you need to find out whether you want to have more time or you want to have more people to contribute to a specific thing, but we also have legislation to drive in this House. We want to try and see if we can have as many Members participating as possible but I hear you. Member for Kandara, today it is Kandara Constituency.

Hon. (Ms.) Wahome: Yes, today it is Kandara. I think a correction was made. Thank you, hon. Temporary Deputy Speaker. The intervention is that I want to support the position taken by Millie Odhiambo, the hon. Member for Mbita. I think we should not encourage shortening of the time for debate but we should encourage those who have the tendency of repeating whatever they have to say to say less because they have exhausted their points. However, I think we should leave the time allocated for this particular Bill. I also suspect that there may not be very many people who want to contribute and I think we will be able to clear it within reasonable time.

The Temporary Deputy Speaker (Hon. Kajwang’): Well, to let you know I have 11 requests. Hon. Members, we do not want to take long in this debate. The thing is this: The Chair is really trying to balance your concern that as many people as possible should be able to speak and you know you only have 24 hours. God did not create more than 24 hours and you are 349 in this House although the Member for Mbita said that God did not ordain that it is you who must pass all the Bills. You may resume your seat the Member for Kandara.

Hon. (Ms.) Wahome: I was hoping that while I am on my feet, I could continue contributing.

(Laughter)

The Temporary Deputy Speaker (Hon. Kajwang’): It is not possible. You see the awkward position you have put the Chair in! You want more of you to speak but also you do not want the time to be limited. There is no way the hon. Speaker can gag anybody here.

Fair enough, it has been proposed, seconded and the Question has been proposed. I will put the Question when the upcoming Secretary-General of the ODM shall have sat down. Order!

(Question put and agreed to)

Fair enough. That is your decision. We will live with it. Hon. John Waiganjo, the Member for Ol Jorok.

Hon. Waiganjo: Thank you, hon. Speaker, for giving me this opportunity to talk to this very important Bill. I must admit that this Bill is very timely. The Law Society of Kenya is a premier society that represents the interests of lawyers as well as litigants. For a long time now, we have had hue and cry over this very important profession, cry mostly coming from litigants who would allege that lawyers have gone rogue. There are not many lawyers, as matter of fact, who can be said to have gone rogue. Then again, it is important to know that this piece of legislation is long overdue.

In saying that, I also want to congratulate the leadership of the Council for the Law Society of Kenya who carried out very peaceful elections. As a lawyer, I am proud of the membership of this society. Most importantly, we must emphasize the importance of the Law Society of Kenya. In doing that, we must look at the past. We know that the LSK played a great role in the democratization of this country and this is a position that we would want the LSK to hold considering that we want them to be careful, not to bend to the excesses of the Executive. We saw in their elections and campaigns that there were fears that there would have been some infiltration by the politicians, probably wanting to have a stake in the management of the society, but we are happy to say that the leadership of the LSK emerged to be even stronger.

We want to encourage the LSK not to allow themselves to be puppets either of the Executive or anybody else, but we want them to engage more with the Legislature. In this Bill, we proposed, as a Committee, a department that will be charged with engaging Parliament more and more in our legislative duties. As we say, the LSK is an important

player in public interest matters and even in legislation. So, I believe that that kind of inclusion in this Bill will bring out the best in the LSK and we will see less and less Press wars between the LSK and Parliament, so that every time the Committee on Justice and Legal Affairs comes up with an issue, we do not expect to see the LSK being the first in the newspapers either to condemn or to comment. We want to encourage them to come closer and engage Parliament in a more concrete and profitable way.

We also want the LSK to relate with Judiciary in the right way. As has been said by the contributors before me, the Judiciary really needs to be looked into. The LSK is the one that carries the mandate of the consumers of justice. So, we would want them also to engage the Judiciary more and more and to be contributors for the betterment of the Judiciary. For instance, we know that the criminal justice system in this country has gone down, almost to a halt and lawyers practise in these courts. So, we want the LSK to come up strongly and strengthen the criminal justice system and even the office of the Deputy Public Prosecutor (DPP). We wish to see an independent office of the DPP getting more input from the LSK. Also, we want the LSK to profile public interest matters. It is not that they have not done it before, but we want to see more and more of that, particularly now that we have an expanded Bill of Rights in our Constitution at Chapter 4.

The implementation of Chapter 4, the enforcement of the Bill of Rights cannot happen on their own motion if we do not get input from the LSK. Even if the citizenry is allowed to approach the courts and want to enforce their Bill of Rights at no cost, of course, we know the capacity of our citizenry and they may not be able to know the procedures of approaching the court or the courtroom or filing pleadings. Even if the Bill of Rights suggests that the documentation need not be formal, we want to see LSK come out clearly to help and give *pro bono* services, not only now to the murder suspects as has been happening, but we want them to expand this mandate. They should also look closely at the advocates who do children matters and child support matters, for instance, *pro bono*, but nobody ever gives them credit for what they do. We know that people in our country are poor and cannot afford legal services. Those who can afford legal services, sometimes will go out of their way against a litigant who cannot afford, therefore, overrunning their rights. Even if you have a good case and you are not represented in court, obviously, you will not win. So, we want a society that has a level of conscience and concern for the poor of our country.

Right now, we have members of that very august Society who ascribe and prescribe as *pro bono* lawyers, but all we see is that they go to represent murder suspects. I wonder why that cannot be expanded so as to include even representing robbery with violence suspects because the concept is the same. They should also include child support matter because the concept is the same. We want the LSK also to look closely and clearly at the ongoing in the Industrial Court, particularly for litigants who work in factories. We know that, for a long time now, factory workers work under very bad conditions. Usually, their matters hardly even get to the Industrial Court, leave alone any other fora that can address their rights. So, we want to have a society which will go out there and try to assist our people in Kenya.

We are now under a new constitutional dispensation and the LSK must be first in time. One of the objects of the LSK as enshrined in this Bill is to harness and to promote constitutionalism. You cannot promote and harness constitutionalism if you become a

society that stays at the pedestal. It is good that we have devolved their functions and their branches. We had their participation when we came up with this Bill. They came. It is the Council for the LSK which proposed that they be allowed to remain in their eight branches. Even as we have the 47 counties, we want to be alive to the fact that there is proposed to be a high court in every one of the 47 counties. So, the Council for the LSK must now also start thinking ahead and try to see how they can expand their branches.

Therefore, this is a very timely Bill. As you know, the legal profession, not only in this country, but the world over, is important. Lawyers are important in life. You always need a lawyer, not only when you are criminal, but if you are a conveyance and you are buying property, you need a lawyer. So, we want the integrity of lawyers also to be harnessed. We want the LSK to also protect lawyers because it does not mean that litigants are very good. There are busy bodies or litigants who are petty and who will bring frivolous and vexatious matters before the disciplinary committee just to punish lawyers because they did not win their cases. It is not obvious that when you go to court, you have to win. It is also not obvious that an advocate must win your case in order for you to pay him. No, that does not happen. We also want lawyers to be protected from litigants who go to court expecting to win regardless of the rights of the others.

It is an important Bill and even at your deathbed, you need two people. You need a lawyer and an insurer, just like Jesus when he died; he had two thieves on either side. So, the principal applies.

I support.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Ol Jorok, are you insinuating that lawyers are equivalent to thieves?

Hon. Waiganjo: Not at all, hon. Temporary Deputy Speaker. What I said is that lawyers are important in life and in death. Even when you are on your deathbed, you need a lawyer to draft your will, not necessarily when you are dying. That is why I said that a lawyer at your deathbed is as important. The only reason as to why I mentioned that you need to have a lawyer on one side and an insurer on the other side of your deathbed was just to give an example of Jesus when he was about to die.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Waiganjo, make my work easy, so that I do not have several interventions. Clean up the part that seems to suggest that lawyers and insurance professionals are equivalent to two thieves next to Jesus. Just help me so that we move on.

Hon. Waiganjo: Hon. Temporary Deputy Speaker, I did not allude to that. I did not, in any way, suggest that lawyers are thieves. I am a lawyer. I would be the last person to make such a suggestion. So, I delete the last part of my submission.

The Temporary Deputy Speaker (Hon. Kajwang’): No, you unequivocally withdraw.

Hon. Waiganjo: Hon. Temporary Deputy Speaker, I unequivocally withdraw and express the fact that I never meant what it has been perceived to mean.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much.

Member for Ainabkoi, you are the chairperson of the relevant committee. Can we hear you?

Hon. Chepkonga: Thank you, hon. Temporary Deputy Speaker. As you know, you are a very able Member of the Justice and Legal Affairs Committee. I would like to thank you very much.

First and foremost, may I take this opportunity, on behalf of myself and the Justice and Legal Affairs Committee, to convey our very hearty congratulations to the Chairman, Mr. Erick Mutua, and the Vice-Chairperson, Ms. Renee Omondi, on their very worthy re-election? I would also like to congratulate those Members of the Council who were elected for the first time and those who were re-elected. They have been elected into a very important institution in this country. This is probably the only profession that operates as a statutory body. All the others operate as societies. The people of this country deemed it fit to ensure that the legal profession, which represents the interests of many in this country, operates as a statutory body.

Secondly, I would like to take this opportunity to also convey my sympathy to the Member for Othaya, hon. Marry Wambui, who became a casualty of lack of precedent or lack of consistency in precedent in the High Court and the Court of Appeal. I would like to assure her that we stand with her at this time. She has our prayers. The Bible says that all things are possible. I am sure that with the good work that she has been doing, she will be re-elected. We have seen that she has introduced fish farming in her constituency – something that has not even happened in Ainabkoi Constituency. I am trying to do it. She has been doing a very good job. I am sure that when it comes to the by-election, she will be re-elected.

Hon. Temporary Deputy Speaker, I am a sad person today because hon. Kiptanui and I were expected to host hon. Mary Wambui as the Member for Othaya on 23rd February in our constituency because we border each other. She was supposed to be the chief guest at Mavuno Catholic Church of Kaptagat Parish. I hope that this ruling has not put her down. I know that she is a strong person. When she was seeking election, I used to call her the “iron lady”. I compared her with the late Margaret Thatcher of Britain. I am sure that she will be able to overcome this development.

This particular legislation has come at the right time. We have been operating using a legislation that was passed in 1948, during the colonial time. It was necessary that a new legislation be put in place. As we celebrate 50 years of Independence, as a country, we cannot be using a colonial relic to run our own legal profession, which we believe should be home grown. We have adequate knowledge in this country to be able to craft a legislation that emanates from the views of the people of this country.

Hon. Temporary Deputy Speaker, the Justice and Legal Affairs Committee has had an opportunity to go through this Bill. We have perused it and made certain recommendations in the Report that I tabled this afternoon. I would like to inform the House that we have met a number of stakeholders. We have received memoranda. Last week, before the election of the LSK, we hosted the Council of the LSK, led by the then outgoing Chairperson, Mr. Erick Mutua – who has since been re-elected. We had very fruitful discussions. The amendments that we have proposed to this Bill are with their concurrence.

This Bill provides for the regulation of the manner in which the members of the LSK would conduct and govern their affairs. As my colleagues know, advocates, one of whom I am proud to be, are members of the LSK. Our sole trade is integrity and honesty.

Those are the values that have been enshrined in this particular Bill. I am happy that these are the central tenets that are used in the legal practice to ensure that we represent our clients in the most suitable way.

As proposed in the amendments, the LSK is expected to assist the Government in coming up with legislation that is relevant to the society. We are going through serious changes in this country, arising from the new constitutional dispensation. We have examined this Bill to assuage the fears of the gracious lady from Mbita, hon. Millie Odhiambo-Mabona. We have made recommendations in our Report to amend the Bill to ensure that the Chairperson and the Vice-Chairperson are from the opposite genders.

The most interesting thing about the Council of the LSK is that we have not acquired affirmative action. In fact, men are in danger. At one time, there were more women than men. So, we did not see the need for stressing on gender balance. If you look at its composition at the moment, you will see that there is somehow a balance.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Chepkonga, is it not a fact all over that there are more women than men?

Hon. Chepkonga: Absolutely! In fact, according to this country’s latest population census results, there are 51 per cent women in this country as compared to 49 per cent men. In fact, men are under threat. In fact, there should be affirmative action in favour of the male gender to ensure that the positions that we are aspiring for are also reserved for men.

Hon. Temporary Deputy Speaker, it looks like the Member for Mbita would like to intervene.

The Temporary Deputy Speaker (Hon. Kajwang’): No, proceed. You are not the Chair.

Hon. Chepkonga: Thank you very much, hon. Temporary Deputy Speaker. Of course, she is my junior but I have a lot of respect for her.

Hon. (Ms.) Odhiambo-Mabona: I am your senior!

Hon. Chepkonga: Hon. Temporary Deputy Speaker, she is not my senior. I will not listen because what I am saying is a fact. It is only that she sees me as a young man because of my looks. Looks can be very deceptive.

(Laughter)

Hon. Speaker, we hope that with the passage of this Bill, we will have better structured consultations with the LSK. We had a meeting in the last one week and expressed our concerns.

We hope that with the passage of this Bill, we will have better and structured consultations with the Law Society of Kenya (LSK). We had a meeting in the past one week and we expressed our concerns that we do not expect the Council of the LSK to be speaking to us through newspapers. We are available as a Committee. If there are any issues in which we can assist in terms of making laws, we are willing to engage with them.

Hon. Temporary Deputy Speaker, a recent concern that I had about the LSK, and I thought we, probably, corrected it was when the High Court recently issued an order which I thought, to the best of my knowledge, was frivolous. It said that Members of this

House have been earning more salary than what was approved by the Sarah Serem Commission. In fact, I went and checked my payslip and I found that it was the same as the one gazetted by the Salaries and Remuneration Commission (SRC). I wondered what purpose the order, which was issued by the Judiciary, served. In fact, it was in vain.

The LSK, without checking with us, came out and said that they, in fact, supported that. We wondered what they were supporting because we are not in breach of any law. We would like to assure the LSK that we obey Chapter Six of the Constitution. We believe in integrity, honesty and in earning monies that are due to us and are approved in accordance with the Constitution.

The salary that we are earning, as we speak today, is what was approved by the SRC; we do not earn a cent more. I wish we had earned the purported Kshs1.2 million that we saw reported in the newspapers; that amount has not been paid to the Members of the National Assembly. I will be happy to receive it, but, unfortunately, we have not been paid that amount of money. What was gazetted is what we are being paid.

Hon. Temporary Deputy Speaker, we would like to inform some people that we do not earn more than what was approved. As far as I am concerned, the only jurisprudence value that judgment was to us is the obiter that, in fact, stated very categorically that the Judiciary cannot stop the National Assembly from debating issues or making decisions with regard to matters that are before it. We accept that and it is, in fact, consistent with the Constitution and all other written laws. Their obiter should have been the *ratio decidendi*. That should have been the matter that should have been the decision of that court and not the question of our salaries. This is because the question of our salaries is not in dispute at all, as we speak today.

We would like to inform the LSK that in future, they should consult with the Departmental Committee on Justice and Legal Affairs or seek information and we will be available to give it.

Hon. Temporary Deputy Speaker, the other issue that the Departmental Committee on Justice and Legal Affairs is happy to present to this House is the fair representation in the Council. One of the amendments that we are seeking to introduce to this Bill is the representation by people or advocates, who have practised for over 25 years. We notice that the Council Members are very junior. We want, at least, one person who has practised for over 25 years. I have not reached there yet because I am still below par. However, I hope that when I get there, hon. Kaluma, will ensure that his vote elects me as one of the Members of the Council who will be over 25 years in practice.

One of the things that we would like to ensure it is enshrined in this is that our Senior Counsel, Hon. Olago Aluoch, is given an opportunity to be a Member of Council when he retires.

We also seek to ensure, through this Bill, that the persons who will be elected as the Chair and the Vice-Chair will not have been persons who had been Council Members before. The only requirement that we have put in the recommendation is that such a person must have practised law for over 15 years. That is the equivalent of a person who would be appointed as a Judge of the Supreme Court. So, we intend to move certain amendments to ensure that we re-align this to the interests of the Members of the LSK.

Hon. Temporary Deputy Speaker, I would like to thank you for giving me this opportunity.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Seme, we have heard of the *ratio decidendi* and *obiter dictum*, but this debate cannot be confined to lawyers alone. So, what are some of the radical surgeries you want to apply to this legislation?

(Laughter)

Hon. (Prof.) Nyikal: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. Let me also start by thanking the LSK for its democratic process, So often as perhaps required by the law, they hold their elections and they seem to be pretty peaceful.

I also notice that the public interest that the LSK has shown when we have issues that are of national importance, particularly when the constitutional process was going on and even during the process of devolution is good.

Professionals are the heart and soul of a society. I say that because professions by definitions are practised in accordance with a solid body of knowledge that is certified and is researched into.

Professionals will not care really what the political situations are. Professions are practised with integrity, honesty and etiquette that is laid out. If that is lost, then a society is lost. Therefore, to have this law brought in and modernized to be in line with the time and the new Constitution is a great thing. Therefore, I support it.

Again, it is my belief that if professionals in this country, and in any society, abide by their body of knowledge and etiquette in their professions, the honesty and integrity that is expected of a profession; we will not have corruption in this society or anywhere. None of the big scandals can go through if there is no professional involved, whom I think help people to “cut corners” and avoid the law. This is whether it is in the construction of roads, building, purchase of medicines or in engineering projects. Professionals are always there and I think they contribute or, in fact, enhance corruption, if they do not adhere to the body of knowledge of their professions and also to the etiquette, integrity and honesty that is expected of a professional.

Therefore, if this law passes as we support it, we expect the law profession to really lead us in that direction. This is particularly so now that the new Constitution that we have has put a lot of responsibility on the legal profession as far as governance in this country is concerned.

Hon. Temporary Deputy Speaker, look at all the structures that we have put in place; look at all the commissions that we have put in place, a large number of the commissioners or the people in these commissions are lawyers. It is our hope when we see this coming that we will now be guided by professional ethics, honesty and integrity. Because of that there is need for a body that looks at the standards that are followed; that ensures discipline and ensures that even the training is up to date.

This law is long overdue in that respect.

Hon. Temporary Deputy Speaker, any society is judged by how it takes care of its weak people. I think the legal profession must accept that there has been a lot of outcry. Many people, particularly those who cannot afford means are literally scared of going to lawyers. I know even in the medical profession fees are high, but may be people are

forced to pay them. But in the legal profession, people just say: “I do not have the money and I will not go there.” I know there are *pro bono* services, but a lot of people just cannot afford it and they do not even try. I think we need to look at a way of supporting the weak in our society, particularly now when the Constitution has brought in the Bill of Rights. In fact, it is the poor people who actually need their rights protected as they cannot do it on their own. Therefore, I think the legal profession may through this Bill, really come out and help the poor people of this country and make the legal process friendly to people.

Hon. Temporary Deputy Speaker, we are all aware of the delay of cases in court. I think both the Bench and the Bar will take responsibility. I have gone through what was started in 2005 and was only concluded last year and there is an appeal which has not even started. If it takes ten years for a case to be concluded, you could as well forget it. So, I think using this Bill as instrument, we really must make sure that--- Lawyers themselves say: “Justice delayed is justice denied.” Then the Bar and the Bench cannot sit together and see justice being delayed and look comfortable. We must look at that.

Here in this House we had hon. Members who had a petition; I think it was done quickly but not quickly enough. Somebody went through a by-election campaign only for the court to come later and say there was no need for that petition. How does one feel, if you have gone through that? I think we must do something about the issue of delay.

There is also the issue of judgments that do not seem to bear out justice. I am not a lawyer, but I believe that the basis of law is what is just. I think, as much as you need law, it is often apparent to lay people what is just and what is not just. I have never understood why, for example, somebody who is suing for libel or slander will be awarded Kshs10 million or Kshs20 million and somebody who has died and has sued for damages is awarded Kshs2 million. How does this work? Somebody has died and you award Kshs2 million or Kshs3 million. Another person is alive, the only thing that has happened is that his name has been kind of put in disrepute, and you give them Kshs20 million. We, lay people do not understand that. So, maybe you will educate us on that. But I think we need to look at such issues; they bring the profession into disrepute.

Hon. Temporary Deputy Speaker, lastly, we are noticing that the period for legal training or education seems to be lengthening with time. I know that before it was three years but then nationally it is four years to go to the University and then you go to the Kenya School of Law. It started with six months and then it was nine months. I think now it has gone to 18 months, and you need Kshs.180,000. People from poor backgrounds have just finished law and graduated and their parents are thinking that they will see some difference. Will they be able to practise if they need another Kshs.180,000 to go through Kenya School of Law? Sometimes people think and I have heard people discussing that lawyers are actually trying to protect their profession by having few people in it. That is an important point.

Finally, I appreciate the need to have paralegal personnel, but maybe you can borrow a leaf from the medical profession. We have heard about very many bodies that are coming in that are now having Acts of their own so that the medical profession have numerous Acts regulating various aspects of the medical practice. I think when you get to the issue of paralegals, it may be important to put it all in one Act, so that at the end you do not have this thing called paralegal in conveyance or Constitutional Law and so on

and people putting up their Acts that regulate those aspects. That is what happened in our profession.

With those remarks, I beg to support.

Hon. H.K. Njuguna: Thank you, hon. Temporary Deputy Speaker. In principle, I am supporting this Bill and I will be brief. But before I raise my points, I want to comfort the hon. Member for Othaya Constituency, having gone through an election petition. We all know what it means to lose an election, particularly when we talk about inconsistencies in the court rulings.

Therefore, just like the other hon. Members of this august House said, I will urge hon. Wambui to take solace in God. I know you will win because you are very popular in this country because of the things you have done for the Kenyan people. We will be with you and do not worry. We will stand united.

Now, the Law Society of Kenya (LSK) is not just a busy body taking cognizance of the role it has played in the past, particularly in terms of democratization space. I remember in the 1990s, it was the sole opposition party. Therefore, in terms of looking at the core values of this Society and the rule of law which basically guides humanity; for me taking cognizance that lawyers are being guided by an Act of Parliament that was enacted in 1948, a lot has happened since then and it is continuing to happen. Therefore, the way I see it, it is an attempt to re-organize the profession taking cognizance of the dynamics that our society has gone through both locally, regionally and globally.

With regard to this re-organization, while listening to various hon. Members who have contributed and looking at the Bill, it touches on access to justice, like when we say that a lot of people are not able to access justice; either because it is very expensive or the courts are not there in most of the regions. While interrogating this Bill, there is an attempt to make sure that all regions in this country have high court or other courts. Therefore, to me access to justice is cardinal in the promotion of the rule of law. This Bill is an attempt to promote access to justice to all Kenyan. I have looked at the issue of competitive elections. If we are going to have a society that is going to deliver justice anywhere, then we must encourage transparency, accountability and competitive elections. I would like to congratulate the LSK in their recently concluded elections because they are setting a benchmark even to other professions.

So, towards that end, I support this Bill. Looking at the Act, there is an attempt to provide *pro bono* legal services to those people who might not be able to afford it financially. We do agree that many people think that lawyers are very expensive. Professional services are expensive. In fact, I was checking the meaning of the word “profession” as we were debating. For me, profession comes from the word “profess”, we are almost telling the faith in that profession. Therefore, here it is the faith or the rule of law. As much as we might say it is expensive, when the Bill makes an attempt to provide *pro bono* services, then that type of care, I support it. This is because it means we should go to a situation where every Kenyan in need of the legal service is able to access it.

Hon. Temporary Deputy Speaker, with regard to promotion of ethical practices, every profession has its ethics. Without ethics, you cannot talk of an engineer, an accountant or a medical doctor. There is an attempt to enhance ethical standards in the legal profession in this Bill. Towards that end, I support this Bill because there is even a higher benchmark now in terms of standards for the lawyers. Now, allowing members of

the public to participate in the legal profession is another milestone in this Bill. This is because we are saying that we are going to have honorary members – those who have not schooled in the legal profession can now come in through vetting or application and become honorary members. This is another way of demystifying the profession such that the members of the public can come in and interrogate the profession and be part and parcel honorary members. This is a milestone and other professions need to borrow from whatever is happening now in the legal profession.

The Bill has borrowed heavily from the best practices now, either globally or regionally because there is an attempt to integrate the practice in East Africa and the Commonwealth. Towards that end again we need to applaud this Bill. However, of course, we accept that there are challenges just like hon. Members here have noted. We need to accept that as members of the legal profession. The biggest challenge had been the delivery of justice where a case takes one year, two years and some even ten years. As some hon. Members have said here when justice is delayed, that is justice denied. We hope that concern will be taken into account.

When we went through the legal profession, some of us did not have to go through the School of Law. However, now the training has become so cumbersome. After university you go to the Kenya School of Law which has now become very expensive where an ordinary Kenya is not able to go through this training. It is now costing almost Kshs200, 000. This is more expensive than what is paid in our public universities. After going through the public university, the students from poor families are not able to go to the Kenya School of Law. Perhaps, that is a concern that we need to address.

Also, students coming from the Commonwealth countries, when they come back here they have to go through other courses. That is causing a lot of disharmony. We need to have a practice. If you are talking about Commonwealth then perhaps it should be acceptable that students coming from law school in Commonwealth countries need not go through trauma, the way they are being traumatized now. Of course, the concern has been raised by hon. Chepkonga, the Chairman of the Departmental Committee on Justice and Legal Affairs that at times we get very disturbed when the Law Society of Kenya makes certain comments about parliamentarians, about our salaries and so on. If you are a lawyer, you have gone through the briefs and you know what is happening why are you misleading Kenyans? They should, even as we pass this Bill, accept that there are challenges and we hope they are going to address some of these challenges.

Thank you, hon. Temporary Deputy Speaker. I support this Bill.

Hon. (Ms.) Kanyua: Hon. Temporary Deputy Speaker, I also want to support this Bill. I want to start by supporting the ten minutes for contributions because I think it allows Members of a certain thinking line to be able to articulate their issues. I also want to congratulate the Chairman of the Law Society of Kenya, Erick Mutua and the Vice-chairperson, Renee Omondi and the other council members who were elected together with the Law Society of Kenya Judicial Service Commission representative, Prof. Ojienda.

I think the Law Society of Kenya has continued to show a good picture of what a professional body is supposed to do in managing its own affairs. We continue to support self regulation in the Law Society of Kenya and that is quite admirable.

With regard to this Bill today, we are happy that we are reforming what actually has been working well. We are trying to reach a better and a new milestone in terms of the next 50 years that the Law Society of Kenya is going to be in operation. I want to thank the Government, the Leader of the Majority Party and also the Jubilee side for finding it in their time and value to bring a law of this nature before this Assembly.

As I support this Bill and noting that I am a member of that profession, I want to note that we draw a lot of our judges from the Law Society of Kenya. While we draw judges from there, also a lot of Members of Parliament who are in this House are also drawn from that particular profession. As we look at the ethics of the Law Society of Kenya we are, indeed, looking at the ethics of the Judiciary. We are also looking at the ethics of the lawyers wherever else they could be practising. So, it is important that in this day and age the Law Society of Kenya is guided by a law that is modern, revised, and homegrown. We talk about homegrown laws many a times, but it is time that we looked at some of those laws.

The Law Society of Kenya itself should enable the country to look at many other laws that are also obsolete. We do have, hon. Temporary Deputy Speaker, in our criminal law crimes like loitering, touting, walking in a manner likely to suggest and so on. It is time we cleaned up our law. We have crimes that this country can understand. The Law Society of Kenya, having reformed its own law, can then take up the mantle to reform the many other laws that need to be reformed.

Hon. Temporary Deputy Speaker, we are also looking at a society that is active, one that is going to be vibrant and one that will have a chairman who need not come from the Council. Since we got the rule about the chairperson of the Law Society of Kenya coming from the Council everybody admits that, indeed, we have lost something in terms of the space for democratization in this country. When the Law Society of Kenya gets very able and strong chairpersons that is, indeed, the better part of how work should be done. I confess as a young lawyer that for as long as you are settled in matters of bread and butter sometimes you are unable to look at society differently. The matters of bread and butter really do take a lot of time and many young lawyers, I included, who are looking for bread and butter are unlikely to put the amount of wisdom that is required in some of the legislation that the country needs.

Therefore, the chairperson of the Law Society of Kenya needs to be a member of the society who is beyond matters of bread and butter and so can, therefore, help and guide the country in terms of where it is going. To get these kinds of persons, sometimes the Council of the Law Society of Kenya is not the best place to look. We need to look outside the Council.

If you look at the issue of constitutional dispensation, we have become a country of rules and legalities. Every single problem in this country is solved by passage of another law. We have so many laws and we are not even implementing them. The Law Society of Kenya has a task, duty and work to do in terms of making this country look at the Constitution and apply that Constitution. The answer to our numerous problems is not another law. Sometimes the answer is in economics, say, economic development so that we have a bigger cake that we can all share, or in having the marginalized looked after. Those conversations can only be brought about by a Law Society of Kenya that is

revamped. The Law Society of Kenya that we have now, like many of us, falls into the trap of passing another law every other time that we have an issue.

If you look at our Constitution now, we are not even looking at why we passed that Constitution in terms of moving this society forward. We have become trapped in legalities, names, that is, who is going to be called a Senator or a county MP, which is a bigger House and which one is a smaller House and so on. We forget that we were passing the Constitution so that we can open up the economy and other areas. The Law Society of Kenya must take up its rightful mantle in terms of shaping those conversations. I think that with the passage of this law, it will allow us to look at the society differently; a law society that does not encourage litigation in terms of solving cases and disputes. Even somebody who loses a phone worth Kshs3,000 or Kshs4,000 and goes to a lawyer, instead of getting a lawyer who tells him, “My friend, we may not need to go to court on this matter”, you have a lawyer who will go to court on every single matter even matters that need not really be disputes before the court.

The law society that we are going to be looking at after the passage of this law is a law society of lawyers who are members of a profession who want to guide the society on how it moves forward.

Hon. Temporary Deputy Speaker, as I wind up, allow me to thank, congratulate and appreciate the work done by *pro bono* lawyers. I spend a lot of time serving poor people of this country. Actually, I was made to think that that work does not pay until I went to Nyeri County and I was elected on the basis only of having protected poor people. So, I think that there is value in being a *pro bono* lawyer. There is value in being a public lawyer. I even think that it is regrettable that the Law Society of Kenya continues to mark those of us in this Parliament as inactive while we actively pass legislation every day. The lawyers who are in public law need to be appreciated. This Bill is going to have an amendment that allows recognition of lawyers who are doing *pro bono* work. These are lawyers like those serving in my old organization, Kituo Cha Sheria. I think that they deserve other incentives so that they can continue to represent the Society and other members of the Law Society of Kenya who may not be offering *pro bono* services.

Hon. Temporary Deputy Speaker, as we go along you know that unlike the medical profession, lawyers are not meant to serve Government time even though they study on Government money. I think it is time as a country we applied a programme after the School of Law where lawyers work for the Government and public institutions for a minimum of six months before they go off to the profession. I think that the country would reap a lot of benefits in the Director of Public Prosecutions Office, the investigation department and State counsel departments across the counties. I think that all the law students should not just go to the private sector. There is some value in having those law students also serve some of the Government offices. I think that the new LSK that we are looking at needs to look at those matters as it continues to appreciate the free lawyering time given by *pro bono* lawyers.

On the Medium Development Goals (MDGs), you know that after 2015 the United Nations (UN) member states are looking at the new sets of MDGs. Again, from my own experience in Kituo Cha Sheria, we found that a lot of poor people are excluded from many things and one of the things that they need the most sometimes even before the land that they are looking for is the services of a lawyer. Poor people sometimes get a

title deed today and go tomorrow to the market, sell the land at very poor rates and give the land almost for free. We want legal empowerment to be part of the next set of MDGs in the UN system. The LSK would be charged with some of those conversations and noting that Kenya already has an expert appointed by Ban Ki Moon, the Secretary-General of the UN system, to sit in those conversations, the LSK would have a mandate of looking into matters of legal empowerment and ensuring that in the next set of MDGs we have attention to legal aid and empowerment. The LSK again should assist us to come up with the Legal Aid Bill and to allow such a law to be passed.

Paralegals have been mentioned here. Again, borrowing from the medical profession we also see lawyers having to deal with even very basic matters that paralegals can deal with. That is something else we need to borrow from the medical profession through the Legal Aid Bill.

Hon. Temporary Deputy Speaker, I support this law and LSK. I really stand to be counted as a lawyer. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. Member for Homa Bay Town.

Hon. Kaluma: Thank you, hon. Temporary Deputy Speaker for giving me time to talk to this Motion concerning the profession to which I belong. Before I say much, let me congratulate the current Chairman of the LSK, my brother and my learned friend, Eric Mutua, for having won the elections. Of course even the entire team and the vice-chair, hon. Lillian Omondi Renee and of course Professor Tom Ojienda who goes into the Judicial Service Commission (JSC) following the elections and indeed all the members of the Council.

Hon. Temporary Deputy Speaker, the LSK is possibly one of the most if not the most important professional societies following the enactment of the new Constitution. Kenyans gave themselves a new Constitution in 2010 and indeed the one society that will make the Kenyan people realise the full benefits and fruits of that constitutional agitation and Constitution document is the LSK.

Additionally, Kenya as a society is becoming very litigious. The Kenyan people are becoming more and more aware of their rights both those rights which are provided for in the Constitution and indeed the rights prescribed in other laws. Of course, the urge to go to court is becoming a common thing in our society today.

Hon. Temporary Deputy Speaker, further to that, when I studied law I remember at that time there was only one university in the entire country admitting people into the profession of law. I remember there was a limitation of not more than 100 students during my time who could be admitted to study law and you had to be in the top cream in terms of performance in the O Level exams to join the legal profession. That is not the case today. Today, we have so many institutions granting law degrees and granting opportunities for our students to study. Indeed, unlike before where in a whole year we had just about 100 lawyers being admitted into the profession, currently some 1,000 Kenyans are joining the profession every year. It fluctuates between more than a 1,000 and slightly below 1,000.

Hon. Temporary Deputy Speaker, there is therefore need considering those three issues I have mentioned that we look at the LSK Act which was legislated way back in

1948, before the colonial regime left the country, and confirm whether it resonates with the needs of the profession as it currently stands.

Hon. Temporary Deputy Speaker, the LSK is one society which is granted a great mandate by statute and, in fact, by law to guide both the Government and the public on matters relating to law, legislation and human rights. Of course, I agree that knowing the LSK of the past, we look back with a lot of nostalgia. Those are the days when great Kenyans like Dr. Gibson Kamau Kuria, hon. Paul Muite, the current Chief Justice, Dr Willy Mutunga and indeed Dr. Oki Ooko Ombaka, the late Member of Parliament for Gem chaired the LSK. Those are the times and the only forum which spoke for the rights of the Kenyan people against what was deemed to be a dictatorial regime, was indeed, the LSK. The LSK has been performing well. We are saying the LSK is dynamic and moving and as Parliament, we are saying it is time for us to reconsider and indeed by dint of this Bill revamp the Society.

Hon. Temporary Deputy Speaker, I am very happy that it is proposed in this Bill and, in fact, in the recommendations of the Departmental Committee on Justice and Legal Affairs that for one to run for the position of president or chair of the Society or to be a member of the Council he has to have practised law for some period, as is the current case. We are saying that any member of the LSK of distinction and recognition within that membership, who has attained some 15 years and above in legal experience, can leave wherever he is and with the confidence of the membership of the LSK really move to lead it.

Hon. Temporary Deputy Speaker, some of the lawyers who should be leading the Society have been unable because of that requirement. We can have very senior counsel; we have them even in the House. You have heard hon. Priscilla Nyokabi who is my colleague and who spoke before me, I do not see why she should be hindered if she were to have the support of the membership of the Society upon even leaving this Parliament. She should straightway become the Chair of the LSK. I want to thank the Departmental Committee on Justice and Legal Affairs for considering that issue. We need to open up the democratic processes in the Society.

Hon. Temporary Deputy Speaker, it is known the LSK receives a lot of money from its membership subscriptions which are annual. There is a lot of money going into the LSK through the continuing legal education process. The accounting and auditing process is something the Bill is now speaking to. If you have a society whose membership continuously grows and whose subscriptions have been growing in the manner the LSK has been receiving them and in line with Chapter Six of the Constitution on issues of integrity and leadership, we want a situation where the membership of the Society is really happy that things are happening.

Hon. Temporary Deputy Speaker, I had spoken to the fundamental function of the Society – the one role it ought to play in terms of informing both the Government and the public on general law. When I came to this House I thought really this is one Society which should have interaction with this important organ of Government dealing with legislation.

I wanted to say that it is unfortunate that we are discussing this Bill without the comments and observations of the leadership of the LSK. It is unfortunate. I wanted to confirm to the nation that the opportunity to do so was available in the process of our

Committee considerations, but that did not happen. I am happy with the recommendations of the Committee on Justice and Legal Affairs that possibly within the context of the directorates being created in the leadership and the structure of the society, we must have one of those directorates dealing with the specific issue of legislation, so that we can have somebody at the society interacting with this Parliament on the various laws that we are dealing with. We had a difficult situation before the recess and you will remember we were faced with what was termed as the Statute Law (Miscellaneous Amendments) Bill, a document which was running to so many pages, seeking to repeal, in a substantive way, over 49 pieces of legislation. It surprised every Kenyan, but the LSK never came out strongly to confirm to the nation whether the matters which were sought to be treated in that Bill were matters that could be treated in the Statute Law (Miscellaneous Amendments) Bill.

So, I am happy that amongst the proposals that the Committee on Justice and Legal Affairs is proposing is that within the directorates being proposed, we have a directorate also dealing with issues of legislation, so that we can keep tabs on all the laws that we need to deal with and consistently deal with them.

Lastly, under our new constitutional regime, we have devolution as an ideal of governance that we have entrenched. Of course, the LSK is also growing across the country. I remember in the Budget that we passed last year, we granted the Judiciary over Kshs16 billion, so that we can have High Court buildings across the country. There is a reason for that. If we are going to have High Court buildings across the country, the membership of the society is also revolving. We are saying that there is need also to create as many branches as possible, so that legal services can be properly devolved and the leadership of the society taking people forward can also be entrenched. So, I would ask the Members that we support this Bill with the recommendations being proposed by the Justice and Legal Affairs Committee.

I beg to support. Thank you so much for the opportunity.

Hon. Njagagua: Thank you, hon. Temporary Deputy Speaker, for giving me this time to contribute to this Bill, The Law Society of Kenya Bill of 2013. One of the Members who spoke before me talked of a seniority and I was wondering whether that chance was ever going to come to me because under the LSK---

The Temporary Deputy Speaker (Hon. Kajwang’): As far as I can remember, I think you are my agemate.

Hon. Njagagua: Yes, hon. Temporary Deputy Speaker. There are those lawyers who signed the Role of Advocates after me and they have spoken at length. But be that as it may, thank you for giving me this chance.

It was only yesterday that we were talking about Procedural Motions and I remember there were discussions for and against the Members who speak for about five minutes and others ten minutes. So, since we agreed that we will be doing ten or 15 minutes under Procedural Motions, I believe it is fair enough that when we have such matters like the Bill before us, we get ample time to articulate the issues that we feel need to govern the LSK. I support what we agreed that we speak for ten minutes.

In support of this Bill, I wish to say that it clearly sets out issues of governance in the LSK. It also clearly sets out issues of devolution under the LSK. Why do I say so? In our new Constitution, we have talked of devolution and powers going to the people

through the governors, the Members of County Assembly and even the Senators. Under the LSK, we must agree that they have set out branches. This means that we will be having branches, which will be taking care of upcountry members of the society. For a long time, and I believe you will agree with me, the LSK has been governed from Nairobi and those members in Kitale, Mombasa and Embu, the county I come from, were feeling that they were being left out because important decisions that pertain to the LSK never used to get to them on time.

So, I must congratulate the drafters of this Bill and even the LSK for agreeing to have as many branches as possible and even putting a clause that provides that the branches are not cast on stone and marble and that if and when need arises, those branches again will be expanded. Second, I must also say that the Bill is very clear on continuous legal education. For a long time, we have seen lawyers who have been to college in the olden days and never have had a chance to look at new legislation and best practices in other jurisdictions in the world. This Bill also takes care of that. It is not that when you pass your bar classes after you are through with the law school, you just go sit back and only remember what we call the Civil Procedure and the Criminal Procedure and those are the tools that you arm yourself with, like we would say the preacher and the Bible.

So, I must again laud the members of the LSK for taking care of continuous education. Similarly, the Bill is also very clear on matters of tutorage, so that those young lawyers who leave our law school will come to the chambers and master people relationship. Again, they will guide the young lawyers on the ways of the practice. Thirdly, we must agree that it has now become very expensive to go to law school. You know that in the olden times, we would even get an allowance at the law school. Today, the fees is about Kshs200,000 or thereabout. Like a Member who spoke before me, this is stifling proper acquisition of legal skills. There are people who have gone through secondary education and even university under the assistance of the CDF kitty through bursaries, but when they go to the law school, they are told to pay Kshs200,000. Where will they get this money? We must appreciate that by the time you are being admitted to the law school, you are not salaried. In fact, you are a student. At best, you have just come from a law firm where you are a pupil. We all know that at pupilage, you get peanuts. You just get a small allowance from your master.

So, at some point, we need to rethink that position and let the Kenya School of Law not become a commercial college. It is a college that is supported with funds from Kenyans and so, it must serve Kenyans. It should not be purely a commercial venture. Again, the Bill is very clear on the rights of members, members who have been involved in matters pertaining to the organisation will be meeting in special general meetings, so that if there are any issues that come up, members can tackle them. This is participatory democracy and the members by themselves can agree on the best way to govern the society.

Again, on the issue of the conduct of elections, with a lot of respect to this House and with a lot of respect to the electoral processes in this country, I would urge the members, scholars, political analysts and Kenyans of all shades to borrow a leaf from what we say in the just concluded LSK elections. They were fair, free and democratic. This is past what we used to have in the olden days when elections were done through the

ballot. You will remember the ballot papers which were sent to your offices and you would cast your vote through the post office. There were issues that votes were tampered with. The elections were carried out by the IEBC.

Hon. Temporary Deputy Speaker, for whatever wrongs that have been heaped on the IEBC rightly or wrongly, they have redeemed themselves through the elections of the LSK. At this juncture, I must congratulate the LSK Chairman-elect, who was my classmate. I believe that he will take the LSK to greater heights. I would also like to congratulate the office that was re-elected for the lofty ideas that they have. As somebody said before, litigation in this country has become very expensive. Lawyers do not come cheap.

The manifesto of the current LSK Chairman and the guidelines of the office that has been elected is to set up a complex for alternative dispute resolution. I believe that it costs about Kshs1 billion only. This will turn Kenya into a world class centre of resolving disputes. I believe that in commercial matters investors are better off resolving their matters through alternative dispute resolution mechanisms like mediation, arbitration and negotiations, without recourse to strict legal processes.

Hon. Temporary Deputy Speaker, in an alternative dispute regulation mechanism, the process is confidential to the parties. Your matter is resolved within a short time as opposed to filing a suit that would take ages in court. Therefore, I wish to support the Bill. There are few people who--- I do not want to call them as “rotten”, like many people call them. I withdraw the word “rotten” but there are those who say that the legal profession is full of ambulance chasers and people who would hide information from their clientele.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Njagagua, you are perfectly in order as long as you do not say that they are rotten, if you are ascribing it to other people. It is just an expression of your opinion.

Hon. Njagagua: Hon. Temporary Deputy Speaker, in fact, some people call lawyers “sharks” but I want to say that the Bill has also set out mechanisms of how one can lose their membership to the LSK. If you are involved in misconduct, you are not truthful and ethical to your clientele, there are ways and means of dealing with you. You will appear before the disciplinary committee---

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much, hon. Njagagua.

Member for Kandara, I am sure that you are not wincing because your juniors have spoken before you.

Hon. (Ms.) Wahome: Hon. Temporary Deputy Speaker, may I just confirm that I rank number P105/1454. For sure, all those who have spoken, including hon. Millie Odhiambo, rank after that number.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Wahome, the reason as to why I kept you waiting is because I wanted to hear someone from outside the Committee. I am trying to get sheds of opinion from outside the Committee.

Hon. (Ms.) Wahome: Hon. Temporary Deputy Speaker, I am happy that I have also listened to the hon. Members who have spoken before me. I am quite in concurrence with many of the things that they have said about this Bill.

I want to start with the concerns that I have. My daughter was admitted to the Bar on 23rd January, 2013. I was walking along with her as she was at the Kenya School of Law (KSL). There are concerns raised by Members in respect of fees. I suffered that bit of experience. You can imagine. If I was feeling the pinch, what about ordinary Kenyans? The LSK needs to pick up that issue very quickly, if we are going to access justice. I believe that the number of lawyers that we have in this country is still not sufficient, considering that the population is increasing. I do not remember her exact number but it was in the range of 10,000. So, we are still below the necessary number that is required to meet the legal service requirements of this country.

Therefore by levying huge bills of Kshs200,000, we are losing it. We are commercialising an institution that was not meant to be a commercial entity. You can imagine that even today there are undergraduate students at the university, who are also paying fees. So, we need to re-think the funding of the KSL very quickly. The LSK can assist the Government in coming up with necessary recommendations, considering the functions and the objects they are formed for. In order to advise the Government, they need to quickly pick up this.

I want to congratulate the Law Society of Kenya for the recent elections that I participated in. I quite do not agree with the sentiments that have been expressed, or the accusations against the IEBC that they need to go. We must start thinking about the institutions when they fail once in a while not to condemn. If you look at the way those elections were conducted – of course they are not political elections – we must also support some of these institutions. Therefore, I think hon. Millie Odhiambo should start changing her mind in terms of the IEBC and that we need to fix the IEBC as we approach the next elections.

I have seen celebrations from both CORD and Jubilee because of the successful by-elections conducted by the same body. We, therefore, need to think about how we can support the body and come up with proposed amendments regarding the Elections Act. For example, I would want to see us coming up with a Bill that will talk to the issue of the two-thirds gender principle in respect of Article 81. The Law Society of Kenya as a guiding organization has been misunderstood and it really should take up some of these issues. I am happy with the proposal that if the Chairperson is of one gender then the Vice-chairperson should be of the opposite gender. I think that is a very welcome proposal. I listened to the Chairman of the Departmental Committee on Justice and Legal Affairs saying that those are some of the amendments they would want to bring to this Bill.

Hon. Temporary Deputy Speaker, you may have watched some of the debates during the campaigns. I think that the Law Society of Kenya may have suffered some damage in terms of image because of some of those things that they were speaking to the members when they were appealing for votes. There is need for the Law Society of Kenya to rethink even about the campaigns. Originally and when we were serving at the Council – I have served in the board of the Law Society of Kenya – our campaigns were different. We were campaigning on real issues and the campaigns were never nasty. It is time we asked the Law Society of Kenya to be moderate even as we think of how to come up with the officer bearer posts. Maybe the regulations could deal with some of those things that were coming up, that is, issues and accusations regarding the spending

and accounts of the Society. That was really not nice. We would like to see this team that has been put in the office---

I am happy with a lot of the officials who were elected. Some of the results may have been impacted positively by decisions or resolutions of this House. The officials need to rethink about the regulations that shall guide cleaner campaigns prior to elections.

Hon. Temporary Deputy Speaker, I am also very happy with the provisions on the secretariat and how a secretary is put in office and how the secretary may be removed from office. Previously, we have seen the running around of the secretary and the board; you know, splitting the Council in the middle. This is because sometimes some part of the Council would like to remove the Secretary to the Council. That has in a way been streamlined but there might be need to look and address the regulations that will guide that process properly. There are provisions that say that the manner of application--- Competence has, of course, been looked at but removal of the secretary is a very critical question. The new Council needs to look at that so that when they come up with regulations to support this Bill once we pass it, they will address some of those nasty incidents that have been there.

Hon. Temporary Deputy Speaker, on elections, we need to go deeper in terms of governance and broader representation. I am happy to see the way they have looked at our branches but there are still some areas that have not been listed. In the listing, it will be important as they list the centres and towns under various branches, for them to kind of leave an opening for any other town that may fall within those regional branches of the Society. I think this is good because, one way or the other, members will be able to approach their branches faster and access the services of the Law Society of Kenya.

I have concerns about the view because you could see sometimes ethnicity coming out in some of those public campaigns instead of clearly addressing governance issues, professionalism and members' issues. Of course, the beneficiaries of the LSK work should be its members. This is because we are paying members. Therefore, there is need to keep away from raw politics. I know that they must be involved in governance but they must raise the bar in terms of how they engage the political organs of this country. We do not think that it is good for the LSK to be seen to be taking political sides in any public debate but they must always stand with the public and the country. I think there is still need for that to be addressed by this Council even as we endorse the elections and the result of the elections.

Hon. Temporary Deputy Speaker, you will also notice lately that the LSK has been supporting some decisions. Hon. Members who have spoken on this Floor have taken issue with some of the inconsistencies coming from our courts in terms of judgments. I think the LSK needs to be very careful particularly---

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you very much. The Member for Ndiwa, you have a balance of about six minutes. Do you want to contribute?

Hon. Oyugi: Hon. Temporary Deputy Speaker, I will sufficiently prosecute my points---

The Temporary Deputy Speaker (Hon. Kajwang'): Well, you are under no particular hurry because you can take the six minutes and then in our subsequent adjournment, you can claim your four minutes.

Please go on.

Hon. Oyugi: Thank you, hon. Temporary Deputy Speaker. First, I would like to mention the fact that I am a Member of the Departmental Committee on Justice and Legal Affairs. Consequently, I will support this Bill because I think it is good. It is a Bill that is timely.

The second thing is that I would like to congratulate the members of the Society who were recently elected. One of the reasons I am supporting this particular Bill is because the elections of the LSK have been engrained in Clause 20 of the Bill, which makes the elections to be conducted by the IEBC, which is a better improvement from the earlier days where ballots would be posted and things like those.

If we are talking about credible elections of the LSK it is because, I think for the first time, IEBC had to conduct these elections. I read the context of Section 20 of the Bill. It reads that elections shall be supervised by the IEBC or such other body that the Council may determine. But I really think that towards that extent, during the Third Reading of this particular Bill, we should maintain it as IEBC or the election body that will be mandated by the Constitution. This is because you might have from time to time people moving goal posts and determining other bodies. I think that will bring down the quality of the conduct of elections.

Hon. Temporary Deputy Speaker, now that the IEBC will be helping the LSK to conduct elections, I think the LSK also needs to move fast to have an electoral code of conduct to help them during the conduct of the campaigns and the elections. What we watched during the debate on the members of Judicial Service Commission (JSC) and members of the LSK Council, some of it, perhaps, is not what you would expect of the legal profession. The legal profession to which I belong is supposed to be one that shows honour, dignity and it is supposed to drive the society forward.

Hon. Temporary Deputy Speaker, of course, the IEBC has been congratulated for conducting very good elections, especially when they are small elections; like in the manner of LSK or small by-elections. They have always been very good, but it looks like it is always overwhelmed whenever there is a general election. Of course, one of the ways of moving forward - I am sure that hon. Alice Wahome is in agreement - is that we need to reform the Commission, perhaps, make it leaner because in other jurisdictions we have had leaner commissions that have also conducted very good elections. So, it is not just reforms, because perhaps, my coalition did lose elections, but it is to reform the IEBC in a manner that makes it efficient. It looks like the nine commissioners are only chasing tenders and are not worried about the outcome of the elections. So, in that, perhaps, we are on the same page with hon. Alice Wahome. Therefore, it is not just because CORD lost the elections, but it is because IEBC needs to be efficient, one that gives us credible and good elections.

Hon. Temporary Deputy Speaker, the reasons why I am really excited about this particular Bill is because of the membership. Section 8 and 10 gives membership of the LSK to those who are non-practising. Some of us are really scared of holding files in court for a long time and consequently, did not have to chase for the practising licence. But these particular sections which make non-practising lawyers members of the LSK are very good. If the LSK was to assist the Government in matters relating to legislation, the administration of justice and the practice of law in Kenya, you will agree with me in

terms of what the hon. vice-chair of the Departmental Committee on Justice and Legal affairs said. This can then not be done by people who are bothered about bread and butter issues. The person bothered about bread and butter will not have a lot of time to help in terms of helping in legislation or *pro bono* legal services. To give a chance to those who are ordinary members and also special members or non-practising persons is good. Then you have people who would move the country forward in terms of assisting members of the public in matters incidental to the law.

Hon. Temporary Deputy Speaker, also the guiding principle of this Bill, as enunciated in Section 6 of this Bill, makes it look very attractive. If the LSK were to have constitutionalism, justice and the rule of law in facilitating access to justice, then we would be walking towards a country that is very good and fair. I would also like, particularly the protection of public interest as one of the key principles that will be guiding the LSK.

I think this is a Bill that was timely. It is going to help bring the legal profession to the next level. We will have credible elections conducted for the society. We will then be sure that we will be having a body that is guiding the legal profession and a body of people that we can be proud of.

With those few, remarks, I support.

Thank you very much.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang³): Hon. Members, the time being 6.30 p.m., this House stands adjourned until Tuesday, 18th February, 2014, at 2.30 p.m.

House rose at 6.30 p.m.