

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 18th October, 2016

The House met at 5.00 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, let us start business.

BILL

Second Reading

THE INSURANCE (AMENDMENT) BILL

(Hon. A.B. Duale on 18.10.2016)

(Debate concluded on 18.10.2016 – Earlier Sitting)

(Several Members walked into the Chamber)

Hon. Speaker: The Members making their way can move faster.

(Hon. Kaluma sat on the Leader of the Minority Party's seat)

The Member for Homa Bay Town has comfortably taken a seat that belongs to the Leader of the Minority Party. He appears to be quite happy with the seat.

Hon. Members, debate on this Bill was concluded in the earlier sitting. What was not done, which I wish to do now, is to put the Question.

(Question put and agreed to)

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

MOTION

APPROVAL OF JUSTICE MARAGA AS CHIEF JUSTICE OF KENYA

Hon. Members: Put the Question!

Hon. Speaker: Hon. Members, I cannot put the Question even before the Motion has been moved. I am told Hon. Cheboi is the one moving the Motion.

Hon. Cheboi: Hon. Speaker, on behalf of the Chair of the Departmental Committee on Justice and Legal Affairs, I beg to move the following Motion:-

THAT, pursuant to the provisions of Article 166(1)(a) of the Constitution, and Section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the Vetting of the Nominee for Appointment as the Chief Justice of the Republic of Kenya, laid on the Table of the House on Tuesday, 18th October, 2016, and approves the appointment of the Honourable Justice David Kenani Maraga as the Chief Justice of the Republic of Kenya.

The Committee deliberated at great length the proposal for appointment of Justice David Maraga as the Chief Justice (CJ). Justice Maraga is an extremely experienced lawyer. He has served for 13 years in the Bench and 25 years as a practising lawyer in the Bar.

I had the opportunity to work with him in Nakuru where he practised at length as a lawyer. The Committee felt that he is a very qualified person who, unlike most other people who have served as CJ before has a blend of both, in private practice and in the bench. This is a good blend. I have no issue against the previous CJ, but basically he was a lecturer in university and had a lot of experience in that regard. However, we felt that Justice Maraga is very qualified looking at him from that particular point.

Hon. Speaker, the Committee gave him an opportunity to appear before us. He had also appeared before the Judicial Service Commission (JSC) who approved him and forwarded his name to the House. A few issues were raised. We had petitions which we handled like the Constitution requires. We opened them to the public and the public made their presentations. We looked at three particular petitions.

One was by Edward Kings Maina, who had issues with the appointment of the CJ on the basis that he lost some commercial cases when the CJ acted for someone else. We also had an issue that was brought up by Samson Ndenyeru Kigamba. We further had a petition by Bernard Kibet Sang, an advocate who had an issue in connection with the family of the late Hon. David Too.

We looked at those petitions, and as a Committee, we felt that all of them did not warrant the Committee not to approve the appointment of Justice Maraga. We deliberated at length and the Committee unanimously approved the proposed appointment of Justice Maraga to be the next CJ and, therefore, the President of the Supreme Court.

There were many virtues we derived out of our interaction with Hon. Maraga. He has a religious zeal. We felt that we required somebody who is forthright. At one point there were issues that he was an extremely conservative Christian. We thought that that will never be a vice at all but something that would add to his honesty in practising the position of the CJ. As I said earlier on, the Committee unanimously agreed.

The following were observations and findings by the Committee: First, Justice Maraga had the requisite qualifications and vast experience. He has a Master's degree in Law which is the requisite academic qualification. He has the experience both in the Judiciary and in private practice. The Committee also noted that according to records availed to the Public Service Commission (PSC) and the Committee, Justice Maraga has not been involved in any issue that could lead to him lacking integrity.

Hon. Speaker, Justice Maraga exhibited impressive knowledge of topical issues including those touching on administration, management and challenges that he will need to address and implement in the Judiciary transformation framework. The nominee, according to the best knowledge of the Committee, has not been convicted of any offence with regard to contravening Article 75 of the Constitution. The petitions and objections to the appointment by Mr. Ndereru Kigamba, in the opinion of the Committee, lacked merit because the nominee obtained the stay orders on behalf of his client who was the defendant.

Further, the nominee owed no duty of care to the petitioner. This was a case where Mr. Kigamba felt that he lost his case because Hon. Maraga while practising as a lawyer obtained stay in favour of his client, which in the opinion of the Committee, was something he was supposed to do. He absolutely owed no duty to the other party. He did well for his client but unfortunately the complainant lost as a result of Hon. Maraga being a good lawyer.

The petition and objection by the residents of Ainamoi Constituency lacked merit according to the Committee because the nominee properly exercised his lawful judicial discretion to reduce the charge against the accused from murder to manslaughter.

Another petitioner was Edward Kings Onyancha Maina who the Committee felt lacked merit, because his appeal was properly dismissed for being filed out of time. Having considered all these, the Committee felt that Hon. Maraga qualifies to be the next CJ and approved his appointment.

Hon. Speaker, Hon. Chepkong'a has just walked in. The Report that is before the House was unanimously adopted by the Committee.

I do not know whether I will be in order---

Hon. Chepkong'a: Continue!

Hon. Cheboi: Hon. Speaker, I will not even continue. I will ask my good friend Hon. Kaluma to second.

Thank you, Hon. Speaker. I beg to move.

Hon. Speaker: Obviously, Hon. Members, the earlier Motion was either to resume at 6.45 p.m. or such earlier time being not more than 15 minutes after the rise of the House. The Motion when moved by Hon. Nyenze was specific; at 5.30 p.m. Everybody, including the Member for Ainabkoi, was expected to have heard that.

Hon. Kaluma, you have the Floor.

Hon. Kaluma: Thank you, Hon. Speaker for the opportunity to second this important Motion to our nation. We passed a raft of laws amending our electoral system a short while ago. The whole nation knows that we are reconstituting the Independent Electoral and Boundaries Commission (IEBC).

In so doing, the law requires we reconstitute the selection panel. It is better that I inform the nation that the membership of the selection panel must be sworn into office by none other than the CJ of the Republic. That is to say that, as Parliament and as a Committee that assisted Parliament, we had to move quite fast to either signify our rejection or approval.

Let me begin by emphasising that, as a Committee, we are not approving Judge Maraga to be our next CJ because of any hurry but because we went beyond being constrained of time to consider the issues that needed to be considered.

Hon. Speaker, several Kenyans came forth and applied to be the CJ of the Republic. All of them deserve my compliments and congratulations. I dare say that all who applied were qualified Kenyans and none of them should feel it is not them, it is Judge Maraga. That is the idea of going through that interview.

As I end that point, let me clarify that if it were Justice Msagha Mbogholi who was presented before this House, I would have no problem supporting him. It is Justice Maraga and I can tell the House that we have a good CJ subject to your approval today. There is Smokin Wanjala and Prof. Mutua who surprised all Kenyans when he was given the opportunity to appear.

Let me thank the court for intervening and allowing all those Kenyans to show what they have to offer to the country. Let me congratulate all those Kenyans who put their names forth to serve in this important position.

In terms of academic qualifications, Justice Maraga is a lawyer. He obtained his law degree in 1977 when I was born. The CJ nominee has practised law having graduated from the Kenya School of Law for the entire lifetime of Kaluma. We cannot doubt experience.

Hon. Speaker, Justice Maraga has a diploma in legal studies. Squeezing through his judicial time, Justice Maraga went further and now he holds a Master's degree in law. Of course, he continues. Unlike the immediate former CJ, Justice Maraga is a law practitioner. He was based in Nakuru. I practised law with him as people representing different clients. It was then very difficult, if you can remember, for an advocate practising from a base like Nakuru to rise to a level that would matter in terms of legal knowledge, professional studies and everything else.

The mere fact that Justice Maraga rose from a base in Nakuru against the belief that the best lawyers could only be found in Nairobi says something about his competence as an advocate. He then served as a Judge of the High Court for several years.

I appeared before him on his first posting. He had been posted to Mombasa Law Courts. At that time, my largest client base was in Mombasa. Although we had territorial jurisdiction to practise anywhere, my largest client base was in Mombasa. Other than the time we had Justice Mary Ang'awa as a Judge in Mombasa, the only other time the law courts in Mombasa effectively dealt with the animal called "backlog of cases" was when Justice Maraga was the Resident Magistrate in Mombasa. Since this is the only opportunity I have, I must say whatever I can because it is important to me.

Hon. Speaker, you have been told that this is a very hardworking Kenyan. Permit me to testify to that fact. There was a day I appeared before Judge Maraga in Mombasa Law Courts. We began the proceedings at 7.00 a.m. and by 9.00 p.m. the proceedings were still ongoing. The Judge fainted on his desk. When he was rushed to the nearby hospital, it was confirmed that his body had completely run out of sugar. That shows how committed he is to his duties. That is the nature of a hardworking person. It is the devotion of the individual we are talking about.

I want to testify before you, Hon. Members that beyond merely debating the approval of this great Kenyan for appointment as the CJ of the Republic of Kenya, we should know that this gentleman will ensure that access to justice is not delayed.

Hon. Speaker, the Judge has been serving at the Court of Appeal as the Presiding Judge in Kisumu. Members should note what I am going to say about his opposite academic qualifications. Does he have skills to administer the Judiciary as the head of that arm of the Government? As we speak, he is already in the Court of Appeal. He is the Head Judge in the Court of Appeal in Kisumu.

As this House's Justice and Legal Affairs Committee (JLAC), we have interacted with this Judge on two occasions before he was nominated. The Judge has been heading the Judicial Committee on Elections. It should be said that this Judge shocked us when he appeared before the JLAC before we had the demonstrations leading to the amendment of the election laws that

we proposed. In terms of the presentations he made before the JLAC, it is not just the intellect but also the passion with which he presented them.

I also remember him talk about extension of the time that the Supreme Court needs to determine Presidential Petitions. He said:-

“Do not extend the period to 30 because as a Judge I am appearing before you. Do it because it is right for Kenya.”

What am I talking about? This is a patriotic Kenyan who does not think much about himself. He thinks about doing the right thing for the country. No wonder when the Judge was faced with the question as to whether he would be able to go against his religion and preside over matters on Saturdays, he said:-

“If the position was to go, let it go. However, I will find a way of squeezing myself to deliver justice within the set timelines in days other than the day that I commit to my God.”

That is the principle centeredness that we want of a person who wants to go to the Judiciary.

Hon. Speaker, this judge is incorruptible. I would not give details. However, the Judiciary is falling back to the ideas of corruption. Some Hon. Members like me, who still attend court, realise that sometimes you get decisions which you cannot explain properly. If we want a CJ who will stamp his authority on matters of corruption in the Judiciary and eradicate the vice, we have a very good candidate in the name of Justice Maraga. I know that corruption has permeated all our institutions.

The immediate former CJ meant well for this country. He would say we are fighting corruption, but remember he was handicapped in the sense that he had not been an advocate actively practising law. He never knew the role of advocates in corrupting the Judiciary. He would say that we wanted to deal with corruption but he had never been a judge before becoming the CJ. He did not know how judicial officers engaged in corruption. He was also not informed about the networks that judicial officers have built to engage in corruption without being caught. He did not appreciate the existence of such network. This was a genuine handicap.

The role that clerical officers play in the chain of corruption within the Judiciary leads to the blaming of judicial officers. What is unknown to you is that some court officials do some monkey business. We have a good candidate to be our next CJ.

Before I conclude, let me share with this House another thing I noted when Justice Maraga appeared before the JLAC. He appeared very humble. Hon. Members, do not be deceived. He will appear very humble – sometimes even meek – but he is not weak. If you want a firm person, then Justice Maraga is that person. We had appeared before him in court with many applications. He would tell you straight to your face; “you know that this one is going nowhere.” Of course, he would deny you the order in an open court there and then. If you want a firm judge, who for once will speak through judgements not in seminars or by correspondence, it is Justice Maraga. This is perhaps the biggest difficulty I personally had with some judges. A judge should speak. When ink meets paper, it is death or liberty.

Hon. Speaker, I can speak up to tomorrow on what I know about this great Kenyan, who is our prospective CJ. Therefore, I urge the House to join the JLAC in approving his nomination for appointment as our CJ.

With those many remarks, I second.

Hon. Speaker: Well spoken, Hon. Kaluma.

(Question proposed)

Hon. Members, there are many of you who have placed requests. Let me just follow the queue. The first one, fortunately and very interestingly, is the Member for Garissa Township. He is number one on the list.

(Laughter)

Hon. A.B. Duale: Thank you, Hon. Speaker. Yes, the Member for Garissa Township always leads while others follow.

At the outset, I want to commend the JSC and, indeed, this House's JLAC for the good work they did throughout the vetting period, and for having faith in the choice of Hon. Justice David Maraga to serve as the second CJ of the Republic of Kenya under the new constitutional arrangement.

Based on the Report of the JLAC, Justice Maraga has the required academic and professional qualifications as well as vast experience. He is a senior legal professional with extensive experience at the bar and the bench, having served as an Advocate of the High Court for 38 years and as a judge for 13 years.

Hon. Speaker, the Office of the Chief Justice is provided for under Article 161(2)(a) of the Constitution. The vetting of the CJ by this House is also guided by the Public Appointments (Parliamentary Approval) Act, 2011.

If you look at the observations made by the Committee, you will find that Justice David Maraga confirmed during the vetting under the Chair of the Departmental Committee on Justice and Legal Affairs that he is open to consultations with the other two arms of the Government.

Today, I urge my colleagues to approve him for appointment as the CJ. Justice David Maraga has his work cut out. Justice (Dr.) Willy Mutunga will be remembered for many good and bad things. He will be remembered for establishing 34 High Courts in 34 counties. So, if Justice David Maraga gets the job, he must complete the other 13 High Courts in the 13 remaining counties.

Justice (Dr.) Mutunga will be remembered for leaving a confused and disjointed Supreme Court where people were fighting and where you could not trust the leadership of the seven men and women of that court. We expect Justice David Maraga to take charge and put the Supreme Court in order. It is the highest court and the most important court to the country as we approach the general elections. He must make sure that the men and women who serve in that court work together.

Justice (Dr.) Mutunga is remembered for bringing disunity among the three arms of the Government. He allowed the Judiciary to curtail and bully Parliament and stop parliamentary business.

(Applause)

He allowed courts to protect the corrupt governors; the likes of the Governor of Embu County, the Governor of Meru County and many others. We expect Justice Maraga not to allow parliamentary procedures and processes to be curtailed by the Judiciary as Parliament will also not curtail the function of the Judiciary as far as legislation is concerned.

Today, the biggest impediment to the war against corruption is the Judiciary. Let us make it very clear. This House has established independent institutions like the Office of the Director

of Public Prosecutions (DPP), the Ethics and Anti-Corruption Commission (EACC) the Auditor-General, the Police and the Ombudsman. Cases are not concluded because people go to the constitutional courts for review. They go to any court. In fact, the courts say that you cannot even investigate a corrupt dealing. The EACC and the DPP have received orders from the courts.

Justice Maraga, if he gets the job, must establish anti-corruption courts that will sit from morning to evening, seven days and we must see Kenyans who have stolen public resources or public money getting jailed. Corruption is the biggest threat to our national security.

Justice Maraga must avail a system where the poor Kenyans access justice. He must open the corridors of justice. He must also deal with the cartel of lawyers who control the Judiciary. They know themselves. He must deal with them. He has a heavy workload ahead of him. I am sure that the Chairman of the Departmental Committee on Justice and Legal Affairs and the House will give Justice Maraga, if he is approved by this House this afternoon, a scorecard of his first 100 days in office. If we do not see anything, we will deal with his budget.

I am sure Justice Maraga, wherever he is, must be watching the proceedings of this House. We want him to offer a fundamentally different leadership from that of his predecessor. His predecessor was a Muslim and a very good friend of mine, but I want to say it on the Floor of this House, that he failed. In fact, if I give him a score, it will be about C+ or B-. He failed completely.

Hon. Speaker, you remember before we dealt with it administratively under your leadership, the court wanted to return Hon. Wandayi to the House after he misbehaved here. They wanted to---

Hon. Wandayi: On a point of order, Hon. Speaker.

Hon. A. B. Duale: Hon. Wandayi, give me a minute. It is just a slip of the tongue. Relax. The courts wanted to suspend the Standing Orders.

Hon. Speaker: The fact that your name is mentioned does not indicate disorder. So, proceed, Hon. A.B. Duale.

Hon. A. B. Duale: Hon. Speaker, what I am saying is ---

Hon. Speaker: Hon. Members, you are now expected to understand the Standing Orders. When your name has been merely mentioned it does not mean that there is something out of order. Relax. The Member for Ugunja, relax. You cannot engage in an argument with me. Certainly---

Hon. A.B. Duale: Hon. Speaker, a judge wanted to suspend the Standing Orders. That is what I want to say. It is unacceptable because Standing Orders protect us. I am not talking to Hon. Wandayi but to Justice Maraga, if he is given the job. I am giving him a checklist. I am sure wherever he is watching me, he must have a pen and a note book. He must deal with those judges who wanted to suspend the Standing Orders. If he does not, this time round, we are going to bring substantive Motions against particular judges; that when the Legislature moves this way, you want to move in the opposite direction. We want the three independent arms of Government which are interdependent to work together.

(Applause)

The first High Court was established in Garissa by Justice Willy Mutunga. As a pastoralist, the development we do not celebrate over is building a police station in my constituency. I will lose my seat because we deal with our matters internally. I also want Justice Maraga to give us, as a country, the traditional mechanisms of dispute resolution. It is very

common in the pastoral areas and in the African tradition. Even Justice Mutunga really advocated for it before he left.

We want to respect the Office of the CJ. This House will make sure that it gives all the support and resources required for Justice Maraga to do his work. He must deal with those judges in cohort with some lawyers in town who will even circumvent the process when a governor is impeached.

In the process of a governor being impeached, they rush to the High Court in Kisumu or Eldoret to get an injunction. Justice Maraga must stop the culture of dishing out stay orders. My good friend - the day after tomorrow, I am going to Machakos to celebrate Mashujaa Day - Governor Mutua, the other day, got a court order from the Court of Appeal telling EACC not to go near him. What kind of court is that? What was the use of this country and the Constitution providing for the EACC?

Hon. Speaker, we now have opportunity to transform the Judiciary. We hope the appointment of David Maraga and Philomena Mwilu is going to be approved, so that when Justice Maraga joins the Supreme Court, we will have a new team. The new team must reshape the future of the Judiciary in our country. Hon. Willy Mutunga, with a lot of respect to him, in my opinion, lost the Judiciary to a group of cartels.

(Applause)

Hon. Kaluma is excited because he does his business on the corridors of justice.

(Laughter)

I go there as a litigant. I do not do business. I only go there as a litigant and I pray to God that I do not go to the corridors of justice.

In conclusion, when I watched Justice David Maraga being interviewed by the Departmental Committee on Justice and Legal Affairs, I did not see vision in him. He did very well in everything else, but failed when he was asked about his vision for the Judiciary. I am sure the Chairman of the Committee will agree with me on that. When I shared this with a number of Members of the Committee, they told me that I was right. We want him to go back, even if he is going back to the Seventh Day Adventist, and create that vision. When you are the head of an institution like Parliament, Judiciary or the Executive, you must have a vision for 10 years to 30 years.

Prior to the naming of Justice Philomena Mwilu---

Hon. Nuh: On a point of order, Hon. Speaker.

Hon. Speaker: This Member for Suna East has just come in. You are very rare in the House. Not a mere mention of something is out of order. You cannot say that because there is nothing out of order. Certainly, it is not an argument. You will have to wait because I saw the time you came in. You have to queue. You will be number seventy something.

Hon. A.B. Duale: Hon. Speaker, Hon. Junet is not accustomed to serious matters. This afternoon, we are dealing with a serious matter. He should hold his horses and once we reach another agenda, he can come in. Today, the House is very quiet because we are dealing with the appointment of the second Chief Justice of the Republic of Kenya under the new Constitution.

I was hosted on television sometime back after the interviews for the Deputy Chief Justice ended. I must say that because of the privileged office that I hold, I got something from the

grapevine that the JSC was planning to appoint somebody from another region. I did not agree with that. I said that Judges of the Supreme Court must come from different communities and different regions so as to represent the face of Kenya. The Supreme Court is not the place where you find blood brothers and sisters. The JSC led by the competent Chairman must listen to this: If you have appointed one person from the north, the next should be from the south. It should represent the face of Kenya, the ethnic diversity of our people and the religious diversity of our nation.

I beg to support. I also hope that if Justice David Maraga gets into office, he is going to respect what he told the Committee. He said that he will respect the separation of powers. That he will not be a squatter in Parliament, neither the Speaker and nor ourselves should be squatters in the Judiciary. We respect the boundaries of the Executive, the Legislature and the Judiciary.

I support.

Hon. Speaker: Well, the only exception to the rule, of course, is what is provided for in Article 108 of the Constitution. The Leader of the Minority Party, even though he is not on the list, as number two, he takes precedence. The Member for Kiminini is the one who should have spoken.

Hon. Nyenze: Thank you, Hon. Speaker. He accepts that he is my junior and he is happy with that. I want to congratulate the Departmental Committee on Justice and Legal Affairs for the good work done. I support the appointment of Justice David Kenani Maraga as the Chief Justice.

We have heard his history and qualifications. The interviews were being conducted in public and I watched him being interviewed on television. What I gathered from Justice Maraga is simplicity and a person who is full of knowledge. He is humble and does not show pride. I also saw in him someone who is not very assertive to the point of scaring people. I could see a leader in him. I do not want to repeat whatever academic credentials Justice David Maraga has, but he was in the university during my time even though I never knew him. That means both of us are not very pronounced. I only saw him on television when he was being interviewed. He has served for 38 years without any case about him.

The Departmental Committee on Justice and Legal Affairs, as you are aware, is composed of very prominent lawyers led by Hon. Chepkong'a. Hon. Kaluma and others also serve in that Committee. Even the JSC that was interviewing the candidates is composed of professors like Prof. Githu Muigai, the Attorney-General; Prof. Kobia, the Chairperson and Prof. Tom Ojienda. I want to urge the House to approve the appointment of Justice David Kenani Maraga to be the Chief Justice of Kenya.

Hon. Speaker, he will encounter a lot of challenges. I watched the candidates when they were being interviewed. The biggest challenge that he will face is the fight against corruption. This morning, I watched the President talk about corruption in a meeting at State House. He asked the people who are in charge of fighting corruption why they have not taken action. He said they made him stand in the National Assembly to read out names yet no results have been forthcoming. It shows that the President is committed to fighting corruption in this country and it is the work of the Judiciary, the National Assembly and other related bodies like the EACC, the Directorate of Criminal Investigation (DCI) and the Director of Public Prosecutions (DPP) to fight corruption. This war can be won. Some countries have won the war against corruption by taking decisive action.

If you look at the cases that have repeatedly come up like the Goldenberg and Anglo-leasing scandals, some of the people who were involved have died of old age. Children who were

in primary school are now Members of the National Assembly. Today, I heard the President saying that justice delayed is justice denied. If cases are going to take long, what should Justice Maraga do? I will not blame Justice Mutunga because he was the first Chief Justice of Kenya under the new Constitution. When you are starting a new thing, there are many challenges.

As the Leader of the Majority Party, Hon. Aden Duale said, Hon. Mutunga established 34 courts in 34 counties. Justice David Maraga should complete the projects that were left incomplete by Chief Justice Willy Mutunga. It is very surprising that we only have 600 judges against a backlog of 500,000 cases. The ratio is unbelievable. There is need for more judges, so that we can lessen the burden and dispense justice as quickly as possible. If you delay justice, you deny the complainant justice.

There is corruption in the Judiciary, National Assembly, Senate and other sectors of the Government. We cannot call ourselves saints, but we should allocate more funds to the EACC, Office of the DPP, DCI and all other agencies that investigate corruption. If these agencies are allocated enough resources, they will employ qualified people and it will be easy for them to win the battle against corruption. This country is bleeding. Everybody is hopeful that Kenya will achieve a middle income status in a few years if we eradicate corruption. It is only the Judiciary that can help us achieve this.

The Committee's Report indicates that Justice David Maraga supports alternative dispute resolution mechanisms. All cases should not end up in courts. Village elders should help us to settle domestic and boundary disputes. This will solve the issue of backlog of cases in courts.

When Justice David Maraga was being interviewed, he said that he supported all religions although he is a Seventh Day Adventist (SDA). However, I did not hear his answer on the issue of gays.

Hon. Abongotum: Gays and lesbians!

Hon. Nyenze: Thank you for the correction, Hon. Kamama. If I was interviewed, I would oppose the issue of gays and lesbians. Those who said that they support gays and lesbians were seen as liberals.

As the National Assembly, we should support Justice David Maraga. The Judiciary, Executive and Legislature are independent of each other, but they can work together to bring about harmony and development in this country. It is my prayer that we do not pull in different directions. Justice David Maraga is simple, honest and humble. We should engage him from the initial point. Let us not be antagonists, but friends who can help move this country forward.

We have cartels that walk on the corridors of the Judiciary without being charged. We should approve him. As the second Chief Justice under the Constitution of Kenya, 2010, he should deliver what he promised Kenyans during the interview. He talked with a lot of authority on how he will dismantle all those cartels, dispense justice and work with the bar and the bench. The bar and the bench should have a good working relationship. He should also work towards ending corruption to avoid the situation where the rich always win corruption cases. For example, if someone steals sugarcane or chicken from a neighbour's farm, the justice system moves very fast. However, if a Member of Parliament steals millions of shillings, the case may go on for a very long time.

I would like to advise Justice David Maraga to start with the "big fish" in our society. The ordinary citizens will eventually fall in line. Let us unite and make the Judiciary work. We should also work with the President in fighting corruption in this country.

With those few remarks, I support.

Hon. Speaker: Member for Igembe Central.

Hon. Kubai Iringo: Thank you, Hon. Speaker, for giving me the opportunity to contribute to this Report. I would like to congratulate the Committee that handled this important issue. I would like to congratulate Justice David Maraga on his nomination. He started his career at the Law School and later on became a lawyer. He has gone through many hurdles and grilling. So far, all has been good and smooth for him.

Without much ado, no one is perfect. You can never please everybody. Judges are always victimised by losers. If you have to decide on a case, it must go either way and the loser will be out there to blame you by either saying that you were bribed or you are from the tribe of the person who won the case.

The interventions raised against Justice David Maraga are not substantive enough to deny him this job. I do not know Justice Maraga personally, but I watched him being interviewed. Judging from the way he answered the questions that were put to him, I would say that he is a humble man. He was quite resolute and composed. I do not want to mention names, but some of the candidates who were interviewed for this job boasted about how they will bulldoze the Judiciary. I thought they are not the right people.

I compare Justice Maraga with the Governor of the Central Bank of Kenya, Mr. Njoroge. He is very humble, but clear and professional. Mr. Njoroge usually appears before the Departmental Committee on Finance, Planning and Trade and I find him quite composed. I see his character in Justice David Maraga.

The experience he has is impressive and he is well learned. The documents are here and they speak for themselves. The years he has worked are good enough to show that he has accumulated a wealth of experience, which is pertinent in this job. Looking at his age, he is old enough to have experience on so many things. He has also coped with a lot of things. Despite the fact that he is humble, I find him quite resolute and as somebody who can take the Judiciary far.

We have a lot of backlog in our Judiciary as has already been said. Hon. Speaker, there was a meeting today at State House and I guess you were there. The people who are charged with investigating and prosecuting cases were talking of hundreds and hundreds of cases which are pending in courts. I pray that this new Chief Justice will sit down, put his house together and make sure that these cases are expedited.

There is another problem which bedevils our Judiciary and many other arms of the Government and our institutions, which is corruption. It was a big topic in this country this morning. There are so many brokers in the corridors of our courts. You will meet somebody who will tell you that he will show you the judge or the magistrate who will handle your case and that if it does not go this way, he will take you to see prosecutor. There are people who live all their lives along the corridors of justice soliciting money from litigants. Because the litigants are desperate to get justice, especially in their favour, they end up coughing money to these people. I request Justice Maraga, when he gets to that office, to break these cartels and see that our courts are manned by professionals, who are employed to do so.

Finally, I recommend that he puts into action the establishment of arbitration courts within our communities. Many communities have their own structures which can perform similar functions like those of ordinary courts. They give judgements which are binding and keep the society together.

In Meru, we have the *Njuri Ncheke* Council of Elders, who are tasked with arbitrating land issues, family issues and many other issues, especially those which are not of criminal nature. Even those of criminal nature, people can decide to go to the *Njuri Ncheke* Council of Elders for arbitration. This will reduce the backlog and congestion in our law courts. It will also

make people live together. Once you take somebody to court, you go through the litigation path and you lose, you will keep on blaming the judge and the person you were having a case with. However, with local arbitration, especially through the *Njuri Ncheke* Council of Elders, after the decision has been made, there is a process of bringing those people together again. There is a process of burying the hatchet and letting people live together. If we establish such structures in every community, I believe it will save Justice Maraga and his judicial system the backlog and make sure that there is efficiency.

I support.

Hon. Speaker: Member for Kiminini.

Hon. Wakhungu: Thank you, Hon. Speaker. From the outset, I support this Motion. I support David Kenani Maraga to be appointed as the Chief Justice of this country.

The Biblical “David” was a small guy, but he managed to kill the big giant, Goliath. The giant we have today is corruption. I have no doubt that the small David, in the name of the Chief Justice Maraga, will kill this corruption that is all over. We know very well that the economy of this country is lagging behind because a lot of resources are wasted through corruption. I have no doubt that Justice David Maraga is going to do it. I looked at the petitions and it is true that they do not meet the threshold.

Before I move on, I thank the Justice and Legal Affairs Committee, under the able chairmanship of Hon. Chepkong’ a. I also thank Hon. Chepkong’ a and the Judicial Service Commission (JSC) under the chairmanship of Professor Kobia. They did a wonderful job. I listened and watched the interviews. The questions they asked were relevant and well researched. Unfortunately, when it came to Maraga, I did not have time to watch because I dismissed him. I thought he was not going to make it. You cannot judge a book by its cover. I have no doubt the JSC did a wonderful job. The man is soft spoken. You can be mistaken. He is a family man. Article 45 of the Constitution is very clear in terms of the family. It is the fundamental unit of social order. I respect family people. We have no doubt that moral values will be lifted in our judicial system.

As the Chief Justice, he is the President of the Judiciary. He is supposed to provide direction and transformative leadership. Unfortunately, the former Chief Justice did not provide decisive leadership. In his last minutes, the leadership was in chaos. We want Justice Maraga to watch and see what he can learn from the former Chief Justice and what the former Chief Justice did wrong. We expect David Maraga, within 100 days, to tell Kenyans what he will do in the famous Rapid Results Initiative (RRI). We need to be told what will happen within 100 days.

As Members of the Legislature, of course we will support him on the issue of separation of powers. We know very well we have the Legislature or Parliament, which you, Hon. Speaker, head. You are the President. The Chief Justice heads the Judiciary while the President heads the Executive. There is separation of power. We do not expect the Judiciary to gag Parliament anymore. We must be allowed to do our work. Our work is to legislate. The Judiciary is there to interpret the law while the Executive is there to implement the law. He must have that objective.

Hon. Speaker, you must be meeting with the Chief Justice regularly. As he comes in, we expect the three of you, as the heads of the three arms of Government, to meet regularly to see what is right and what is wrong. We expect you to meet with His Excellency the President and the Chief Justice. As the President of the Legislature, you must be meeting over a cup of tea so that you know what is going on and compare notes.

Today, I was at State House during the Governance and Accountability Summit. I saw the President’s pain. He told the Ethics and Anti-Corruption Commission CEO, Halakhe Waqo:

“You gave me the names and you had not even done proper investigation”. If the President has known that, then Halahke should go home. I brought an amendment on the Floor of this House that they must be vetted. Unfortunately, they went to court. This is totally wrong. Corruption is killing this country. The three arms of Government must work together. It is important.

As I move on, this Report has been passed unanimously. When you look at the Justice and Legal Affairs Committee, the Coalition for Reforms and Democracy (CORD) is represented. Of course, Jubilee is represented. We want to remove this notion that Justice Maraga is getting this position from the Jubilee side. It is totally wrong. He is coming in as the President of the Judiciary with the support of both Jubilee and CORD. He must operate objectively. He should not be under duress.

From the mood of the House, I can see that this man is almost getting the job. We respect him because of his Christian values. We tried a Muslim. Why not try a Christian? Kenyans must co-exist. The good thing about this man is that he respects all religions. I salute him for what he said.

When it comes to petty crimes, it is important for the council of elders to resolve them. For example, issues of dowry do not have to crowd the courts. When Justice Maraga was asked about this, indeed, he mentioned that he supports that argument. We have the *Njuri Ncheke* who are doing a wonderful job. We have the Garre, the council of elders in North Eastern, who negotiated democracy. It is a wonderful job. If that is the case, so be it. In Luhyaland, we have Hon. Wangamati as the Chairman of the Luhya Council of Elders. So, cases on petty crimes do not have to be brought to court.

We are looking to Justice Maraga, a man of God, to bring a difference in the Judiciary. Indeed, this is going to be a total paradigm shift. The cartels that we have in the Judiciary must be stopped. I have a friend who is a lawyer and the father is an advocate. I visited their home and saw a brown file in their house. That friend of mine went to Harvard School to study law. Ten years down the line, that brown file was still there in the House. When he asked the father what the brown file was for, the father told him: “If it were not for this brown file, you would not have gone to study in Harvard.” So, the delay of cases that you see is a conspiracy and corruption.

One of the critical things that Judge Maraga has to handle is to expedite the conclusion of those cases. We know very well that justice delayed is justice denied. We have a lot of confidence in him and he has to stop those people surrounding him. With time, we will request him to pay us a courtesy call. We need to have a chat and know who he is. We want somebody who can mingle with others. He is a simple and humble person. When I looked at him, I wondered who he was – he shows simplicity. We want a simple person, a man of God and a family person. I do not want to talk too much, because we want to confirm him as quickly as possible.

We know very well that there is the issue of Independent Electoral and Boundaries Commission (IEBC) which is the “elephant in the room”. The selection panel is in place but cannot operate until its members are sworn in by the Chief Justice (CJ). However today, I do not know if it was as a result of the advice by the Leader of the Majority Party, but I heard the President saying: “Tomorrow, we are swearing-in the Chief Justice.” I wondered how he knew that Maraga was going to be approved.

An Hon. Member: It was in the newspapers.

Hon. Wakhungu: Was it in the newspapers? I am hoping that even as Members support him, they should not operate under duress. However, if it works, we will call upon the President to move with speed. If he will be sworn tomorrow, then the day after tomorrow, we want the

selection panel to be sworn in because we have strict timelines of the elections. Right now, procurement cannot move smoothly. We know that one of the recommendations was that we needed a proper audit of the voter register. We do not want to hear of green books, black or white books anymore. So, we expect the Commissioners to be in place so that they can do good work and give us good commissioners who will oversee the 2017 elections, to ensure that they are fair and democratic.

With those few remarks, I support.

Hon. Speaker: Hon. Wamalwa had very few words, but he took his full 10 minutes. Let us have the Member for Narok West.

Hon. ole Ntutu: Thank you, Hon. Speaker, for giving me this opportunity. I support the appointment of Justice David Maraga as the second Chief Justice under the Constitution, 2010. Before I say a few things about the Judge, I congratulate the Judicial Service Commission (JSC) for the good job that they have done. A few weeks ago, I was watching the interview in a remote area in Narok. I remember sitting down with a few elders and what struck us was the humility of the Judge. We were asking ourselves who among those who had been interviewed would make it as the next Chief Justice of our country. I was very amused because we came up with two names; that is, Justice Smokin Wanjala and Justice Maraga. I was happy that they nominated Justice Maraga because we thought that the Judge performed very well in the interview.

When you look at his education background, he is a holder of an LLM. That is what is required for the Judge to do his work. In terms of experience, he has served for 13 years as a judge and 25 years as a private lawyer. That is very important because for one to serve as a CJ, you must have that experience. The other virtues I like about this Judge are being a team player and being ready to work together with the two arms of Government. You remember the other CJ we had never cared about Parliament or even the Executive. This will go a long way in making sure that we manage our Judiciary. I like the Judge because he is a religious person. As Kenyans, we have seen that a number of judges we have in our Judiciary have not served us very well. Perhaps, having a Christian there may help us get rid of corruption that has greatly affected our country. He is a religious person and this will help the Judiciary.

The other thing I like about the Judge is the fact that he promised to eliminate the backlog of cases in courts. Those cases have dragged on for years on end. I think the Judge will help us get rid of those many cases. The Judge is ready to digitize records and automate the proceedings of the courts. This is very important because, for a long time, lawyers and clerks who work in the Judiciary have continued to harass the citizens of this country by hiding files. Most times, cases are not heard because of lack of files. I believe the Judge will do a good job in making sure that the Judiciary digitizes its systems.

I would like to say that the petitions that were raised by Kenyans do not meet the threshold to warrant us to deny the Judge the job. Therefore, I take this opportunity to ask my colleagues to approve the name of Justice David Maraga so that we can get a CJ to take care of the issues in our Judiciary.

With those few remarks, I support and ask my colleagues to support. Thank you, Hon. Speaker.

Hon. Speaker: Let us have the Hon. Member for Seme.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker, for giving me this opportunity. I support the appointment of Justice Maraga.

Let me start by appreciating the work that has been done by the Judicial Service Commission (JSC) and the Departmental Committee on Justice and Legal Affairs. Let me also thank the retired Chief Justice (CJ) for actually leaving early and planning his retirement. Whatever else is left is in his wake. We have seen efforts by people to hang on in office, but he gave us good time to work on this.

Let me also appreciate that at least we were given 30 minutes to read through this document so that we do not talk here without facts. I have not known Mr. Maraga before but going by what the Departmental Committee on Justice and Legal Affairs has put in place, I support his appointment. The Committee has very clear findings and they start by indicating that Justice Maraga is qualified and if you look at the information that is available, he is by paper as indicated, qualified. His education speaks for himself; he has got two law degrees – a first and second one.

Apart from that, he has worked for 25 years as a magistrate in the courts and 13 years as a Judge of the High Court. During that time, he published and has been involved in teaching. It is indicated here clearly that many of his cases have been published, about 25 of them and more are to be published. You cannot grow in a profession like this if you do not practise professionalism, read, make references and judgments which are so well written and can be published. I am sure my colleagues who are lawyers and particularly the Chair of the Departmental Committee on Justice and Legal Affairs must be appreciative of the fact that he could do that.

There is evidence that when he was presiding, he made many contributions in making sure there is access to justice. It is indicated that when he was the Chair of the bar and bench in Kisumu there was a lot of improvement. That is corroborated by what Hon. Kaluma said about the work he did in Mombasa. So, at least, there we have evidence. It is also indicated that he exhibited a good knowledge of the separation of powers between the three arms of Government. All of us here have been very concerned about what seems to be interference between the Legislature and the Judiciary. Therefore, in this record we have a person who will take us far.

There were petitions against him. Again, the records indicate that all these petitions when they were looked at by the Committee, he explained about Edward Kings Onyancha Petition. In fact, he explained it was delayed. I do not see what the Judge could have done at that point. In the case of the Ainamoi residents concerning Mr. Too, he indicated that he did not know the person. I do not know how he would have been biased. Moreover, he indicated that if he had taken the case as self defence, he would have acquitted the person. He, therefore, cannot be accused that he was desirous of acquitting the person while he took the route that otherwise could have acquitted the person. On that basis, that petition even to a layman like me would fall flat on its face.

I do accept what the Committee brought before us. However, I have a few issues which I want to raise. I think when he leads the Judiciary system, he will look at them. When I look at his views on corruption, I find them mild. The issue of corruption in Kenya is not just in the Judiciary and cannot be looked at just in terms of corruption in the Judiciary. His recommendation that the Judiciary Ombudsman should be elevated from being a magistrate to being a judge is not adequate. In fact, corruption in the Judiciary and police force is actually the basis and foundation of corruption that has to be dealt with.

I believe that he seems otherwise to be up to the task but he exhibits a bit of reservation. When he was asked about the elimination of the death penalty, he said that is a fundamental issue which has to be looked at by Parliament. That may be true, but we would expect a judge at that level to have a view on it. That was a fairly good technical answer but it did not indicate what he

felt inside. Leading an organisation of this nature at this level requires what you have over the years gathered as principles that will guide. I will not take that against him.

I also see the same tendency when they asked about the lesbians, gays, bisexual and transgender people, Again, he left that as a matter that should be dealt with by legislation. I see his tendency to stand back. I think we will need somebody in the Judiciary who will move aggressively and give direction. If he is watching me, I support his appointment but I think there will be need for more aggression. Hon. Kaluma told us that we may take him as soft but he gets very tough. I hope that will come out when he is dealing with these matters.

Truly with the few remarks, and what I have gathered in 30 minutes here, I support the appointment of David Maraga. With the information I have, I think he has the potential to lead the judicial system in this country.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Kitutu Masaba.

Hon. Bosire: Thank you, Hon. Speaker for giving the opportunity to support the appointment of David Maraga. The learned friends have spoken about him but let me tell you that I have served with him in my church in the council of elders. Maraga is one of the most honest and straightforward people. I have served with him in the church for more than 25 years. He believes that corruption is an abomination as far as his faith is concerned. So, he will not condone corruption.

He believes that stealing is also an abomination according to his faith of the Seventh Day Adventist Church. He has been teaching us about time management. He believes that if you are late in your office for a minute where you are serving people without an excuse, it is stealing. I understand him very well and I have always moved with him and know his faith. Those who opposed him are those who wanted him to give a ruling according to their desires and not according to the evidence adduced in the court.

In this case, if they are honest people as far as I am concerned having known him for more than 20 years and having served in the church's council of elders, Mr. David Maraga believes that tribalism and clanism is evil and that is his belief. If there will be anybody thinking that he comes from his home and will favour him, that will not happen. For Maraga, after receiving his salary, he foregoes 10 per cent according to the tithing command. This is because he believes not paying tithe and offering is evil. He will stand for the truth alone.

With those remarks, I highly support his appointment as Chief Justice of the Republic of Kenya.

Hon. Speaker: Hon. Member of Kisumu County.

Hon. (Ms.) Nyamunga: Thank you, Hon. Speaker for giving me this opportunity to support the Report that has been brought before the House.

First of all, I want to congratulate the Departmental Committee on Justice and Legal Affairs for the work they have done. They have done a very good job. I must say that Kenya is at a crossroad. If somebody who is serious to save this nation does not come, we may have to sink and sink very deeply when it comes to issues of corruption. If we look at the example of the Ethics and Anti Corruption Commission (EACC), every other time the chairman is appointed; the hopes of Kenyans are raised. It is with the hope that the issue of corruption will be sorted out once and for all. It has happened several times. It is happening again with the Chief Justice. When the retired Justice Mutunga was appointed as the CJ, I think Kenyans were very happy. They thought: "This time, we have got a Chief Justice who is going to turn the legal system to run the way it should run and deal with the issue of corruption." There have been a lot of

disappointments, starting with the issue of the presidential results going through several cases. Again, here we are with Justice Maraga. People have spoken a lot of positive words. The Report is marvellous. He is a mighty person if we see the Report. But, I do not want to be a prophet of doom and I do not want us to go through the same disappointment after two or three years. We need somebody to help Kenya. We need somebody to get us out of the issue of corruption. We need somebody to set the justice system of this nation, once and for all. We need men and women who can change this nation.

Now, the issue has been raised. I want to commend him for the fact that he has been a reading judge. He has been attending seminars and participating in seminars meaning that he is on top of legal issues. He is on both sides of the coin: both the bar and the bench. This gives him an upper hand on how to deal with the justice system in this nation. But, I believe it is not just a matter of talking. I believe that Justice Maraga knows that Kenyans are looking up to him. Kenyans are expecting a change. Kenyans want to move forward. We want the justice system to move.

Secondly, there is the issue of the improvement he did at the Nakuru Men's Prison and also the Naivasha Maximum Prison. I must say that I have seen a tint of that in Kodiaga. I had an opportunity to visit Kodiaga Prison and saw a lot of improvement. Much as the people who are in prisons are victims and criminals, they are human beings. How they are treated in those prisons, in the cells or wherever they are is very important. So, I believe whatever he did in Naivasha and Nakuru should be extended across this nation so that Kenyans are treated as human beings even when they are criminals. That should spread across.

There is the issue of justice for all Kenyans. About 80 per cent of people do not get justice in this nation, for the many reasons that we know. I believe he should put the issue of alternative justice for Kenyans in place. It was deliberated in this House. We believe that it will be in place and it will be implemented so that people who cannot go to the regular courts can still get justice. Also, the fact that he tried to train chiefs and sub-chiefs should be extended to all the people concerned; even in the family leadership. Kenyans should be treated like human beings. People should get justice. There are so many women who do not get justice. There are so many orphans who get their property taken away by relatives and there is nowhere they can turn to. We listen to so many cases as Women Representatives. They think we can be a resource or help to them and it is not forthcoming.

So, I want Judge Maraga, wherever he is listening or watching the proceedings in Parliament, to know that Kenyans are very optimistic. We do not want to be prophets of doom. We do not want to be changing judges here and there. We do not even want to hear this 20 and 100 days. We do not want to hear his statement. We want to see work done. That is all we need from Justice Maraga once he is confirmed – and which I believe this House is ready to do.

Thank you, Hon. Speaker for giving me the opportunity to make my remarks.

Hon. Speaker: Member of Bomet County.

Hon. (Ms.) Ng'etich: Thank you very much, Hon. Speaker. I stand to support the nomination and, of course, the appointment of Hon. Justice Maraga to the position of the Chief Justice. Just as my colleagues have already put it, Hon. Justice Maraga has the right academic qualifications. He has got enough experience and also upholds professionalism, particularly in judicial matters. This has been displayed in matters that he has presided over. He was able to make judgements and defend his position of judgement.

Now, the position of the CJ is the top-most position in the Judiciary. It is that of a president. It is that of providing leadership. The most important quality required of a person

holding such an office is integrity. Through the interviews and what the Departmental Committee on Justice and Legal Affairs have been able to establish, he is a person of high integrity and beyond reproach. He is also very principled and a decision-maker. That is why he has been able to rise from the lowest level. I am sure, my colleagues, I hope we are going to grant him this opportunity to head the highest position in the Judiciary.

Further, it is his religious affiliation. All of us know the doctrines that are upheld by the Seventh Day Adventists (SDAs). They are usually very religious and strict to their norms. I believe that is what has added to his trustworthiness and protected him from the temptations that I would imagine all of us always go through, especially knowing very much what goes on in the corridors of justice. There are bribery claims, corruption and unfair rulings. I believe that, with the character of Hon. Justice Maraga, he is going to be that very good role model. Therefore, he will challenge the rest within the Judiciary to follow the same. This is because, as a leader, it is always good to be a role model so that the rest can follow suit. We should not entertain the old adage that says: "Do as I say and not as I do."

I watched as he was being interviewed by the Judicial Service Commission (JSC) and noted his confidence and his controlled temperament. Indeed, in a position of leadership, it requires emotional intelligence. If you are a person who is so meek and weak in character, I believe---

Hon. Irea: On a point of order.

Hon. Speaker: Member for Central Imenti, what is your intervention on?

Hon. Irea: Thank you, Hon. Speaker. Looking at the mood of this House, I request you to invoke Standing Order No. 95 and call upon the Mover of this Motion to reply. The mood is that everybody wants Mr. Maraga to take over the Supreme Court of Kenya and be the CJ.

Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Well. Hon. Members, that appears to be the mood. Can I put the Question?

Hon. Members: Yes.

*(Question, that the Mover be now called upon to reply,
put and agreed to)*

Hon. Speaker: Hon. Mover? Hon. Members, it is also fair to appreciate that people are contributing and making their way out.

Hon. Chepkong'a: Thank you, Hon. Speaker. I would like to thank all the Members who have supported the nomination of Justice Maraga. As already spoken by many Members, he is a very firm judge who believes in the rule of law.

The most important thing that we gathered from Justice Maraga is his belief in the principles of the Constitution. He will uphold the principles of the Constitution, in particular the spirit of coordination and consultation amongst the three arms of Government. We were very happy with that.

The former Chief Justice, Hon. Mutunga, in his last days, chose to go and address the Senate. We do not know the reasons, yet it is this House which approved his appointment. We

put it to Justice Maraga whether he would also behave in the same manner like his predecessor. He said he believes in consultation and respect for people. We were very happy.

The most important thing that he said is that he will be consulting Parliament from time to time. He wanted us to meet in an informal situation. We have been meeting with him as the Chairman of the Judiciary Committee on Elections. This Committee has interacted with Justice Maraga. As pointed out by Hon. Wamalwa, the gentleman is simple, but he is not--- Simplicity in leadership does not mean that you are a very simple person. I am being given words here by the Chair of the Budget and Appropriations Committee. Because you never gave him an opportunity, he wants to use me. He says Justice Maraga is profound. I totally agree with him. In Justice Maraga, we were looking for somebody with leadership qualities.

What we were conducting was not vetting, we were carrying out an approval process. The vetting process was done by the Judicial Service Commission (JCS). We were looking at the skills of the person. As you know I am a student of leadership. What you look for in a leader are three fundamental things. There are three things that you need in a person. You require a person who has ideas. We looked at Justice Maraga, he has ideas. The second thing that we found him with, he has people skills. He is able to work with people. This is one of the virtues that the former Chief Justice lacked. When he disagrees with you, he will show it on the face. He was not a team player. I totally agree with Justice Lenaola when he appeared before the JSC. His own judge whom he had a lot of trust in, said the former Chief Justice left the Judiciary in disarray. He wondered how a judge can chase his own colleague out of court. In fact, I have deferred that ruling and left it to someone else to come and decide. We all agree that judges must retire at the age of 74. It should not have been him who was rushing the entire process to ensure that he leaves with someone. That was a very bad thing.

The other thing that we were looking at is the technical competence of the person. As has already been mentioned, Justice Maraga has a Master's degree in law. We found him to be competent. I do not want to repeat what Hon. Cheboi has already said while moving the Motion. Just as we said at the beginning, he is a man--- Although the Leader of the Majority Party says that he never mentioned his vision, he did not do it in the technical form that we know, but in his presentation holistically - we could see he has a transformative agenda for the Judiciary, including dealing with issues of backlog. He should ensure there is teamwork in the Judiciary and add value to the position he will occupy and particularly to Kenyans.

One of the things that he brings on board is experience. When he was the head of the Family Division of the High Court, he was able to deal with a minimum of 10 cases per day and dispose of them. We were very happy because we know if he was able to dispose of at least 10 cases in the Family Division, he is going to bring that experience on board.

(Hon. Kipyegon consulted loudly)

Hon. Ng'eno is shouting. He knows he is a victim because we expelled him from the Committee. I do not know why he is still shouting here. He can also be expelled from the House. With those remarks, I beg to move.

(Loud consultations)

Hon. Speaker: Order Members! The Member for Emurua Dikirr is in a happy mood today.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: Hon. Members, I note that there was some more business on the Order Paper, but for the convenience of the House, all business is taken out and will appear in the next Sitting.

The House stands adjourned until tomorrow, Wednesday, 19th October 2016, at 9.30 a.m.

The House rose at 6.47 p.m.