

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 4<sup>th</sup> June 2019

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Hon. Members, there are two Communications which I will issue at a later point.

### MESSAGES

#### PRESIDENTIAL MEMORANDUM ON THE INSURANCE (AMENDMENT) BILL

**Hon. Speaker:** Hon. Members, I wish to welcome you back from the May recess. It is my hope that you are now fully rejuvenated and ready to resume one of the busiest parts of our Session, which is at the height of the Budget cycle. Indeed, I am aware that Members continue to be highly engaged in committee work while undertaking scrutiny of the 2019/2020 Annual Estimates, the 2018/2019 Supplementary Estimates II and the vetting of various nominees for positions of ambassadors and high commissioners, among other important matters. This commitment to parliamentary business is commendable.

As we resume this Session, I wish to bring to your attention a Message from the President, referring the Insurance (Amendment) Bill (National Assembly Bill No. 21 of 2018) back to the House for reconsideration.

You may recall that on 28<sup>th</sup> February 2019, the National Assembly passed the Insurance (Amendment) Bill (National Assembly Bill No. 21 of 2018). Thereafter, the Bill was presented for assent to His Excellency the President in accordance with the provisions of the Constitution and our Standing Orders. However, His Excellency the President, by way of a memorandum, has since referred the Bill back to the National Assembly for reconsideration.

Pursuant to the provisions of Article 115(1)(b) of the Constitution, the President has expressed reservations on the following:

- (a) Clause 2 of the Bill on the definition of the terms “broker”, “intermediary”, “independent agent” and “tied agent”;
- (b) Clause 3 of the Bill on powers of the commissioner on group-wind supervision; and,
- (c) Clause 11 of the Bill on advanced payment of premiums.

Consequently, the President recommends amendments to the said clauses in order to accommodate his reservations. The reservations of the President as contained in his memorandum, now stand committed to the Departmental Committee on Finance and National Planning for consideration.

For the avoidance of doubt, Standing Order 154 (2) requires the House to consider the President's reservations within 21 days upon receipt of a memorandum. May I, at this point remind the House of the Speaker's Communication on 28<sup>th</sup> July 2015, concerning consideration of the President's reservations to a Bill and amendments thereto. I particularly draw the attention to my guidance that the voting threshold for the passage of amendments proposed by a committee or an individual Member that have the effect of fully accommodating the President's reservations is a simple majority as contemplated under Article 122(1) of the Constitution read together with Article 115(2)(a).

On the other hand, an amendment that does not fully accommodate the President's reservations or, indeed, one that has the effect of a total override of the President's reservations, including negating his proposed text, would require a two-thirds threshold to be passed, in keeping with the provisions of Article 115(4) of the Constitution.

I wish to further remind the House and the committee that only clauses of the Bill that have reservations will be considered. I, therefore, direct the Clerk to circulate the memorandum from His Excellency the President to all Members so that they may familiarise themselves with its contents.

I thank you, Hon. Members.

I will resume my seat to allow those Members to make their way in.

*(Several Members walked into the Chamber)*

Members making their way in, it may well be that you have not met for some time, but just make your way in. We welcome the Hon. Member for Emurua Dikirr. The Hon. Deputy Speaker suggests that he has just finished his honeymoon. So, the House could very well congratulate him.

Hon. Members, I will resume. There is a further Message from the President.

#### NOMINATION OF ADDITIONAL AMBASSADORS AND HIGH COMMISSIONERS

**Hon. Speaker:** Hon. Members, you will recall that on Thursday, 9<sup>th</sup> May 2019, the House passed a resolution that required the Hon. Speaker to refer any names of nominees for appointment to a State office, that he may receive during a recess period, to the relevant Committee(s) without having to cause a recall of the House to convey the names.

In this regard, I wish to inform the House that during the May/June recess period, I received a Message from His Excellency the President conveying his nomination of the following persons for appointment as Ambassadors and High Commissioners:

	NAME OF NOMINEE	MISSION
1.	Barine Eliphias Mugendi	Accra, Ghana
2.	Andrew Kihurani	Bern, Switzerland
3.	Lamarron ole Kaanto	Berlin, Germany
4.	Purity Muhindi	Dakar, Senegal
5.	Jackline Yonga	Rome, Italy
6.	Halima Abdille Mohamud	Kuwait City, Kuwait

Hon. Members, this list is in addition to the list of nominees referred to the House on 9<sup>th</sup> May 2019, just before the commencement of the May/June recess period. In accordance with the said resolution of the House and the provisions of Standing Order 45(1), I wish to also report that I have since referred the said names and their respective curriculum vitae to the Departmental Committee on Defence and Foreign Relations for the Committee to undertake the requisite vetting processes.

Hon. Members, Section 8 of the Public Appointments (Parliamentary Approval) Act requires that a committee shall consider a nomination and table a report for debate and decision in the House within 14 days from the date of notification. In this regard, the Committee should table its report on the above nominees the soonest possible to enable the House to conclude the matter within the statutory timelines.

I thank you.

Hon. Members, the last Message is from the Senate

#### APPOINTMENT OF SENATORS TO THE MEDIATION COMMITTEE ON DIVISION OF REVENUE BILL

Hon. Members, pursuant to the provisions of Standing Order 41, I wish to report to the House that I am in receipt of correspondence from the Senate, dated 22<sup>nd</sup> May 2019, conveying that the Senate has appointed the following Senators to the Mediation Committee to consider the Division of Revenue Bill (National Assembly Bill No. 11 of 2019):

1. Sen. Mohamed M. Mahamud, MP;
2. Sen. Mutula Kilonzo Junior, MP;
3. Sen. Susan Kihika, MP;
4. Sen. Ledama Ole Kina, MP; and
5. Sen. Johnson Sakaja, MP.

Hon. Members, you will recall that on Wednesday, 8<sup>th</sup> May 2019, the National Assembly rejected all Senate amendments to the Division of Revenue Bill (National Assembly Bill No. 11 of 2019).

This effectively means that the Bill is committed to a mediation committee in terms of Article 112(2)(b) of the Constitution. Subsequently, I appointed the following five Members to

represent the National Assembly in the mediation committee and conveyed the National Assembly's decision to the Senate:

1. The Hon. Aden Duale, EGH, MP, Leader of the Majority Party;
2. The Hon. John Mbadi, EGH, MP, Leader of the Minority Party;
3. The Hon. Kimani Ichung'wah, MP;
4. The Hon. Cecily Mbarire, MP; and
5. The Hon. (Dr.) Makali Mulu, MP.

Hon. Members, with the appointment of the above Senators, the mediation committee is now fully constituted. Indeed, I have been informed that the Committee has already commenced its work of attempting to develop an agreeable version of the Bill in accordance with the provisions of Article 113 of the Constitution.

Hon. Members, you will also agree with me that the Division of Revenue Bill is critical to the process of vertical sharing of revenue between the two levels of government. Indeed, Article 218 of the Constitution provides that the Bill ought to be passed at least two months before the end of the subsisting financial year.

I, therefore, implore the mediation committee to expeditiously consider the contested sections of the Bill and submit a mediated version of the Bill to both Houses of Parliament within the timelines contemplated under Article 113(3) of the Constitution.

I thank you Hon. Members.

Next Order.

### PAPERS LAID

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2018, and the certificates therein:

- (i) Eldoret National Polytechnic;
- (ii) Coast Development Authority;
- (iii) Kenya Ports Authority;
- (iv) Kenya National Trading Corporation;
- (v) Kenya Law Reform Commission;
- (vi) Karatina University;
- (vii) Office of the Attorney General and Department of Justice;
- (viii) Water Service Regulatory Board;
- (ix) University of Embu;
- (x) Kenya Academy of Sports and FC Talanta;
- (xi) Occupational Safety and Health Fund; and
- (xii) Nairobi Centre for International Arbitration.

The Annual Report and Financial Statements of the Privatisation Commission for the year ended 30<sup>th</sup> June 2017.

The Annual Report of the Commission on Administrative Justice (Office of the Ombudsman) for the Financial Year 2017/2018.

The National Treasury and Planning reports on:

- (a) Quarterly Economic and Budgetary Review (Third Quarter of the Financial Year 2018/2019); and
- (b) The National Policy to Support Enhancement of County Governments' Own Source Revenue (to be referred to the Budget and Appropriations Committee and the Finance and National Planning Committee of this House).

I thank you Hon. Speaker

**Hon. Speaker:** Chairperson, Departmental Committee on Defence and Foreign Relations

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Defence and Foreign Relations on the Vetting of Seven Nominees for Approval as High Commissioners and Ambassadors.

**Hon. Speaker:** Very well. Chairman, Budget and Appropriations Committee

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Budget and Appropriations Committee on the Budget Estimates for the National Government, the Judiciary and Parliament for the Financial Year 2019/2020 and annexures (i) and (ii).

I thank you Hon. Speaker.

**Hon. Speaker:** Very well.

Next Order

## NOTICE OF MOTION

### VETTING OF NOMINEES FOR APPROVAL AS HIGH COMMISSIONERS AND AMBASSADORS

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Speaker. I beg to give Notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Defence and Foreign Relations in their Report on the Vetting of Seven Nominees for Approval as High Commissioners and Ambassadors, laid on the Table of the House today Tuesday 4<sup>th</sup> June 2019 and pursuant to Article 132(2)(e) of the Constitution and Section 8 of the Public Appointments (Parliamentary Approval) Act 2010, this House approves the appointments of the following persons as High Commissioners and Ambassadors:

NAME OF NOMINEE	MISSION
(i) Mr. Kariuki Mugwe for appointment as Ambassador to Abu Dhabi, United Arab Emirates;	
(ii) Mr. Peter Katana Angore for appointment as Ambassador to Algiers, Algeria;	
(iii) Mr. Micheal Mubea for appointment as Ambassador to Dublin, Ireland;	

- (iv) Ms. Flora Karugu for appointment as High Commissioner to Lusaka, Zambia.
- (v) Ms. Diana Kiambuthi for appointment as Ambassador to Stolkhom, Sweden;
- (vi) Ms. Njambi Kinyungu for appointment as Ambassador to UN-Habitat; and
- (vii) Ms. Mwende Mwinzi for appointment as Ambassador to Seoul, South Korea, subject renouncing her citizenship to United States of America in line with Article 80(c) of the Constitution and sections 31 and 52 of the Leadership and Integrity Act, No. 19 of 2012, upon appointment before taking office.

Thank you, Hon. Speaker.

**Hon. Speaker:** Order! Order, Hon. Members! Before we proceed, let me recognise staff from the National Assembly of Zambia seated in the Speaker's Gallery. The officers are on attachment to the National Assembly to share experiences with their counterparts on the process of budget-making and approval by Parliament. They are all welcome to observe the proceedings of the National Assembly this afternoon.

Secondly, I also wish to recognise and welcome Nagudi Deborah, a protocol officer from the Parliament of Uganda also in the Speaker's Gallery who is observing proceedings; as well as students from Kaplong Girls High School, Sotik Constituency, Bomet County and those from Gitito Secondary School, Gatanga Constituency, Murang'a County. We also have Ndagani Girls High School, Chuka/Igambang'ombe Constituency, Tharaka Nithi County. They are all welcome to observe the proceedings in the National Assembly this afternoon.

Hon. Members, I have determined that now we have sufficient number of ourselves in the Chamber to make this Communication.

## COMMUNICATION FROM THE CHAIR

### INVITATION OF MEMBERS TO THE SPEAKER'S *KAMUKUNJI*

Hon. Members, I wish to invite you to a Speaker's *Kamukunji* to be held on Thursday, 6<sup>th</sup> June 2019, in the National Assembly Chamber, Main Parliament Buildings at 11.00 a.m. The *Kamukunji* is intended to provide opportunity for briefing of Members and discuss the progress of the ongoing dispute between the Salaries and Remuneration Commission (SRC) and the Parliamentary Service Commission (PSC). The *Kamukunji* will also involve Members from the other House. All Members are requested to attend and observe time so that we can canvass various matters.

In this regard, I also wish to thank the Member for Homa Bay Town Constituency in a special way. Without knowing that I had already had deliberations and decided to have this *Kamukunji*, he had written to me requesting that a *Kamukunji* be held as soon as possible and he has raised a number of pertinent issues. I would, indeed, implore him to be present on Thursday to also elucidate a number of issues he has raised in the letter that he has written to me. Thank you very much, Hon. Kaluma.

Hon. Members, I think that Communication was delayed deliberately - I think it is fair for me to state this. In the first petition filed by some activist, he has not just sued the PSC, the CS

for National Treasury, the Attorney-General, the Controller of Budget and the PSC Commissioners, but he has gone on to sue every Member of Parliament. I think it is fair that on Thursday we are all here so that we can take a collective decision on the way forward. I think it is a matter that involves each one of us. Indeed, as you may have noticed in the Petition, the petitioner has even sued the Speakers, that they purported to claim that they also received house allowances. I do not know how he made that terrible blunder. I think it fair that we are all here so that we can discuss and see how best we can deal with the matter.

Hon. Ichung'wah, you were to give notice of Motion.

### NOTICE OF MOTION

#### REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON BUDGET ESTIMATES – 2019/2020

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Estimates for the National Executive, the Judiciary and Parliament for the Financial Year 2019/2020, laid on the Table of the House on Tuesday, 4<sup>th</sup> June 2019, and pursuant to the provisions of Article 221 of the Constitution of Kenya, Section 39 of the Public Finance Management Act, 2012 and Standing Order Nos.235 and 239, approves the issuance of a sum of Kshs1,920,941,043,369 from the Consolidated Fund to meet the expenditure during the year ending 30<sup>th</sup> June 2020 in respect of the votes as contained in the Schedule.

Thank you, Hon. Speaker.

### ORDINARY QUESTIONS

**Hon. Speaker:** Hon. Members, the first Question is by the Member for Nakuru Town East, Hon. Gikaria.

#### *Question No. 190/2019*

#### DELAY IN CLEARING IMPORTED SOLAR POWERED PRODUCTS AT MOMBASA PORT

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Speaker, I beg to ask the Cabinet Secretary for Industry, Trade and Cooperatives the following Question:

Could the Cabinet Secretary explain why there is an inordinate delay in clearing imported solar powered products and other solar energy-based products at the port of Mombasa, which currently takes up to sixty (60) days thus attracting demurrage and related costs, frustrating traders and eroding the Government's policy on green energy?

**Hon. Speaker:** That Question will be responded to before the Departmental Committee on Trade, Industry and Cooperatives. Next Question is by the Member for Bungoma County.

*Question No. 235/2019*

ABANDONED QUARRY AT NABUYOLE VILLAGE  
IN WEBUYE EAST CONSTITUENCY

**Hon. (Ms.) Catherine Wambilianga** (Bungoma CWR, FORD-K): Hon. Speaker, I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development the following Question:

(i) Is the Cabinet Secretary aware that a contractor namely M/s. Jiangxi Zhongmei Engineering Construction Company (JZEC) abandoned a quarry at Nabuyole Village in Webuye East Constituency after excavating stones for a project, thereby endangering the lives of children and the general public?

(ii) What measures is the Ministry putting in place to ensure that the said contractor rehabilitates or restores the place to its original status and to further guarantee that such occurrences do not recur in any other ongoing and future road projects?

**Hon. Speaker:** That Question will be responded to before the Departmental Committee on Transport, Public Works and Housing.

Next Question is by the Member for Ruiru, Hon. Simon Ng'ang'a King'ara.

*Question No.236/2019*

SHORTAGE OF LEARNING FACILITIES IN RUIRU CONSTITUENCY

**Hon. Simon King'ara** (Ruiru, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

(a) Is the Cabinet Secretary aware that public schools in Ruiru Constituency are facing an acute shortage of learning facilities leading to congestion in classrooms, where close to 200 pupils share a classroom in several instances?

(b) Is the Cabinet Secretary further aware that there is no public boarding school in Ruiru Constituency despite the high enrolment?

(c) What criteria does the Ministry employ to allocate infrastructure funds to schools and specifically, when will schools in Ruiru Constituency be allocated funds to address the lack of learning facilities?

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Education and Research.

The next Question is by the Member for Bura, who has written to request that it be deferred on account of his engagement elsewhere.

It is accordingly so ordered.



*Question No.237/2019*

## STALLED CONSTRUCTION OF BURA IRRIGATION AND SETTLEMENT SCHEME

*(Question deferred)*

The next Question is by the Member for Isiolo County, Hon. Rehema Jaldesa.

*Question No.238/2019*

## PLANS TO ADDRESS UNDERSTAFFING IN ISIOLO AND MARSABIT NSSF OFFICES

**Hon. (Ms.) Rehema Jaldesa** (Isiolo CWR, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Labour and Social Protection the following Question:

(a) Is the Cabinet Secretary aware that the National Social Security Fund's (NSSF) Isiolo and Marsabit branches are understaffed?

(b) What plans has the Cabinet Secretary put in place to address the understaffing of the two branches in order to facilitate residents of Isiolo County and neighbouring areas to access the services of the NSSF?

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Labour and Social Welfare.

*(Loud consultations)*

Order Members! I know it is the first day, but we can still lower the decibels of our consultations. Consult but at lower decibels.

The next Question is by the Member for Laikipia County, Catherine Waruguru.

*Question No.239/2019*

## LACK OF MOBILE TELEPHONE NETWORK CONNECTIVITY IN LAIKIPIA COUNTY

**Hon. (Ms.) Catherine Waruguru** (Laikipia CWR, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Information, Communication and Technology the following Question:

(a) Is the Cabinet Secretary aware of the lack of mobile telephone network connectivity and coverage in most parts of Laikipia County, especially in Laikipia North Sub-County?

(b) What measures is the Ministry putting in place to ensure that there is adequate mobile telecommunication network coverage and connectivity in the said areas by all service providers so as to support economic activities in the affected areas and guarantee timely coordination of security and other emergency interventions?

Thank you, Hon. Speaker and *Eid Mubarak* to our Muslim brothers and sisters.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Information, Communication and Innovation.

Hon. Members, that brings us to the end of Question Time.

Next Order.

## BILL

### *Second Reading*

#### THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

*(Hon. Aden Duale on 9.5.2019)*

*(Resumption of Debate interrupted on 9.5.2019 – Afternoon Sitting)*

**Hon. Speaker:** What is the issue, Hon. Junet?

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Speaker for giving me an opportunity. I wanted to seek your indulgence. Tomorrow, the Muslim community is observing a very important holiday. I wanted to wish them a happy holiday and Happy *Eid*. This House has representatives of different colours and religions. I thought it is very important that we wish our Muslim brothers *Eid Mubarak*. We are coming from a month where we were fasting. Some of us even disappeared from the political scene because we thought that if we abuse someone, God will not accept our fast. We are now coming back to normal life from tomorrow. You will see me on Thursday dealing properly and perpendicularly with some people who have been speaking a lot when I was away fasting.

I want to take this opportunity, with your indulgence, as a House, to wish the Muslim community in Kenya a Happy *Eid* tomorrow. Our prayers should be accepted so that the country can move forward. There will be a lot of meat tomorrow. Any Member of Parliament who is around can call me. As a leader, I have a lot of meat to share with you. This is a very important holiday to the Muslim community. I thought I should take this opportunity, as a Member of this House, to wish them *Eid Mubarak*. But Ichung'wah should not come to my meat-eating party.

**Hon. Speaker:** Hon. Members, Hon. Junet took advantage of the intervention provision to wish everybody a Happy *Eid Mubarak*, which is okay.

Hon. Members, you will recall that the Second Reading of the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.21 of 2019) was concluded on 9<sup>th</sup> May 2019. What now remains is for the Question to be put. However, before I proceed to put the Question, which will mark the conclusion of the Second Reading of the said Bill, I wish to bring to the attention of the House the following information:

I have since received a letter from the Leader of the Majority Party, Hon Aden Duale, requesting for my consent to withdraw proposed amendments to the Microfinance Act (No.19 of 2006) from the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.21 of

2019). In his letter, he indicates that this is after consultations with the Governor of the Central Bank of Kenya and the National Treasury, who have proposed to include more comprehensive legislative measures relating to *Sharia* compliance provisions in the microfinance sector through the Finance Bill, 2019, which is scheduled to be introduced to this House in a few weeks' time.

I have acceded to the request. This implies that the Bill will now be concluded at the Second Reading and other stages without making reference to the withdrawn provisions of the Statute Law (Miscellaneous Amendments) Bill. In this regard, the Bill should be dealt with as though the provisions proposing amendments to the Microfinance Act (No.19 of 2006) were not part of the Bill.

The House having been so guided, I put the Question for Second Reading.

*(Question put and agreed to)*

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

### MOTIONS

#### REPORT ON THE INQUIRY INTO PROCUREMENT AND IMPLEMENTATION OF THE EXCISABLE GOODS MANAGEMENT SYSTEM AND INTEGRATED PRODUCTION ACCOUNTING SYSTEM BY KENYA REVENUE AUTHORITY

THAT, this House adopts the Report of the Public Investments Committee on the Inquiry into Procurement and Implementation of the Excisable Goods Management System (EGMS) for printing, supply and delivery of security revenue stamps complete with Track and Trace System and an Integrated Production Accounting System by the Kenya Revenue Authority, laid on the Table of House on Tuesday, 30<sup>th</sup> April 2019.

*(Hon. Abdullswamad Nassir on 8.5.2019)*

*(Debate concluded on 9.5.2019 – Afternoon Sitting)*

**Hon. Speaker:** Order Members. Could you just take seats so that we can proceed? I do not like seeing people frozen. It is better when Members are seated. That Member in blue, Hon. Obara, you should be in the House. I know you may be consulting. Be in the House. Hon. Members, debate on this Motion was concluded and what remained was for the Question to be put, which I hereby do.

*(Question put and agreed to)*

REPORT ON EXAMINATION OF FINANCIAL STATEMENTS FOR THE NATIONAL  
GOVERNMENT FOR 2015/2016

THAT, this House adopts the Report of the Public Accounts Committee on its examination of the Report of the Auditor General on the Financial Statements for the national Government for the Financial Year 2015/2016, laid on the Table of the House on Tuesday, 23<sup>rd</sup> April 2019.

*(Hon. Opiyo Wandayi on 30.4.2019)*

*(Debate concluded on 9.5.2019 – Afternoon Sitting)*

*(Hon. Johnson Naicca walked to Hon. (Ms.) Odhiambo-Mabona's place)*

**Hon. Speaker:** Order, Member for Rarieda. Member for Mumias West, I can see you are terribly attracted to the Member for Suba North. Allow me to put the Question because debate on this Motion was concluded and then you can proceed with the rest of the business.

*(Laughter)*

*(Question put and agreed to)*

Hon. Members, I want to indicate that the Public Accounts Committee has made the House proud by moving with speed. I received the Report of the Financial Year 2016/2017 yesterday. They have done a good job. We should encourage them to move with speed. Once the Leader of the Majority Party tables that other report, we will get closer to what is desirable for purposes of division of revenue.

Next Order.

## BILLS

### *First Reading*

#### THE STATISTICS (AMENDMENT) BILL

*(Order for First Reading read- Read the First Time  
and Ordered to be referred to the relevant  
Departmental Committee)*

*Second Reading*

## THE OFFICE OF THE COUNTY ATTORNEY BILL

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move that the Office of the County Attorney Bill (Senate Bill No. 3 of 2018) be now read a Second Time.

At the outset, I want to wish my brothers, sisters and the people of Kenya Happy *Eid* and *Eid Mubarak*.

The Office of the County Attorney Bill (Senate Bill No. 3) was published on 2<sup>nd</sup> March 2018 and was passed by the Senate with amendments on 3<sup>rd</sup> October 2018. This Bill seeks to establish the Office of the County Attorney which is the equivalent of the Attorney General, but not in terms of powers. It also provides for the functions and powers of that county attorney and how he will discharge his duties and exercise the powers given to him under this Bill. For the first time, we want to see who will become the county attorney.

Currently, the governors recruit people who left university the other day who masquerade as lawyers. They have not even gone through the Kenya School of Law because governors employ their relatives and sycophants. This law will give the framework on how a county attorney should be recruited, his tenure of office, his functions and the same for the county solicitor.

Part two of the Bill deals with the establishment and administration of the Office of the County Attorney. Clause 4 provides for the establishment of the Office of the County Attorney in each county which is an office in the county public service. The office shall consist of the county attorney, the county solicitor and the county legal counsel. This Bill establishes three key offices: The county attorney, the county solicitor and the county legal counsel.

*(Hon. (Dr.) Tecla Tum crossed the Floor without bowing)*

**Hon. Speaker:** Member for Nandi, Hon. (Dr.) Tecla Tum, be upstanding. You can see where you are. You have just come to the Table to pick water and you did it from that side. I always tell you that I am very observant. You need to familiarise yourself with the rules of the House. You can now proceed and take your seat.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I can see that Hon. Wandayi has come back. You praised him. He is being briefed by Hon. Junet. I do not know whether he is inviting him for meat tomorrow, but not Hon. Kimani Ichung'wah.

Clause 5 deals with the county attorney who shall be appointed by the governor with the approval of the county assembly. The governors appoint people without the approval of the county assembly. If this Bill becomes law, the county attorney will be approved by the county assembly. For a person to qualify for an appointment as a county attorney, he or she should have the following qualifications:

(i) He or she must be an advocate of the High Court of Kenya of at least five years standing. We will amend that. The person who should be the county attorney must be qualified to

be a Judge of the High Court, so that anything that he signs at the counties must be from a serious person. The Bill says that the person must be an advocate of the High Court of at least five years standing. Because the Bill is from the Senate and we are used to mediation these days, we will amend it so that we go for mediation. We will appoint lawyers this time.

(ii) He must be a sound legal practitioner. He should not come from some very funny universities like the ones in Ukraine and Sri Lanka. You must have gone to the University of Nairobi like Hon. Millie Odhiambo. There is also a school of law in Mogadishu. This person must be a very sound legal practitioner. I am not demeaning that school of law, but we must get the best people to run our counties. The person may also come from the school of law from Kampala International University.

(iii) He must also meet the requirements of Chapter Six of the Constitution. That person must not be already tainted and be used as a conduit by the county governments to siphon public resources.

Clause 6 provides for the tenure of the office of the county attorney. It shall be a term of six years. After six years, he will go back to his former practice.

Clause 7 provides that the county attorney shall be the principal adviser to the county government. He will advise the county government and sign all county agreements. Like the Attorney-General in the national Government, he will be in charge of drafting legislation of the county assembly and will make sure that the county government enters into sound legal and constitutional obligations.

Clause 17 provides for the recruitment of the county solicitor by the County Service Board. For a person to qualify for this position, he should have at least five years of experience as an advocate of the High Court and meet the requirements of Chapter Six of the Constitution. He shall be the principal assistant to the county attorney.

Clause 18 provides for appointment of the county legal counsel by the Public Service Board in consultation with the county attorney.

Part IV of the Bill deals with miscellaneous provisions. Clause 24 provides that the Office of the County Attorney shall be a depository of all the county laws and legal documents, instruments and agreements signed for and on behalf of the county government.

Finally, Clause 31 of the Bill provides for the transition of the members of the current staff. Current staff have a transitional clause that is subject to a new vetting and appointment by the assembly.

This is a fairly small Bill from the Senate. The Senate has been complaining that we do not deal with their Bills. We have heard the Senate say that they are going to challenge some of the Bills we have passed in court. The Constitution is very clear that the only persons who make a determination whether a Bill has to go to the Senate or not are the two Speakers. It is not the role of the Justice, Legal Affairs and Human Rights Committee of the Senate or the leadership of this House to determine. That power lies with the Speakers of the two Houses. However, if we go the route they have taken, I can assure them that it will be very rough because they only deal with laws that concern counties. They will not deal with any law that has a money effect. It is only this House that has a blanket authority to generate any law under the sun. I advise the Senate not to go that route because it will be very dangerous for them. We better have a very

harmonious relationship and agree. If they challenge every law we pass, that route will be very difficult for them because most of their Bills are of a money nature within the reading of Article 114 of the Constitution.

I beg to move and ask the Chairman of the Departmental Committee on Justice and Legal Affairs, Hon. Cheptumo to second. Thank you.

**Hon. Speaker:** Hon. Cheptumo.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Speaker, I beg to second the Bill.

The Office of the County Attorney Bill is critical for the functioning of the county governments. The equivalent of the county attorney is the Attorney-General in respect to the national Government. It is the sole office that will guide and advise the county governments. So, it is a very important office. We realise that a huge sum of our resources is allocated to counties. The counties should have a qualified attorney; somebody with relevant expertise and experience. That is why the Senate Bill proposes that the person qualified to be a county attorney should have an experience of five years. My Committee spent time examining the Bill. We will move an amendment that the Office of the County Attorney should be occupied by a person of at least seven years of experience. The reason being that this is a very critical office. The person qualified to be appointed to the position should be somebody qualified to be appointed as Judge of the High Court.

One of the reasons we will propose that amendment is to attract very qualified persons to occupy that office. If we allow appointment to that office of persons with an experience of five years, then we are bound to have a county attorney who is not experienced enough.

The other issue we considered is the tenure of the Office of the County Attorney. The Senate Bill proposes that the county attorney should serve for five years. We realised that if we allow that provision to stand in this law, it means that county attorney will only serve for the term of a governor, which is five years. We want continuity of the Office of the County Attorney so that once a governor's term expires, the county attorney can continue to serve for another one or two years and provide information and support to the incoming governor. Again, we want to provide for renewal of the term of the county attorney. The Senate Bill provides for only one term of five years. We propose that the county attorney should serve for two terms: one term and renewal of another term of six years. This will guarantee continuity of legal advice to the incoming governor if at all a county were to change a governor.

Another critical issue I want to raise is the level or status of the county attorney. The Bill places the county attorney at a lower level, that is, junior to a member of County Executive Committee of the county government. That office is critical. In the national Government, the Attorney-General sits in the Cabinet. We need to apply the same principle so that we have the county attorney sitting in the cabinet of the county government. That is important because it will enable him to guide the county cabinet in making sound decisions especially where legal advice is required.

These are some of the areas we propose to make amendments. However, we actually retained most of the clauses as proposed by the Senate except those ones we have proposed to amend in the Committee of the whole House. This is to ensure we have a very sound legal practice in counties.

The county attorney should also represent counties in court. The county attorney should have the capacity to represent counties when they are sued.

This is a very important step in the right direction. It is part of streamlining the devolution system in our country and enable Kenyans to utilise legal services through the Office of the County Attorney.

I beg to second and request Hon. Members that as we contribute to the Bill, we support it. Our counties need to have a legal framework that will move them forward.

*(Question proposed)*

**Hon. Speaker:** I see that the Member for Kiminini wants to give his first shot.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker. I rise to support this Bill. From the outset, I want to say that this Bill is long overdue. These are some of the critical Bills that we should have focused on immediately the Constitution was promulgated. When it comes to counties, there are lot of legal issues going on. We know very well that the county attorney, as we reflect from the national perspective, is the chief government legal adviser. He is the principal adviser to the county government. When we go to the counties, you find that the governors have been appointing some of their legal advisers who are purporting to do the work of the county attorney but they do not meet the qualifications.

I want to agree with my other colleagues that the holder of this office must have the qualifications of a High Court Judge. That is why we are proposing that when we move to the committee stage we amend the five years - Hon. Cheptumo talks of seven years - to 10 years minimum. I know that is the threshold of the experience required to become the Judge of the High Court. We are saying so because the matters they are going to handle are complex in nature. We know very well that this particular office is very important when it comes to matters of drafting. There are a lot of issues that have been going on in the counties. There are pieces of legislation that have been passing yet do not meet the threshold. If we have the Office of the County Attorney with good qualifications, he can also advise the governor before assenting to the law.

This Bill has been long overdue as I said. When it comes to the issues of tenure, it is important to think of continuity. We know governors have two terms. A term of any government is five years. It is important from what the Chairman has said that for purposes of continuity, they should have a term of six years so that if a term of a government comes to an end, at least we will have somebody who will be able to advise the incoming government. So, when we move to committee stage, it is important to amend that particular section that is talking about six years. I listened carefully when the Leader of the Majority Party was moving the Bill. He said six years but in the Bill it is five years. That is why Hon. Cheptumo, from public participation, saw the sense of extending it to six years. That is why some of us are saying they will support that when it comes to the Committee of the whole House.

It is true this is a straightforward Bill. Also, when it comes to the county solicitor, he is supposed to be the assistant to the county attorney. When it comes to the qualifications, it goes without saying that if we amend the academic qualifications of the county attorney, we should



also amend the academic qualifications of the county solicitor. At the same time, we should also amend the tenure from five years to six years. Currently, when you go to the counties, it leaves a lot to be desired. For example, in one of the counties that I do not want to name, a governor has appointed a niece or a cousin who has just cleared from the university without any academic qualifications. Some have not even gone to the Kenya School of Law. It is something that has been messy. We are happy that this Bill is going to add a lot of value in terms of organising the legal framework at the county level.

I thank you and I support.

**Hon. Speaker:** Very well. Hon. Shamalla.

**Hon. Jeniffer Shamalla** (Nominated, JP): Thank you, Hon. Speaker. I rise to support. When this Bill came before us at the Departmental Committee on Justice and Legal Affairs, our rationale was that a lawyer or advocate of the High Court with not less than five years standing is suitable. We did not want to increase the threshold and the reasons were twofold. One, you give a chance to the youth – the younger advocates to apply. Usually, advocates who have been in practice for 10 years or more have already got established practices. That was our rationale.

Having said that, I also want to clarify that it is not age that describes seniority, it is when your name was entered on the roll of advocates. So, somebody like Yash Pal Ghai who is several years ahead of me in biological years is still my junior as an advocate of the High Court of Kenya. I remain his senior.

*[Hon. Speaker (Hon. Justin Muturi) left the Chair]*

*[The Temporary Deputy Speaker (Hon. Christopher Omulele) took the Chair]*

Having said that, we agree that the threshold for county attorneys must indeed be high. County governments must be advised by attorneys who are conversant with legislation.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): We shall have Hon. Atandi.

**Hon. Samuel Atandi** (Alego –Usonga, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I want to start by saying that I support this Bill. It is long overdue. If you want to see how we needed to have had this law in place, you need to look at how counties have performed in the recent past. There are some programmes that counties have undertaken which if they were receiving sound legal advice, they would not have been able to engage in.

One of the examples I remember is the cash offer programme in Kiambu County. The Auditor-General has said that the programme was funded outside the law. That will tell you that counties need sound legal advice. I have gone through this Bill. I want to agree with my colleagues who have said that we need a solid county attorney. An advocate of the High Court of five years' experience in my view would not be able to give counties competent legal advice. I want to propose that we amend this section in terms of qualifications of the county attorney so

that we have somebody who has more than 10 years' experience. That will ensure that county attorneys are people who have solid experience and are able to give counties competent advice.

I disagree with my colleagues who have spoken before. In terms of service, we need a county attorney who will serve for exactly five years. The reason is that our turnover of governors is very high. Most likely we will not have governors doing more than 10 years. As the incoming governor of Siaya, I would not trust legal advice from the former attorney who was advising my predecessor – the person I beat in the elections. I insist that when we are looking at it in terms of service, let us have a county attorney serving for only five years but with a chance of contract renewal because if I move into office, I may not trust the legal advice of the previous county attorney.

You will agree with me that if we – I am not a lawyer – bring two or five lawyers here and ask their views on a particular subject, every advocate will give us their own views. So, there is no uniformity in the way lawyers interpret matters. Maybe the previous attorney would mislead me and put me into trouble. In order to safeguard the legal operations of counties, I would like to propose that we have in the section on terms of service strictly five years as the time when a governor is in office.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Washiali Jomo, Member for Mumias East.

**Hon. Benjamin Washiali** (Mumias East, JP): I thank you, Hon. Temporary Deputy Speaker. I rise to support but before I do so, I also join my colleagues in wishing the Muslim community *Eid Mubarak*. Muslims usually join us when we observe Christmas, the birth of our saviour, Jesus Christ. Of course, we need to also join them when they are celebrating.

I agree with my colleagues, the earlier speakers, who said that this Bill is long overdue. I thank the Mover, Hon. Duale, for fast-tracking this Bill. A wrong and a wrong do not make a right. You will realise that the Bills we refer to the Senate sometimes take too long to be concluded. At the end of the day, they are referred to mediation committees. It does not make sense. We need to fast-track the Bills that come from the Senate so that if we have to decide to go for mediation, it must be done at once so that we inform Kenyans which route we are taking.

This is a very important Bill. The county attorney is a very important position. As I went through this Bill, I was wondering what was happening in the counties without county attorneys. From the swearing-in ceremony, it is the attorney who is supposed to oversee the exercise. We have just been relying on hired services from the judges that come from the respective counties. I think this has been the beginning of problems.

You will realise that there is a lot that goes on in the counties in terms of agreements and contracts.

*(Several Members stood in the gangways)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Order, Members standing in the gangways. Kindly take your seats so that the business of the House can proceed without interruption.

Proceed, Hon. Washiali.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. The consultations were a bit loud. That is why I was not being heard. I was just saying that there is a lot that goes on in the counties. We have to contend with the Kshs9 billion of pending bills today. They are bills of contracts which were not looked at by officers who have been trained to do this job. For the counties to even claim that they are going to pay the bills, it is important that those bills are verified again to ensure that the agreements in respect of the bills being paid are in order for both the service provider and the respective county government procuring entities.

I agree with Members who contributed much earlier on this small Bill. When it comes to Third Reading, some of us will propose amendments, especially to Part II, Clause 4, which has an open-ended provision for hiring. It is not clear who will work under these officers. This kind of allowance has been abused by some of our governors, who went ahead to hire officers who may not add value to the counties. The part says: "... such other number of county legal counsel as the county attorney may, in consultation with the County Public Service Board, consider necessary." That is about hiring other officers as the attorney may consider fit. Such open-ended provisions can easily be abused. We may end up with county attorneys hiring officers who may not be relevant to the county. Therefore, we need to close up this provision by specifying the officers that the attorney should hire so that we do not waste public resources.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): That is a very good contribution, Hon. Washiali. We shall now have contribution from Hon. Mwanyanje Mbeyu, Member for Kilifi. Hon. Mbeyu is not in the House, her place in contribution will be taken up by Hon. Kiti Chonga, Member for Kilifi South.

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

First of all, I join fellow Members in wishing *Eid Mubarak* to all Muslims. I hope Hon. Junet was able to follow the calendar of fasting. I sometime used to see him associating with some groups during lunch hours. I hope he was observing the calendar of fasting. I wish them all the best.

I rise to support this Bill. Just like other Members have said, the position of the county attorney is long overdue. I am aware that the concept of devolution came with very good motives. One of them was to disseminate resources to the people because, for quite some time, there were so many areas of the country that had been left behind in terms of development. They were more of enclaves of some parts of the country. So, sharing of resources and improving other areas is one of the main factors that were considered. This concept, I may say, has caused confusion in governance. In most counties, including my own county, some officers have been arrested of late because of mistakes, some of them by design because they were not decisions that were informed by law.

Therefore, in order to ensure that we achieve the intended goal of devolution, we need to get people who are competent enough to carry out the mandates assigned to them. In addition to hiring competent persons, there should be some sort of uniformity in counties across the country.

It is embarrassing that some governors have appointed people who have not even reached Form Four level of education to be their official advisers. This is happening. This is where we get the whole concept of devolution wrong. The law is supposed to be applied for the benefit of the *mwananchi*, who is supposed to be the primary beneficiary of devolution.

For that matter, the terms of reference of the county attorney need to be clearly spelt out, so that the mistakes that we have been realising can be corrected. I may not agree with my colleague, Hon. Atandi - he has just walked out. Now that he may be the incoming governor for Siaya County, and the county attorney should serve for five years, he should understand that the county attorney is not going to serve his interest. He is going to serve the interest of the people of that county. For that matter and for purposes of continuity and posterity, the county attorney should be given sufficient time so that issues that may have come up during his tenure can be mitigated in a proper manner until the objective is realised.

I support this Bill. Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kiti, I am sure when you were saying that there are mistakes and others are not mistakes, you meant there are honest mistakes while other mistakes arise out of incompetence. I hope I got your meaning very well.

We shall now have the contribution of Hon. Milemba Omboko, but before he makes his contribution, allow me to recognize the presence of students from Cardinal Maurice Otunga High School from Kanduyi Constituency in Bungoma County, who are in the public gallery today. They are welcome to observe the proceedings of the National Assembly.

Proceed, Hon. Milemba.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker for this opportunity. I want to take this opportunity to wish the Muslims countrywide and more so in my constituency of Emuhaya, and with your indulgence and on your behalf, Hon. Temporary Deputy Speaker, the Muslims in Luanda, a good *Eid Mubarak*. They are our people; they have always stood with us when we are enjoying our Christian holidays and we want to wish them well tomorrow.

I want to support this Bill, it is a well thought-out and as many other speakers have said, it should have come earlier, possibly at the time when the county governments were created. Possibly, this was one of the many missing links in the county governments because without a properly constituted Office of the Attorney General, Solicitor General and even the lead counsel, it was very difficult for these county assemblies to operate. This Bill puts all these offices in place and tries to explain how they will discharge their duties. This is very important because for the first time, the county governments will have attorney generals who are very independent. Like in the national Government, once the Office of the Attorney General is not independent, it cannot be respected and can be whipped by the Executive. In this case, as we have seen in county governments, the governors have actually held the so-called attorney generals in a way that they actually manage or mismanage them. So, this is very good.

This Bill goes further to give the framework, tenure and qualifications. Clause 4 provides that this office will be present in all counties and this is very good because it becomes now a requirement by every county to have this office to advise them. In Clause 5, this Bill talks about

how appointments by the governors will be done. They will be approved by county assemblies. This is very good for checks and balances, if I may use the language of the former Archbishop of the Anglican Church. Without checks and balances, the governors have a way of controlling attorney generals like it is happening now.

The other issue raised by this Bill is qualifications. The qualification of these people is about five years' experience, but many Members have indicated that threshold should be raised to be at the level of a High Court Judge. Later in the Committee of the whole House, when we shall be looking at this Bill, I would wish that we allow the threshold to be slightly lower because we have properly schooled youth or people in Kenya who have the capacity to run these offices and they should be given a chance. Otherwise, when we raise the threshold too high, we shall not be developing capacities within our young people to start exercising what they learned. I think this is a good level for our young lawyers who are well qualified and went to nice universities, like it was indicated by the Mover, to start practising so that later on when they become Attorney Generals at the national level, they will be well qualified.

The other issue that this Bill addresses is the term of office. It talks of a term of six years. One Member mentioned that the Bill talks of five years, but the copy I have talks about six years. I do not know if we are reading from different Bills. I am holding mine; it is white in colour. I would want to support a term of six years because this is an office that will provide continuity. One problem that has bedeviled county governments, particularly the first governors, is the issue of keeping documents. This is one of the functions that has been given to this office. When the first governors left office...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Milemba, without interrupting you and the Members who have made contributions to this, I have before me a copy of the proposed law. Paragraph six speaks to tenure. I hope it is the same Bill that all of us have. It seems to provide for six years not five years, as the Members who have contributed earlier have spoken about.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, we are together. That is what I have seen. We are in concurrence. I was also talking about the tenure of six years and the fact that they will provide continuity because governors have a term of five years; twice. A new governor coming in should get an update of the county government's operations from the Office of the Attorney General. So, I would be supporting the clause of six years and not five or any other term. But not more than six years because then the new governor can have a chance to appoint a new attorney general, who again will serve beyond the term depending on how elections go. I look forward to see a clause inserted so that the attorney general at the county level enjoys security of tenure because if they do not have it, they will be whipped left, right and center. I want to invite Hon. Members to look at the issue keenly so that we make this office stable.

Hon. Temporary Deputy Speaker, it is a small Bill but I want to lastly talk about the work of this particular office. Talking about lack of documents, how many times have we been told that documents that were otherwise supposed to have been within the confines of the county governments have disappeared? Today I was reading that some of those documents from one of the counties and I do not want to mention names, are now "loitering" the streets all over. So, this

is a Bill that is timely so that we can have a particular office that can be responsible for the documents of the county governments for integrity moving forward.

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very good contribution, Hon. Milemba. The county attorney will really be the custodian of the documents and seal of authority of the county.

We shall have contribution from Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity. I support the Bill. I also take this opportunity to wish our Muslim brothers and sisters *Eid Mubarak* as they proceed tomorrow.

As I was looking at this Bill, I had a sense of *deja vu* because I thought we had dealt with it before. But I realise that it had appeared in the Order Paper several times, that is why. So, it is good that finally we are discussing it, because it is timely and necessary that we have this Bill. Other than the reasons that Members have given, I would want to say that one of the reasons that we actually need this Bill is because if you look at the way the county governments, especially the county legislatures, are moving is that sometimes they encroach on the mandate of the national Government. Some pieces of legislation that go through the county assemblies are pieces of legislation that are within the mandate of the national Government. I know that at some point we are going to get into a crisis because people will not know whether to use the legislation at the county or national levels. So, if you have a lawyer that will be able to advise the Executive as they introduce pieces of legislation so that they know what their remit is and the remit of the national Government, then that will be good.

I know that people have spoken to the issue of five years. I think five years is sufficient for somebody to be appointed to that position, especially if you are a practising advocate. Five years is really over-sufficient for you to master the law. A good lawyer is not really a person who has over-practised really but a person who also knows where to look for the law with just little practice. Above that, if we are committed to youth empowerment and we keep pushing the goal posts when it comes to age, then we will never really empower young people. I never thought about it then but when I look back, I became a director, founded an organisation when I was fairly young, became a director, I learnt a lot of things on the job without a management background and ran successfully a very good organisation that had a budget which is more than the annual NG-CDF budget. I started the organisation when I was a youth. So, when we limit people then we stop their talent development, because there is really nothing magical about age. If you see some of the people coming up with some of the most brilliant ideas, it is the younger people. So, we need to give them that opportunity.

Hon. Temporary Deputy Speaker, with those few remarks, I wish to support. Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Millie, you must be one of those special people who can grasp issues irrespective of age. I hear most of these Members speaking to this office being in the interest of the public uncertainty in the way things will be done. Judging from the history of those who have been appointed even before the law came in, probably they are too green, as it were, to handle the offices. It is our business.

We shall have Hon. Mbarire to contribute to this.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to also contribute to this Bill. It is a Bill that is long overdue. Perhaps, if we had begun by having this Bill at the beginning of this new dispensation of county governments, a lot of the challenges the county governments are going through right now would not have happened. Being a person who is interested in county leadership in the future, I am only too aware of the challenges that counties are going through in terms of getting themselves into contracts that leave them highly indebted and with contracts that leave them with projects that are not complete. Therefore, it is important that we pass this Bill as a House so that we can take care of this particular issue and ensure that there is proper legal advice given to the county governments and the governors before they commit themselves to any form of contracts, however small they may look.

Also, it is about time because you are aware that a lot of counties have spent a lot of money hiring legal services of very expensive lawyers. I am very sure that is money that will probably keep the county attorney, the solicitor and the entire office on salaries for a year or more. Having looked at the Auditor-General's report, there is a lot of money spent by county governments toward legal services which would otherwise have been saved if we had a full-fledged office of the county attorney and the relevant support staff.

I have heard many Members saying that we need officers of high standing, with many years of experience. I am persuaded by what Hon. Millie Odhiambo has told us and I trust her when it comes to matters legal, that actually five years is enough time for one to master the necessary legal experience that one needs to be able to hold a special office. Therefore, I am persuaded that we retain the five years in terms of the qualifications of the county attorney and retain the same in the case of the county solicitor so that also we give opportunity for young, upcoming advocates and lawyers to be able to get the necessary experience in running governments and so that we give county governments young and forward-looking staff. We have seen some of the best ideas that have helped this country have come from young people. So, if we move it to 10 years we will be discriminating against young people. A lawyer who has served in the High Court for five years is more than experienced to be able to fit in this important office.

With those few remarks, I support and urge this House to pass this Bill so that we can build capacities of the counties to do better jobs in terms of service delivery to their people. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Babu, Member for Embakasi East. I do not see him in the House. He is not desirous to be in the House. The opportunity will go to Hon. Okuome Adipo, Member for Karachuonyo.

**Hon. Adipo Okuome** (Karachuonyo, ODM): Thank you, Hon. Temporary Deputy Speaker. Let me begin by supporting Hon. Junet Mohamed for tomorrow's date with Muslims. It is a very important date. It happens in my...

*(Hon. Ferdinand Wanyonyi stood in the gangway)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Onyonka and Hon. Kutuny, kindly advise the Member who is standing in front of Hon. Adipo to allow him to make his contribution.

Proceed, Hon. Adipo.

**Hon. Adipo Okuome** (Karachuonyo, ODM): Thank you, Hon. Temporary Deputy Speaker. I was saying that in my own constituency I have a number of Muslims and I will be with them tomorrow as I was with them today. I have told them as much. Now that Hon. Junet has brought up the issue at the national level, I totally support what he was saying.

Turning to the Bill we are discussing I think the issue is very important. It is time that we streamlined the counties in terms of legal provisions for matters of law. I support the creation of the Office of the County Attorney, because I know it is going to be very useful. The governor, his staff plus the county assembly are going to find the position very useful to them. I support the idea of having the county attorney as the chief legal advisor on all matters that counties go through. We are aware they have had problems, and it is probably because they do not have a legally competent person to advise them on agreements and actions taken. That position will enable them do what they are required to do legally and competently.

As far as the tenure of the office is concerned, I support six years as proposed with an experience of five years to be the qualifying period for the position. These two terms are adequate for the type of person required to advise the county in matters law.

Hon. Temporary Deputy Speaker, I support the Bill and urge my colleagues to support the same.

I thank you very much for giving me time.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Member for Kwanza.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Thank you for the opportunity. I also wish our Muslim brothers and sisters *Eid Mubarak*.

I support the Bill. This provision should have been in the current Constitution. It is one of the omissions from the Constitution. No wonder we suggested that we pass the Constitution and then seek to amend it later. We now see that need clearly. That notwithstanding, I may have to come up with a proposal in the Third Reading that the county attorney sits in the Assembly. We will soon have a referendum. In future, we will have Cabinet Secretaries appointed from this House and so, we ought to have a provision for the Attorney-General to sit in this Chamber.

We should take this opportunity to amend this legal provision so that we have the county attorney sitting in the assembly. He or she must have experience and exposure so that members can be guided on legislative issues.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Hon. Member for Kwanza, you must be anticipating that there will be a constitutional review in the country. That review would then align with your hopes which are that members of the Cabinet will be drawn from the House. However, we are making laws for the situation that we are currently in. So, I do not know whether you will succeed.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): No, it is out for debate. It is anticipated for posterity. I hope and pray that it will come one day. I am just talking for the sake



of the future and so, I will have this amended to have the county attorney sitting in the county assemblies to take part in the deliberations.

Secondly, I am agreeable to the proposal of having two terms of six years. Let us have some continuity. Unlike what one Member said that when one comes in as a governor, one will have to come in with their county attorney. I think that does not make sense. Let us give that office two terms and if necessary, we can have a third term as an option.

I am also anticipating that I can convince my colleagues here...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Member for Kwanza, are we reading from the same script?

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Yes, because we are talking about two terms.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Just hold on Hon. Member for Kwanza. You are contributing that the county attorney shall have two terms. Is that not so?

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Yes, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Is it an amendment that you have proposed to have?

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): No, these are some of the amendments that I am going to come up with, seeing the situation as contributed by our sister here who talked about the huge bills that we are experiencing in the counties.

It is true that some of the huge expenses that we see in hiring private lawyers to defend legal matters in the counties could even pay the county attorney for six months. So, we want to have this office so that it can deal with legal matters as they come.

Lastly, we are not reading on the same script on matters appointment. Some people are saying that the youth must be given an opportunity. Remember we are dealing with matters of the State. Somebody must have at least 10 years' experience and be qualified to be a Judge of the High Court. I will go with that. If we just have anybody getting in because of the pressure from the youth, we may be doing injustice to the counties.

Therefore, I support and wish that we have him appointed and voted for in the chamber. He should be given two terms with an option of a third term if he so wishes, so that we have that continuity at the county level.

I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. Hon. Wanyonyi, I see your thoughts are very well aligned with those of the Committee that is in charge of it. I am sure you will find a common ground to make those amendments when the right time comes.

Let us have Hon. Jeremiah Kioni, the Member for Ndaragwa.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): May I start by commending the Senate.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Please, use the next microphone. The one you are using is not clear.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Hon. Temporary Deputy Speaker, the one you want me to use is too short. I hope you can hear me now.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): It is short, but much clearer than the tall one.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): It may do some damage to my back. All the same, I wanted to commend the Senate for living up to the expectations of Article 96 of the Constitution. It clearly spells out their role which is to concern themselves in matters counties.

There are many issues that are pending to date. It is almost 10 years since we gave ourselves a new Constitution and I must say there are many Bills of this nature that the Senate needs to do. County governments are not functioning as they should. A good example is from those of us who had the opportunity of attending the Madaraka Day celebrations at the county level.

You could clearly tell something is completely wrong. You saw governors trying to inspect the guard of honour, take the salute from the persons forming the parade. Those are functions that are clearly not meant for them. The recruitment of an attorney would really help them because they would be told what they should do and what they should not. If that happens, we expect that those who are responsible and reasonable, and those who know why they were given votes will do as provided in the law.

One of the other things that also came out clearly is that even members of county assemblies have a vague understanding of what they are supposed to be doing in the assemblies. They cannot differentiate between national projects and county projects. They do not even understand the crucial role...

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Wanyonyi, Member for Kwanza and Hon. T.J, I have a lot of sympathy for what you are discussing in loud tones, but I wish you could discuss it in lower tones so that the Member for Ndaragwa could have his time on the microphone.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker. I could literally hear Hon. Wanyonyi from where I am and he does not even have the microphone. So, you can imagine how loud he was.

I was saying that members of county assemblies, where I was, displayed some level of ignorance. They do not differentiate between county projects and national projects and that their role is to oversee. It is important for those of us who are elected either to this National Assembly or to county assemblies to ensure that funds are spent well. You can only do oversight if it is clear in your mind who has funded which project. You should not confuse the masses. In that confusion, you are being corrupt. Even if it is not by changing money, your mind is also corrupted and if your mind is corrupted, eventually you will corrupt our coffers.

I thank the Senate for this Bill. It is very important. I agree that five years is adequate time for the young men and ladies to have acquired adequate knowledge and experience to guide the counties. Of course, five years' experience is just one of the qualifications. The county public

service boards are also being given the mandate to come up with other requirements that they may wish to be fulfilled by the persons interested in taking up those engagements.

Hon. Temporary Deputy Speaker, you would recall that the Constitution required piecemeal passing of functions to the county assembly. However, because of our nature of politics, the national Government at one point felt it was necessary to just push down all the functions to the county assemblies without having built their capacity. This is one of the very crucial offices that need to be done because it will help county governments and county assemblies to understand their roles in terms of what they should and what they should not do. It will also help them to understand the kind of laws they can pass. I have seen some pieces of legislation passed by these assemblies that seek to compel the National Assembly to do something. That is really another case of clear waste of time. You will also find them engaging in motions discussing Members of the National Assembly, the Senate or county assemblies. Again, I believe with a good attorney, they will be guided as to what they should do and how to spend their time so that they are also seen to be accounting for the money they are paid. Minimal amendments can come, but we will do that at other stages. For now, I wish to restrict myself to those remarks.

Thank you, Hon. Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us now hear Hon. Ochanda.

**Hon. Gideon Ochanda** (Bondo, ODM): Thank you, Hon. Temporary Deputy Speaker. What we are doing at the moment is an indicator that we were fairly slow in moving to devolution because some of these things ought to have been done at the very initial stages. In fact, from the outset, that is what we ought to have done. The Constitution is very clear that the national Government was supposed to facilitate the processes of setting up county governments. So, in my view, if you look at it logically, I would have thought that the Attorney-General needed to have been given resources to help in setting up the Office of the Attorney General at the counties.

The National Assembly ought to have allocated resources at that particular time to help county assemblies start up. That is exactly how I would have gone with this thing to an extent that this Bill that we are discussing needed to have been brought at that particular stage. However, I believe that this is critical and it ought to have been done much earlier.

The main thing that I wanted to bring out, which some of my colleagues have not brought out is the role of the Attorney-General in the legislative processes. The Attorney-General midwives legislation between the Executive and Parliament. This is something that really needs to be there and ought to have been there in the very first stage because county assemblies are coming up with all manner of legislations, whether good or bad.

For the last five years, they have been coming up with legislations. If you look at the Constitution critically, you will find that the role of the county assembly is to domesticate national legislations. In my view, the first three years of the establishment of county assemblies, they ought to have concentrated on domesticating the over 700 legislations that we have in this country. That would have been done very well if they had an attorney general. That was missing.

So, they have come up with all manner of legislations some of which contradict the national ones and there is nobody to check on them.

The other thing that I wanted to mention is that the Attorney-General is the repository of all of our legislations and has the history in terms of when we are coming up with a legislation. He is able to check back and forth in terms of whether what you are talking about exists or not and whether it contradicts what we have or not. The role that the Attorney-General plays particularly at the national level ought to have been played by somebody at the county level. That has been missing. So, it is important that this is set up quickly.

The other thing that I wanted to bring up is that we are confusing the office and the person. Some of us are talking about the attorney general in terms of the person. They are forgetting that when we are looking at this, we should also look at the attorney general, the office. The Office of the Attorney-General is a big bureaucracy in this country. Our Attorney-General has all manner of departments. There is a solicitor, treaties and issues of registration of companies and associations. We have the Public Trustee and all kinds of things. That is a big bureaucracy, but some of our colleagues are talking as though when we are talking about the attorney general at the county level, we are talking about the person that is supposed to be appointed. For sure, there is the person. In our national arrangement, there is the Attorney-General; the person, who is appointed through our processes that are clear, but he becomes a policy officer heading a big bureaucracy. That is exactly what we need to look at when we look at county governments.

The attorney general that we are setting up at the county is a smaller version, but a clear replica of what we have at the national level. When we look at it that way, and check to see that it has been working, there is no need of coming up with all these proposals about the term of office and many other things. We just need to replicate what we have at the national level and place that at the county level, if this has worked, unless we are suggesting to either improve or change things that we think are not working well. In my view, that ought to have been the situation.

The idea of a governor and the attorney general must transcend more than one governor and all the kind of things that contradict the arrangement that we have at the national level. So, I support the coming up with the attorney general's office at the county level immediately.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Ochanda, I am sure you have an insight on the functions of the Office of the County Attorney. It is not an exact replica of the Attorney-General at the national stage. If you want to look at it, you will look at Clause 7. You will find them there. Next is Hon. Martin Owino, the Member for Ndhiwa.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I am happy to contribute to this Bill now. It is long overdue. It is very good. First of all, let me send greetings to my Muslim brothers and sisters in Ndhiwa. We have very many of them. They have been praying for us during the whole month. It is not easy. You fellows in Ndhiwa, please, take those greetings. We are not hiring a county attorney for a governor. The message is very clear. We are not talking about terms but we are talking about putting in place a legal system that will help counties. I would like us to go along with other appointment offices as guided by

Mwongozo. We have done this for other boards. From the word go, the term of six years is just too much. If you have a county attorney who has been conquered by one arm of government, you will be in trouble. I will propose at the Committee of the whole House stage that we have a four-year renewable term based on one's performance just as we have done for every appointee, whether on a board or elsewhere. I agree with Dr. Ochanda that this should be a system and not another political undertone.

County attorneys will help counties. I have experience in working with county governments. As we talk of Public-Private Partnership (PPP) loans, counties have lost a lot of money because of hastily signing documents that govern those aspirations. At the very end, you find that you have signed a document that has ripped the county a lot of dollars. They will also help a great deal in drafting publications of legislative proposals. We are talking of two arms of the Government - county assembly and the county executive. We are not talking about the office of the governor. The county attorney will serve the whole county government. This is the office that will help them if they are going in the wrong or right direction. Right now, that is not offered to them. Instead, they go to other entities.

This is a person who should be hired, as stipulated, through the Public Service Board so that they are independent. When they are independent, they will represent the people effectively. He should be someone who will stand between the public interest on litigation matters and the county government. They should be able to represent any complaint from the public. That independence is critical.

This office will also be a link between the national Government and county government. For example, there are national and county legislations. Who harmonises this? That is a nightmare for county governments. We will be able to see which is which. Insurance covers in our counties are also a mess. Most insurance agents need a legal person to understand them, so that they portray the art of the law. This is a mess and counties have lost money. It should be noted that because of the delay of disbursement of funds from the National Treasury, counties have problems with contractors. They have been sued left, right and centre. The representation in many counties is through private legal counsels, who are very expensive. We lose a lot of money on that front. When we establish the Office of the County Attorney, as one Member has said, it will be cost-effective. Most of the money that is used on litigation out there is enough to run the county for a year.

The issue of the youth also comes in. The qualifications for this office should be similar to those for appointment as an advocate of the High Court because legal issues require experience. We should factor in the Mwongozo guidelines. Let it be the level of the High Court advocate.

This is a good Bill. It should have been there when devolution was taking root so that county government officers could be properly guided as they carried out their mandates, but as the wise man says, it is better for it to come late than to miss out completely. I will propose an amendment on the six-year term. It can be good, but it can also be disastrous. Let us relook at that particular provision and propose alternatives. If one's performance is good, one's term should be renewed. If not, in four years' time, one should be kicked out of office.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Owino, I am sure you meant better late than never. Let us have Hon. Nyenze, the Member for Kitui West.

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this important Bill. I will start by wishing our brothers and sisters a Happy *Eid Mubarak*. I support the Bill.

I note that the county attorney is the replica of the Attorney General at the national Government level. The Bill states that the county attorney will be the chief legal adviser to the county government and will represent it in court and during legal proceedings. The county attorney will sit in the executive committee meetings as an *ex-officio* member, be responsible for revision of county laws and liaise with the Attorney-General where need arises. I also note that it is not only the county attorney, but there will be a full-fledged legal office where the county attorney is the legal adviser. This is very important because in the past, we have seen a lot of havoc in some county governments. This is an office which will bring in law and order in county governments because it will not only deal with the executive, but also with the county governments in general.

As I have said, in some counties, we have seen a lot of disorder and havoc whereby they do not seem to have any law to follow. You hear of people getting tenders left and right without qualifications. Since this office will be in charge of keeping records and bringing in law and order, our county governments will now be orderly and there will be some procedure in place.

The recruitment of the county attorney general should be from the respective counties, especially where they qualify. The respective counties should be given priority unless there is no one who qualifies. But if there is someone who qualifies, they should be given the first priority.

I also support the Member who said that they should have security of tenure. If this is not provided for, then every new governor would just disqualify the predecessor and come in with their own people. This will create some disorder in county governments. They should have security of tenure. I support the five years' experience like in the case of Judges of the High Court and the six-year period in which they would serve, but renewable as per one's performance.

With those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us hear Hon. Oduor Ombaka, the Siaya County Women Representative.

**Hon. (Dr.) Christine Ombaka** (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I support this Bill because it touches the hearts of many people at the county level. The position of county attorney is long overdue. It is part and parcel of devolution. It is a mirror image of the national Government. This position will help counties in being organised legally. As it has already been said by many Members, counties are in a total mess. Lots of the messes that they go through would be saved if there was a county attorney to advise them in time. You see the mess at the county level in terms of fighting for positions, even the speaker's position. They throw the speaker out, take the mace away and do all sorts of things and suddenly, they cannot function well. All this is based on the fact that the people are ignorant of their rights and the county governments do not have somebody to consult. Consultation has been missing because this position has not been there. They run to Nairobi to

seek legal advice which is unnecessary. Now that we are a devolved nation, we need this position at the county level for MCAs to consult and come up with Bills that are well guided from the Office of the County Attorney. It is the right thing.

What has been proposed in terms of who occupies the Office of the County Attorney, experience and the number of years he should have are all in order. It is not strange that he should be there for five years. Once you work well and people like your work, it is automatic that your term will be renewed. So, I expect that once a county attorney has been appointed and he is performing well, it should be automatic that his term is renewed twice, but not thrice. The appointment will come with other offices in the county. That will also open opportunities for people to be employed. That will make counties grow and develop faster. Once you have a county attorney there, we expect the county commissioner and the governor to build their own houses and settle in the counties instead of residing in other towns or counties and commuting on a daily basis. Once you have these big figures at the county levels, I believe the counties will grow faster. They will be bigger than Nairobi or be images of Nairobi. These are big positions.

I want to conclude by saying that even the public should utilise the Office of the County Attorney. They have legal matters like problems of land and they always run to Nairobi to seek consultations with the Attorney-General's Chamber. This will solve a lot of problems not only for county assemblies, but also for the general public in the counties. Otherwise, I support the Bill. It is timely. Since we will soon be in the 10<sup>th</sup> year of devolution, this will crown the success of devolution.

Thank you. I support the Bill.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. Hon. Mbai, the Member for Kitui East you have the Floor.

**Hon. Nimrod Mbai** (Kitui East, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute. First of all, allow me to wish our Muslim brothers *Eid Mubarak* for the great day before them. I stand here to support the Bill because we need to enhance devolution. It is an ongoing process. It is a child who will grow until the point we will say it is mature enough. This is a way of supporting devolution to keep on growing.

I have experience of working in a county government and some of the challenges posed by the absence of this office should have been corrected two years ago. County governments have challenges in drafting Bills. You run a department which they refer to as a ministry and you want to draft a Bill for enactment by the county assembly, but a member of CEC, who is not a professional in legal matters has nowhere to run to to get this legal support. This office will support county government departments in coming up with legislations for enacting.

Secondly, county governments spend a lot of money on legal fees. They are sued and they sue people and institutions. The opportunity to hire lawyers has been abused because of corruption. It is also eating heavily in the county governments' budgets. The Office of the County Attorney should also bring on board a legal office that will take care of legal matters for the representation of county governments where they are suing or have been sued. This will bring down the budget for representation of county governments in legal matters in courts.

The other very important thing which has been mentioned is the qualification of the county attorney. The youths are left out in most of these positions. Hon. Millie said that she

started a company at a very young age and she proved that things can work from that age. The experience of being an advocate of the High Court for five years should be supported for the youths to get serious appointments to represent their counties.

That brings me to my second point. The county attorneys should come from the respective counties just like the governors. You should not have a county attorney from another county. This piece of legislation should pronounce itself clearly on that. It does not mean that Kenyans should not look for jobs across the country, but we have seen areas where a county has nobody who is qualified. We also need to lower the grades where we do not have such qualifications. For example, let us go to Turkana County. I do not mean that they are not qualified, but you can find that the person who has some of the qualifications may not meet the threshold. We should bring in a clause that will allow county governments to lower the qualifications to accommodate one of their own to occupy the slot.

One of the Members talked about the expectations of the Constitution 2010. We had a time when the Attorney-General was a Member of this House. The Constitution 2010 saw his exit from this House. As we establish the Office of the County Attorney, it will be necessary to have him or her sit in the county assembly and the county executive committee where the CECs sit to make the executive decisions of their respective counties.

Lastly, but not least, is the naming of the county attorney. We cannot say that he is an equivalent of the State's Attorney-General. Kenya can only have one Attorney-General who can deal with matters nationally. We have the President and governors, but it is very clear that the governors cannot be presidents of their respective counties. We also need to come up with a clear name for these county officers, but not to call them county attorney-generals. Even if there will be no friction, it will not sound well for the country to have 47 attorney generals. It will be important to have a decent name attached to these officers, but not to look like they are equivalent to our Attorney-General at the national level. As Hon. Kioni has said, there is confusion when a governor pretends to be like the President. Imagine county attorneys being called attorney generals! What will they pretend to be? We will be shocked if somebody, by another name, pretends to be the President. If we give another person the exact name of an officer in charge of the country, then we will have chaos in the 47 devolved units of the country.

With those few remarks, I beg to support. Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Nimrod, you are completely right that the Office of the County Attorney is not a mini replica of the Office of the Attorney-General. The roles of the county attorney are very well-defined in Clause 7 of the proposed law. In fact, one of them will be liaising with the Office of the Attorney-General when need arises. So, it is very clear that the Office of the Attorney-General is only one and the county attorney will have to liaise with that office when need arises. So, it is clear this is not a transfer of the Office of the Attorney-General to the county.

We shall have contribution from Hon. Obara, the Member for Kabondo Kasipul.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Deputy Speaker. I also stand to add my voice in support of the Bill. Before I do that, I wish my colleagues, the Muslim brothers and sisters, a happy *Eid Mubarak*.



I had the privilege of interacting with county attorneys in my previous life. I attest to the challenges I saw in that office. One would find varying experiences. Some were as raw as having never worked before yet they were being called county attorneys. So, I support the prescribed five years of experience. It is critical that these officers have a certain degree of experience in drafting legal documents and contracts. Secondly, because of lack of experience, counties were seriously exposed to litigation. With the passage of this Bill, I am sure the litigation levels will decrease.

I am happy the Bill comes out very clearly on the status of the office. It has been placed at the level of the CEC to give it the respect it deserves. The terms and conditions are clear and we also see the structure of the departments.

I am also in support of the tenure of six years as recommended as it will help a great deal in transition times. It should not be limited to the five years of the governor or county assemblies. We have seen certain areas with serious challenges during transition, especially when there is change of leadership.

The Bill is clear on who will be the custodian of very important documents. We now know where they will be. As it has been, everybody thinks that it is the CEC, Finance or the governor. We have had serious challenges of missing documents when they are required.

I am also happy that the Bill spells out how the county attorney can be removed from office. It gives some sense of security. He cannot be removed on the spur of the moment by the governor. It has to be done before the county assembly and this is a good thing. They have been given some element of security although it is not security of tenure.

As my colleagues have said, the quality of drafting has been a problem in this office. As I said, I had the privilege of interacting with the office of county attorney and there were instances when they used to be forced to take the drafts to the Attorney-General. With qualified personnel in these positions, that will be a thing of the past.

In order not to repeat what has been said by my colleagues, I support the Bill. Thank you very much.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I now call upon the Mover to reply. Hon. Cecily Mbarire, you have the Floor.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I thank all the Members who have contributed to the Bill this afternoon. They have brought up important issues in support. We have also had a number of Members that have made suggestions of amendments that they will propose at the Committee of the whole House stage. Therefore, I thank each one of them for the support they have given this afternoon. We have taken note of all the issues that have been raised in relation to this particular Bill.

With those few remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, I direct that the next stage in this Bill be taken next time the Order will be set by the House Business Committee for consideration. I, therefore, direct that we move to the next business.

*(Putting of the Question deferred)*

## THE NUCLEAR REGULATORY BILL

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Temporary Deputy Speaker, I request that this Order be stepped down until Thursday. I have spoken to the Chair of the Departmental Committee on Energy who has said that the Report of the Bill will be tabled on Thursday. So, he proposes to move it to next week.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I, therefore, direct that the business listed as Order No.13 be taken out of the Order Paper of today until such a time it will be set down for consideration again.

*(Bill deferred)*

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, that is the business we had today. The time being 4.58 p.m., the House stands adjourned until Thursday, 6<sup>th</sup> June 2019, at 2.30 p.m.

The House rose at 4.58 p.m.