

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 22<sup>nd</sup> November 2018

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]*

### PRAYERS

### QUORUM

**Hon. Deputy Speaker:** Hon. Members, we do not have quorum. Therefore, I order the Quorum Bell to be rung for 10 minutes.

*(The Quorum Bell was rung)*

Order, Members! We now have the requisite quorum, and, therefore, business will begin.

### QUESTIONS

*Question No.043/2018*

#### BENEFICIARIES OF OLDER PERSONS CASH TRANSFER PROGRAMME FUND IN GEM

**Hon. Elisha Odhiambo** (Gem, ODM): Hon. Deputy Speaker, this is in relation to the people who elected me to this House.

**Hon. Deputy Speaker:** That preamble is unnecessary.

**Hon. Elisha Odhiambo** (Gem, ODM): What is the number of persons that have benefited from the older Persons...

Hon. Deputy Speaker...

**Hon. Deputy Speaker:** Start by specifying the Question and the Cabinet Secretary you are interested in answering your Question.

**Hon. Elisha Odhiambo** (Gem, ODM): My Question is No.043 of 2018. The Question is directed to the Cabinet Secretary for Labour and Social Welfare.

- a) What is the number of persons that have benefited from the Older Persons Cash Transfer (OPCT) Programme Fund in Gem Constituency since its commencement?
- b) What causes the frequent delays in the transfer of the said funds to the intended beneficiaries in Gem Constituency?

**Hon. Deputy Speaker:** That one will be replied to before the Departmental Committee on Labour and Social Welfare. Next is the County Woman Representative for Isiolo, Hon. Rehema Dida Jaldesa.

**Hon. Ali Wario** (Bura, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Hon. Wario Ali?

**Hon. Ali Wario** (Bura, JP): Hon. Deputy Speaker, in the next 30 minutes, the Cabinet Secretary for Labour and Social Welfare will appear to answer a similar Question asked earlier. So, he can join us so that we can query and get more answers on the same.

**Hon. Deputy Speaker:** I cannot make that specific ruling. I believe the fact that the Question was processed through the normal procedure, there is some difference between this specific Question and the one he will answer. This is specific to Gem. Hon. Wario, I am not so sure whether the Question that is going to be answered is specific to Gem. You have a point, but it will be very difficult for him to get the exact answer he requires because he is very specific. But he can come and sharpen his skills on how to pose questions to the Cabinet Secretary for Labour and Social Protection, when time comes.

**Hon. Ali Wario** (Bura, JP): They are similar.

**Hon. Deputy Speaker:** How similar is it? Is it generalised.

**Hon. Ali Wario** (Bura, JP): He is going to break down per constituency.

**Hon. Deputy Speaker:** That might make some sense. So that we save the time of the House, I would request Hon. Elisha to attend. Once he attends and he is satisfied, he can confirm that he is satisfied and we would not need to have the Cabinet Secretary to come back to answer the same Question. If Gem will be specifically captured, it will have captured this Question.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, as I agree with Hon. Chairman, there is as procedure in which Questions are processed in this House based on Standing Orders that we amended. It will set precedent if a Member asks a Question and before it goes through the normal process as per the Standing Orders, it is referred to a committee. The Chairman will deal with the matter before him today. We will then discuss the answer the Cabinet Secretary gives and see whether Hon. Odhiambo's Question is answered. Procedurally, when Questions are asked, there is a long process that they will go through based on the Standing Orders.

**Hon. Deputy Speaker:** I agree with you, Leader of the Majority Party. The only thing is that if the Question will be sufficiently answered, then the Member will be at liberty not to waste his own time and ask the same Question. So, it would be good. You are not committed in any way, but it would be good if you went. If the matter is answered properly, you do not wait for another answer. That would be fine.

**Hon. Benjamin Washiali** (Mumias East, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it, Hon. Washiali?

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Deputy Speaker. Without appearing as if I am opposing what my leader said, I raised this issue yesterday. If the formula of asking Questions in the 10<sup>th</sup> Parliament is anything to go by, the principal Questioner will put the Question and allow other Members to ask supplementary questions that are in principle related to the principal Question. Other than saving time for this House, we shall also be saving time for the Cabinet Secretaries who we know have other duties to do. Instead of responding to each individual's Question, if you could allow, Questions that are similar could be responded to

together. The Clerk should also help us to identify the Members who are asking Questions that are similar so that we can put these Questions to the Cabinet Secretary to answer them at once.

**Hon. Deputy Speaker:** You have been heard. Yesterday, I remember telling you and I will say the same thing, that you can transact some of these things at the House Business Committee (HBC) level, which you are a Member. Please, raise the issues there so that whenever we have Members asking Questions, we do not open it for debate. Otherwise, it will look like we are posing supplementary questions. Let us proceed. Hon. Rehema Jaldesa.

*Question No.099/2018*

BOUNDARY DISPUTES BETWEEN ISIOLO AND MERU COUNTIES

**Hon. (Ms.) Rehema Jaldesa** (Isiolo CWR, JP): Hon. Deputy Speaker, I rise to ask Question No.099/2018 to the National Land Commission.

(a) What is the status of implementation of a High Court ruling of 6<sup>th</sup> June 2017 on Constitutional Petition No.511 of 2015?

(b) What action has the National Land Commission taken to resolve the boundary disputes between Isiolo and Meru counties?

**Hon. Deputy Speaker:** That one will be a written reply by the NLC. Next is Hon. Simba Arati, Member for Dagoretti North Constituency.

*Question No.141/2018*

DEATH OF LOICE WANJA NG'ANG'A AT MATER HOSPITAL

**Hon. Simba Arati** (Dagoretti North, ODM): Thank you, Hon. Deputy Speaker. My Question is directed to the Cabinet Secretary, Ministry of Health.

(a) Is the Cabinet Secretary aware that the late Loice Wanja Ng'ang'a, National ID No.23503203 of Nakuru County was admitted at Mater Hospital following severe illness?

(b) Why was the family not allowed to transfer the patient to Kenyatta National Hospital following an operation?

(c) What steps is the Ministry taking to assist the family clear the huge medical bills accrued and access the body for burial? The body has been there for about two months.

**Hon. Deputy Speaker:** That will be replied to before the Departmental Committee on Health. Member for Lamu County, Hon. (Capt.) Ruweida Mohamed.

*Question No. 171/2018*

DISAPPEARANCE OF AHMED MOHAMED ATHMAN IN LAMU COUNTY

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Thank you, Hon. Deputy Speaker for giving me this opportunity to ask Question 171/2018 to the Cabinet Secretary for Interior and Coordination of National Government:

a) Is the Cabinet Secretary aware that one Ahmed Mohamed Athman, National ID Number 20369122, went missing on 16<sup>th</sup> September 2018 while on his way from Kiunga to Shukani in Lamu County following a police operation in the area?

(b) What efforts are being made by the Ministry to establish his whereabouts with a view to reuniting him with his family?

**Hon. Deputy Speaker:** Hon. Ruweida is becoming a Questions specialist. That will be replied to before the Departmental Committee on Administration and National Security.

Next is the Member for Kuresoi South, Hon. Joseph Tonui.

*Question No.194/2018*

UNEVEN TEACHER-STUDENT RATIO IN THE COUNTRY

**Hon. Joseph Tonui** (Kuresoi South, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity to ask Question No.194/2018 to the Cabinet Secretary for Education.

What measures has the Ministry put in place to address the uneven distribution and shortage of teachers in schools in the country, and in particular in resolving the problem of the teacher-student ratio?

**Hon. Deputy Speaker:** That will be replied to before the Departmental Committee on Education and Research. Next is the Member for Borabu, Hon. Commissioner Momanyi.

*Question No.202/2018*

LOWERING OF ENTRY REQUIREMENT TO TEACHERS TRAINING COLLEGES

**Hon. Ben Momanyi** (Borabu, WDM-K): Hon. Deputy Speaker, I rise to ask Question No.202 of 2018. My Question is directed to the Cabinet Secretary for Education.

(a) Is the Cabinet Secretary aware that a number of counties were left out by the Kenya National Qualification Authority's on lowering the entry requirement to teachers training colleges to D+ for students from northern and coastal counties following the poor performance in the Kenya Certificate Secondary Examination (KCSE) for the past two years?

(b) How was the decision on (a) above arrived at?

**Hon. Deputy Speaker:** Very well. That will be replied to before the Departmental Committee on Education and Research. Next and last will be the Member for Imenti North, Hon. Abdul Rahim Dawood.

*Question No.206/2018*

ENROLLMENT OF OLDER PERSONS CASH TRANSFER PROGRAMME IN NORTH IMENTI

**Hon. Abdul Rahim Dawood** (North Imenti, JP): Thank you, Hon. Deputy Speaker. My Question is 206/2018 and it is directed to the Cabinet Secretary for Labour and Social Protection.

(a) Is the Cabinet Secretary aware that older citizens in North Imenti Constituency in possession of identification cards with seven-digit numbers or less are unable to enroll in the Older Persons Cash Transfer Programme?

(b) What measures is the Ministry putting in place to ensure these older citizens are enrolled and receive their monthly stipend?

(c) When will the older citizens who are already in the programme be paid their arrears and how are new persons registered and those who have passed on be de-registered?

This is not the same Question, but it is of a similar kind because we have citizens with ID cards with seven digits who are not registered.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I think what the Majority Whip has been pursuing since yesterday is beginning to make a lot of sense. We are beginning to have several Questions which are similar. I am not saying the same, just some small areas of divergence. I really think you should attend the meeting when the Question will be replied to before the Departmental Committee on Labour and Social Welfare today and see how much you can get out of it. If you will be satisfied, we might have to consider saying that that is a matter settled. Just be available. It looks similar. Other than the seven digits, the Cabinet Secretary can answer even without having seen your Question. I think it is something that you also need to consider doing.

When did you say the Cabinet Secretary will be appearing before you, Hon. Wario? Is it today?

**Hon. Ali Wario** (Bura, JP): Today at 10.00 a.m.

**Hon. Deputy Speaker:** It is just about 10.00 a.m. Where will it be?

**Hon. Ali Wario** (Bura, JP): CPA Room.

**Hon. Deputy Speaker:** I will excuse those two Members to attend that session. That marks the end of it. So, we go to the next Order.

Next Order.

## MOTION

### REPORT ON INQUIRY INTO ALLEGED UNETHICAL CONDUCT OF TWO MEMBERS

**Hon. Deputy Speaker:** I do not know who will be the representative of the Chair of the Powers and Privileges Committee.

**Hon. Danson Mwashako** (Wundanyi, WDM-K): It is me.

**Hon. Deputy Speaker:** That is Hon. Mwashako. Hon. Members, I will encourage this debate not to be very long because the effect of it will be that some of the Members of this House will be discussed. So, we do not need to take too much time discussing them. We will, therefore, make the decision and once we make the decision, there are issues that will follow.

Proceed, Hon. Mwashako.

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Hon. Deputy Speaker. I rise on behalf of the Chair of the Powers and Privilege Committee, namely, our Speaker.

Hon. Deputy Speaker, I beg to move:

THAT, this House adopts the Report of the Committee of Powers and Privileges on the Inquiry into Alleged Unethical Conduct of the Hon. Paul Ongili, Member for Embakasi East Constituency and Hon. Charles Njagua Kanyi, Member for Starehe Constituency, laid on the Table of the House on Tuesday, 20<sup>th</sup> November 2018.

Section 15(4)(a) of the Parliamentary Powers and Privileges Act 2017 mandates the Committee to inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of Section 16 of the Act. The Committee may inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege either in its own Motion or as a result of a complaint by the person. Upon the conclusion of an inquiry, the Committee may recommend any or all of the sanctions under Section 17 of the Act.

The Office of the Speaker of the National Assembly received a letter from the Ethics and Anti-Corruption Commission (EACC) dated 12<sup>th</sup> October 2017 requesting that the National Assembly investigates and takes necessary action against the Member for Embakasi East and the Member for Starehe Constituency for unethical conduct and breach of privilege relating to a scuffle between them within the precincts of Parliament on 10<sup>th</sup> October, 2018. The Speaker noted the contents of the letter and referred this matter to the Committee on Powers and Privileges for consideration.

On 9<sup>th</sup> November 2017, the Speaker received a Petition signed by Bernard Abuya Momanyi, a resident of Embakasi East Constituency. The Petitioner claimed that the Member acted in a manner that demeaned the office contrary to the provisions of Chapter 6 of the Constitution and in contravention of Section 16(e) of the Parliamentary Powers and Privileges Act 2017.

The Petitioner prayed that the National Assembly investigates the conduct of the Member for Embakasi East, Hon. Paul Ongili Owino and recommended vacation of office by the Member pursuant to Article 103(1)(c) of the Constitution. The Speaker conveyed the Petition to the House on Thursday, 14<sup>th</sup> December 2017 and referred it to the Powers and Privilege Committee for consideration. The Committee on Powers and Privilege held five sittings to gather and consider evidence on this matter. In the first sitting held on Wednesday, 27<sup>th</sup> June 2018 in Committee Room No.9, the Committee held preliminary deliberations on the matter and thereafter heard submissions from Hon. Ongili and Hon. Njagua in the same sitting.

During the second sitting held on Wednesday, 14<sup>th</sup> July 2018 at the same venue, the Committee anticipated hearing evidence from the Petitioner, Bernard Abuya Momanyi. However, the Petitioner did not appear despite several attempts by the secretariat to get him to appear. Accordingly, the Committee resolved to proceed to consider the Petition without his input. The third sitting held on Thursday, 5<sup>th</sup> July 2018, the Committee reviewed a Report submitted to the Clerk of the National Assembly by the Parliamentary Security and Safety Department on the scuffle and thereafter proceeded to hear submissions from the Deputy Chief Parliamentary Security and Safety Officer on the matter.

In the fifth and sixth sittings, which were held on 6<sup>th</sup> November 2018, the Committee considered all these matters and adopted its Report on the matter. The Committee obtained evidence, reviewed documents, video clips submitted to it and received oral submissions from several witnesses. In consideration of the action sought by the EACC and the Petitioner on the alleged unethical conduct by Hon. Ongili and Hon. Kanyi, the Committee was guided by the provisions of Sections 16 and 17 of the Parliamentary Powers and Privileges Act, 2017 relating to conduct that constitute breach of privilege and determination of breach of privilege respectively.

Accordingly, the Committee's inquiry was focused on making a determination as to whether the claims made by the EACC and the Petitioner Momanyi on alleged unethical conduct by the Member for Embakasi and Member for Starehe...

**Hon. Deputy Speaker:** Hon. Members, I want you to be very keen. Once the matter is proposed, I will give a maximum of four Members and we will have this matter resolved. So, you better listen to them so that you are ready to make a decision one way or the other. Proceed.

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Hon. Deputy Speaker. Having reviewed video clips submitted by the EACC, the contents and prayers by the Petitioner, the evidence in the Report by the Parliamentary Security and Safety Department as well as oral evidence adduced by Hon. Paul Ongili and Hon. Charles Njagua, and the Deputy Chief of

Parliamentary Security and Safety Department, Major (Rtd.) Kirungu Majiba, the Committee observed:

- (i) That, the scuffle between Hon. Ongili and Hon. Kanyi reflected adversely on the dignity and integrity of the National Assembly and its Members in terms of Section 16(e) of the Parliamentary Power and Privileges Act, 2017.
- (ii) That, the two Members engaged in a scuffle in public and in full glare of the media at the parliamentary media centre hence subjecting the dignity and integrity of the House and its Members to public opprobrium.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Deputy Speaker. I want the Mover to tell us who Paul Ongili is? I am not aware who he is. Are we discussing a stranger?

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Hon. Deputy Speaker, I think the Leader of the Majority Party should be more informed than me that they are Paul Ongili Owino *aka* Babu Owino and Hon. Charles Kanyi Njagua *aka* Jaguar.

*(Laughter)*

**Hon. Deputy Speaker:** Proceed, Hon. Member. Do not be distracted.

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Hon. Deputy Speaker.

- (i) That, the scuffle was connected to and fueled by the then prevailing political situation in the country at the moment arising from the contested August, 2017 general elections.
- (ii) That, the two Members apologised to the Committee for their unethical conduct and sought leniency.

In light of the foregoing, the Committee finds that notwithstanding the then political environment in the country, Hon. Paul Ongili Owino and Hon. Charles Njagua conducted themselves in a manner that reflected adversely on the dignity and integrity of the National Assembly and its Members. That, their actions were a breach of privilege and punishable in accordance with Section 41 of the Leadership and Integrity Act, 2012 and Section 17(3) of the Parliamentary Power and Privileges Act, 2017.

It is against this backdrop that the Committee makes the following recommendations:

- (i) That, pursuant to Section 17(3)(b) of the Parliamentary Power and Privileges Act, 2017, reprimands Hon. Paul Ongili Owino and Hon. Charles Kanyi Njagua for conducting themselves in a manner that reflected adversely on the dignity and integrity of the National Assembly and its Members, contrary to Section 16(e) of the Parliamentary Power and Privileges Act, 2017.
- (ii) That, pursuant to Section 17(3)(c) of the Parliamentary Powers and Privileges Act, 2017, this House orders that Hon. Paul Ongili Owino and Hon. Charles Kanyi Njagua apologise to the House and the Members for conducting themselves in a manner that reflected adversely on the dignity and integrity of the National Assembly and its Members, contrary to Section 16(e) of the Parliamentary Powers and Privileges Act, 2017.

Hon. Deputy Speaker, I beg to move and now request Hon. Vincent Tuwei, to second this Motion.

**Hon. Deputy Speaker:** Hon. Tuwei.

**Hon. Vincent Tuwei** (Mosop, JP): Thank you, Hon. Deputy Speaker. I second the Motion. As a Member of this Committee, we conducted the said inquiry or investigations and the recommendations we did as per the Powers and Privilege Act are what we found to be the right decision on this. Therefore, I second.

**Hon. Deputy Speaker:** Since it has been proposed and seconded, I will propose the Question.

*(Question proposed)*

First on the list is the Leader of the Majority Party. Hon. Members who would want to speak on this particular one, please, place your requests at the intervention slot, so that I do not interfere. Already, there are too many requests.

Proceed.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Deputy Speaker. I beg to support this Report. From the outset, our two colleagues must follow due diligence and apologise to the House, I am sure the process will be guided. If they do not do this, then the consequences are very grave.

The Speaker will send them for 28 days without pay and they will not be seen in the precincts of Parliament. That is why I think this morning they knew the consequences. They are dressed well and they want to perform the ritual. This was even done in the 11<sup>th</sup> Parliament. It is not something very new. When the Public Accounts Committee (PAC), then led by Hon. Ababu Namwamba, was involved in serious matters of integrity and brought the name of the House to disrepute, they performed that ritual. So, it is a ritual which is performed by many.

If you look at the history of these two Members, they are very young and energetic. Some of us are very old. Even to fight another Member, we do not have energy due to our age. They are very young and youthful and I am sure now Hon. Babu Owino has realised that he has left campus politics and he is a Member of Parliament. Hon. Njagua has a lot of fans out there as one of the renowned artists. They realised that they did not know the precincts of Parliament. So, they started exercising a certain art, maybe wrestling. I saw the clip. Today I have known that Babu Owino is just a name, but he is called Hon. Paul Ongili. If Hon. Paul Ongili is not very careful, he will be indicted by the Parliament of Uganda because he has even left Kenya. Now he is involving himself in what is happening in Uganda. He is moving around with a man called Bobi Wine and he is going to the Parliament of Uganda. I am sure if he is not very careful, he will be discussed in the Parliament of Uganda. Part of the membership of the Parliament of Uganda is the military.

**Hon Christopher Omulele** (Luanda, ODM): On a point of information, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I do not know whether the Leader of the Majority Party requires that information.

**Hon Christopher Omulele** (Luanda, ODM): He needs to be informed that...

**Hon. Deputy Speaker:** It has not been accepted. So, proceed.

**Hon Christopher Omulele** (Luanda, ODM): He needs to be informed that the Member is Robert Kyagulanyi and not Bobi Wine.



*(Laughter)*

**Hon. Aden Duale** (Garissa Township, JP): You know all these Members use pseudo names like Babu Owino, Jaguar and Bobi Wine. So, my advice to Babu Owino is that this is your Parliament. It can forgive you, but...

**Hon. Deputy Speaker:** Leader of the Majority Party, can you pronounce the name that you were given? You know the information was for you. What was the name again?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, he is called Hon. Robert Kyagulai. Robert Kyagulanyi.

*(Laughter)*

The membership of the Parliament of Uganda is composed of even generals representing the National Resistance Movement (NRM) Party. It is not like this Parliament. You misbehave in that Parliament and they will indict you and send you to a court martial. So, Hon. Babu Owino and Hon. Njagua violated Section 17(3)(d) of the Parliamentary Powers and Privileges Act 2017. They also violated Sections 5 and 16(e) of the same Act. What the House is doing this morning is reading the charge sheet to the two Members. Because we are a family, we will not allow you two young Members to bring disrepute to this great august House. Hon. Babu Owino has a name in this country of an activist and a student leader. Hon. Njagua has a name in this country of a renowned artist. They are two Members who come from the two major political parties - the Jubilee Party and the Orange Democratic Movement (ODM). My friends, you know you do not come from small parties. You come from the serious parties led by serious leaders. So, if you continue misbehaving, we will chase you from our parties. The Chairman of the ODM is here and as the leader of the Jubilee Party, we will not allow you to misbehave in our parties. However, because they are young Members and they are my very good friends, we really ask them that this time, we will agree with you. We will forgive you.

Let us have a regulation of dealing with our Members. Parliament is independent. We have the Parliamentary Powers and Privileges Act. We should not allow any other agency to come and deal with Members. This House must regulate itself because the moment we allow ourselves to be investigated by other agencies, then we lose that independence. I am sure the great Members who are in the Committee on Powers and Privileges like Hon. Tuwei and Hon. Mwathi will look at that. I think there is something that we wanted to introduce in the 11<sup>th</sup> Parliament, which Members refused. We must have an office of integrity that deals with our matters from staff to the membership under the chair of our Speaker. I think today is a good day. You have gone on record and it is not very good that we spend 20 to 30 minutes discussing such matters.

**Hon. Deputy Speaker:** Maybe to remind you, Leader of the Majority Party, the proposal you are making is the one which was rejected when the other group was being indicted. This is because the proposal also was that we have such an office within Parliament. Proceed.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, we will introduce that proposal again in the 12<sup>th</sup> Parliament to see that we are the ones who regulate ourselves so that we can get proper conduct. I am sure Hon. Ongili and Hon. Njagua have forgiven each other. You can see they are sitting together. Now there is total peace. They have shown indication of this, because ordinarily, the Members sit on different sides. However, they have decided to sit

together in the same place. I am sure they had tea at the lounge. So, they have forgiven each other and I think the House and all of us will forgive them. But Hon. Paul Ongili, do not take matters across the border. You know if you take the same story to South Sudan or Somalia, then your life will be in danger. Stick to your issue of the Kenyan Parliament. Forget about Bobi Wine. He has his own issues to solve with Museveni. You solve the many problems of the people of Embakasi East. Do not get involved in the problems of Uganda.

With those many remarks, I support the Motion.

**Hon. Deputy Speaker:** I give an opportunity, obviously, to the Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Deputy Speaker. I also thank you for allowing me to contribute to this Motion that has been presented to this House by the Committee on Powers and Privileges. Let me start by saying that I agree with the Committee that the conduct of our friends, the two Hon. Members, was demeaning to Parliament. This happened early this year. These Hon. Members were barely four or five months in Parliament. I know that during that time, there was quite some tension in the country. The political environment was tense after the elections of last year.

That leads me to what we always say that there is nothing as valuable as experience. Some of us also came to this Parliament quite young, probably not as young as Babu Owino or Hon. Kanyi, but we were also young. I will tell you that if Hon. Paul Ongili and Hon. Kanyi were here with us from 2008, they, probably, would have realised that there was no need to exercise their physical strength. This is because the tension that was this in country in January 2008, if Babu Owino and Jaguar were in this House, probably people would have lost their teeth. However, people were sober enough. Some of us have been around to see that this political tension will always be there, but it does not have to necessarily result into physical fist fights. I am sure my colleagues in the 13<sup>th</sup> Parliament will be the ones advising the young Members who will come to go slow. I am happy they came before the Committee and accepted. They did not fight the fact that they made a mistake. They came and apologised. Once you apologise, it is African that you have to be forgiven. I urge this country - not even this House because this happened within the precincts of Parliament, but outside the Chamber - to forgive our two very vibrant and eloquent legislators. The two Members add a lot of value to this House.

That leads me to two critical issues. I want to raise the issue of impartiality. When those two honourable Members fought outside the Chamber, that matter was referred to the Powers and Privileges Committee and was acted on. But when my sister, Hon. Millie Odhiambo, was beaten and even stripped naked - which is not part of the culture of the Suba tradition - that matter has not been addressed to date. The matter has not been taken to the Powers and Privileges Committee yet the Member for Gatundu South, Moses Kuria, assaulted my sister. I do not know whether...

**Hon. Deputy Speaker:** I am very reluctant to allow you to proceed in that manner because you are mentioning your colleague. You remember, Leader of the Minority Party, that is exactly what put the other team in trouble - mentioning their colleagues left, right and centre. It is not proper for any Member to discuss another without a substantive Motion. If there was a specific complaint, I am sure it would have been acted upon.

You were proceeding very well. You are a seasoned politician and Member of Parliament. Do not step into that murky area.

**Hon. John Mbadi** (Suba South, ODM): Hon. Deputy Speaker, I was just mentioning an incident that happened here, was mentioned in the House and is in the HANSARD. Let me not

talk about the Member for Gatundu South. Let me restrict myself to the Member for Suba North, whose case I feel was not handled properly. In fact, I asked myself whether it is because the Subas are marginalised such that even when they are wronged, no one seems to care. Is it because Millie is a lady and we need not care about her? In future, we want to see impartiality in handling these cases. All cases should be treated the same.

I support what the Leader of the Majority Party talked about regarding our affairs. The reason why we enacted the Powers and Privileges Act is to make sure that whenever we have issues, differences or what we perceive as misconduct by a Member in this House or outside the Chambers, we deal with it as a House. This is an arm of Government. The Constitution created three arms of Government. There is the Judiciary, Executive and Legislature. You can even see that the Judiciary is fighting the prosecution of the Deputy Chief Justice (DCJ) because they feel that they are an independent institution. The same should apply to Parliament. Let us not subject ourselves to another arm of Government. That could be abused. We need to exercise our freedom freely.

That takes me to issues that affect the counties. They are shameful. There is need for clarity such that whatever happens in county assemblies is handled within the county assemblies. In my county, a good number of MCAs were dragged to court in Kisumu County and charged for things that happened in the county assembly. If we go that way, we compromise the independence of the legislative arm of Government, both at the national level and at the county level. It is my hope and prayer that counties will also find a way of handling their matters within the powers and privileges of their county assemblies. If they do not have enough instruments in terms of legislation, we need to initiate some legislation to cushion counties from being subjected to unnecessary dragging into another arm of Government either through the Senate or the National Assembly.

Finally, those other arms of Government sometimes act in a very funny manner. Our courts sometimes have refused to apply simple constitutional provisions. There is a case that happened over a month ago within the assembly. A judge tried to remand the MCAs for 14 days for further investigations. What are you investigating if there was a fight? There was a fight. There are witnesses. This is an abuse of power by the judges. I will table a substantive Motion to discuss such a judge if she continues behaving the way she is. You cannot just wake up and say that you are remanding someone for 14 days because they fought. It can be seen when people are fighting. You do not need any further investigations. This is something that has taken over a month just because a few people talked to the judge in her house and told her to remand certain people *ili iwe funzo kwa watu wengine*. That is not the way to run the Judiciary or to implement our Constitution.

**Hon. Deputy Speaker:** I hope the rest of the Members will not take that long.

Let us have Hon. Korere Paulata.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Thank you, Hon. Deputy Speaker. I rise to support this Motion. As the Leader of the Majority Party said, our two young men will learn from the mistakes of the past. What they did does not just have an impact on them as persons, but has a negative impact on the Members of this House.

Violence is a very primitive way of solving issues. I do not think any of the two Members seated there is primitive. That is my observation. They should leave the primitive way to the primitive people. At least the 12<sup>th</sup> Parliament does not have any primitive Members because I also participated in making sure that I kick out one primitive Member from this House.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Can Hon. Korere go on record and tell us who that primitive Member in the 11<sup>th</sup> Parliament that was kicked out and who kicked them out?

**Hon. Deputy Speaker:** Hon. Korere must answer it, but let us hear what you have to say, Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Hon. Deputy Speaker, I am just opposed to the point of order by Hon. Duale. The records of who Hon. Korere replaced exist. That is not something to ask Hon. Korere to substantiate.

**Hon. Deputy Speaker:** Maybe you are wrong, Leader of the Minority Party. If I heard her correctly, Hon. Korere said she participated in kicking out one primitive Member from this House. I am very keen on that because it looks like that is a matter of privilege. If she kicked the Member, that is something else. If she meant that she helped defeat the Member, that is a different thing altogether. It is not as obvious as you put it. She did not say that it was the person she replaced. Let us hear her because I do not want to speak on her behalf.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Hon. Deputy Speaker, I want to set the matter straight. I did not mean “kicking” as in kicking with my legs, but removing from this House. It is on record and it is known who the Member for Laikipia North in the last Parliament was. It was Hon. Matthew Lempurkel.

That notwithstanding, Hon. Mbadi mentioned something about the Member for Suba North who he alleges was assaulted. Looking at it from any angle, violence against women has not been treated with the seriousness it deserves. I was also a victim of violence by a Member of this House. The two young men are lucky because they fought. I was very unlucky because I was seriously beaten up.

*(Loud consultations)*

Protect me, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I do not want any harassment of the Member speaking. She has the Floor and nobody will interfere. Proceed.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Thank you, Hon. Deputy Speaker. Whichever way you look at violence, whether it is against women or men, it is a very primitive way of solving problems. If you go by what we have been discussing in this House in the last two days about the two-thirds gender rule, I can tell you without fear of contradiction that many women stay away from politics because of the violence that is meted on them either by opponents or the community.

As a woman, I want to say that it is not only fighting in this House, but also during elections. The people who fight their opponents should be barred completely from contesting any political seat. If we fight in this House because you believe you are in a certain political party and your opponent is in the other political party, we know the people we lead very well, and violence between two Members of this House can trigger violence between their followers and communities which are aligned to them. Something that would have been very easily done away with can end up causing very big damage like loss of life and property. The two Members were fighting because of NASA and Jubilee. I am sure when the principals went to shake hands at Harambee House, none of them even knew. They saw it on television. Going forward, I plead with my colleagues that we forgive the two Members. I hope the society will forgive this House because it is not composed of angels, but Members.

**Hon. Deputy Speaker:** Please, Member, discuss this matter as it is on the Order Paper. Leave the issue of forgiveness or otherwise to the rightful authority, once you have made the decision one way or the other.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): I beg to support and hope the two Members will learn a lesson from what they did.

Thank you.

**Hon. Deputy Speaker:** We will go to the Member for Suba North because she has been mentioned a number of times.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Deputy Speaker, for giving me this opportunity. I promise I will not mention names. I want to support the Report. When the event occurred, it was the period that we call politically “the silly season”. During that season, people do a lot of things that they either do not mean or they would not do when they are not silly. I agree with the Committee in their finding.

For those people who are aspiring to join Parliament, one of the things they need to learn is that once you come to this Parliament, the dynamics completely change. Things are not what the public think of Parliament and politics. Indeed, the handshake that we saw of our principals is a testimony of what our political landscape is, especially at the higher level. People may contest, but they are not sworn enemies. Even if I disagree with one person or the other, I am not doing it because we are enemies, but because we are contesting. I am very amused when sometimes I meet Members of Parliament from the Jubilee side because of the stories they tell about what they thought I am. They keep telling me that their constituents ask whether they sit with Hon. Millie and whether she is normal. The narrative on the Jubilee side is that I am a bit of a mental case. Once they come here, they become some of my best friends because it is a totally different story and scenario. Therefore, I agree with the Committee on their finding.

I also want to congratulate the Committee on Powers and Privileges because of the swiftness of the action. At least, there is closure for the two Members. I presented my matter. I want to correct the Member for Suba South. I know he was well intended when he was pushing my matter. It was reported that I did not present my matter when I was assaulted on the Floor of the House. I was beaten physically by a Member who was targeting a nerve. On the second day, I was almost blind. On the third day, I was admitted at a hospital. I almost spent Christmas in hospital. Because I am usually very light-hearted, many people do not know that I went through a very serious issue that even to date affects me medically. When somebody hits a nerve, he is trying to paralyse you. That was not just the issue.

**Hon. Aden Duale** (Garisssa Township, JP): Which nerve?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): I want to encourage Hon. Duale. I know that I joke, but on this one, I am not joking. We do not repeat such things on the Floor of the House. I am a very forgiving person. I have forgiven the Members, but even if I do it, we need to acknowledge where there is a wrong. I was wronged on the Floor of this House. I was physically attacked and beyond that, I was sexually assaulted. There were Members who were undressing me. It was in that corner. They were pulling up my dress and one was pulling my panty. Fortunately, the one who pulled my panty lost his seat because the gods are also not asleep. He is no longer in this House.

I have given up because you were with me when the same Member was telling us at the tea place that he pulled my panty. He acknowledged it. I know he was drunk, but that is not an excuse to do such things on the Floor of the House. I know I will keep speaking because I am a bold person. However, there may be several women who go through similar things, but are not

able to speak. Even though I may not get reparations, it may come after 50 years the same way there was reparation for the South Korean comfort women of the World War II. The Japanese acknowledged the wrongs against them after over 50 years. Even if the wrong that was done to me will be acknowledged after 50 years, I will be consistent about saying what was done to me was wrong. I want to agree with Hon. Korere that unfortunately, when it is gendered, you cease being the victim and you become the villain. As soon as I was assaulted, the stories which flew were: “Millie threw a panty”. It has now become very fashionable that when the lights go off in Parliament, a blogger writes something. One time when there was a different issue, one blogger said Millie had thrown a thong. I make light of the issues. When he said I threw my thong, I said that they should not worry because I wear Victoria Secrets undoubtedly. If I throw a thong, he should not be worried.

I have a very solid self-concept. When you have it, you can poke fun at yourself without fearing. I believe in Millie. I am confident about who Millie is. So, no amount of sexual intimidation can pull me down. However, not very many women have that confidence. I want to urge that going forward at the very least, let this House acknowledge that a wrong was done to me.

I want to encourage the Members and congratulate them.

**Hon. Deputy Speaker:** Wind up.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): I am seeing that they are seated together. I am seeing the Member for Lang’ata has also joined them to show that there is true handshake in the House. If they are having a handshake, who are we to deny them that opportunity?

Finally, let other assemblies emulate what has happened here. All I am seeking is acknowledgement of what wrong was done. Why arrest MCAs, take them to another county, re-arrest them, harass them and use judicial processes and powers against them? We need to spotlight the wrongs that are going on in our county assemblies. The wrong that is being done in Homa Bay County must stop. We cannot allow that.

With those few remarks, I support and encourage you to shake hands so that the country can move forward.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** You have absolutely no powers to order the Members or even encourage them to do anything at this point in time. The powers you have is to make the decision on this Report in one way or the other. I am inclined to give a chance to two more Members and they should be very brief. Hon. Pukose then Members will make a decision.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Deputy Speaker. I stand to support this Report as presented by the Member for Mwatate, on behalf of the Powers and Privileges Committee.

It is serious for Members to fight in Parliament. As the Leader of the Minority Party has said, it is not that he does not have the energy to fight. More often than not, he will run away from where the fights are happening. He is a very fast runner. This is a cue that we should all emulate. He is not a coward. He lives to fight another battle.

As the Leader of the Majority Party said, I urge my friend Hon. Babu Owino especially on issues of ....

**Hon. John Mbadi** (Suba South, ODM): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Hon. Leader of the Majority Party? Because you have been mentioned, let me give you an opportunity. What is it Hon. Leader of the Minority Party?

**Hon. John Mbadi** (Suba South, ODM): Hon. Deputy Speaker, I know I had spoken, but that does not give Hon. Pukose the advantage to impute improper motive on me.

**Hon. Deputy Speaker:** What is this improper motive?

**Hon. John Mbadi** (Suba South, ODM): Hon. Deputy Speaker, when he talks of the Leader of the Minority Party running away from a fight is that correct? I do not run away from a fight. He is referring to when I exercised my muscles when police were shooting. I had information that there were *Mungiki* within the police and so I could not take chances. I doubt whether Hon. Pukose has ever faced even police officers in his entire life.

**Hon. Deputy Speaker:** Hon. Leader of the Minority Party, what you are doing is basically justifying what Hon. Pukose has just said.

**Hon. John Mbadi** (Suba South, ODM): I cannot fight police officers.

**Hon. Deputy Speaker:** We are not in court. I would have said that I would take judicial notice. I guess I should be talking about legislative notice.

You have not said that you did not run. You have said you ran because the police and *Mungiki* were... You have basically confirmed and justified why you had to run. So, Hon. Pukose has nothing to substantiate.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): I just wanted to let my colleague know that I was a student leader at the University of Nairobi and I was a congress man. In 1992, you can ask Hon. T.J. Kajwang' and Kabando wa Kabando to tell you how we used to face the police in fighting for students' rights.

On the issue before the House, my request to Hon. Babu Owino, who is also a friend of Bobi Wine, is that my constituency borders Uganda. When he makes very inflammatory and derogatory statements against a head of state, President Museveni, we at the boarder feel that the harmony between Kenya and Uganda is threatened. I ask my colleague coming out of this issue in hosting his colleague, Bobi Wine, it is not good to make such kind of statements because they derogate a head of state of a neighbouring country and it brings disrepute to our country and creates disharmony between us and the neighbouring country.

With those few remarks, I support the Report.

**Hon. Deputy Speaker:** I do not need to give a chance to anybody else because everybody seems to be supporting the Report.

Let me put the Question.

*(Question put and agreed to)*

Hon. Members, I see the two Hon. Members are in the House and the Ayes had it without any difficult whatsoever. Before we take the next step, Hon. Members, I am going to make a Communication.

*(Hon. Deputy Speaker consulted the Clerk-at-the-Table)*

## COMMUNICATION FROM THE CHAIR

### REPRIMAND OF MEMBERS IN BREACH OF PRIVILEGE

**Hon. Deputy Speaker:** Hon. Members, this Communication relates to the decision the House has just taken on the business appearing under Order No.8. Consequent to that decision, the Hon. Charles Kanyi Njagua, MP and Hon. Paul Owino Ongili, MP are now considered strangers until they have been reprimanded and tender a suitable apology to the House and Members, in accordance to Section 17(3) (b) (c) of the Parliamentary Powers and Privileges Act, 2017.

*(Hon. Charles Njagua walked in the gangway)*

Order, Hon. Njagua!

Hon. Members, Section 4 of the Third Schedule to the Parliamentary Powers and Privileges Act, 2017 vests in the Speaker the authority to administer disciplinary action recommended by the Powers and Privileges Committee and adopted by the House. For avoidance of doubt, Section 4 provides as follows:

“Where the House adopts the recommendation of the Report for disciplinary action, with or without amendment, the Speaker shall forthwith take action accordingly.”

I, therefore, order the Chief Serjeant-at-Arms to escort the two strangers, Mr. Paul Owino Ongili and Mr. Charles Kanyi Njagua, if they are in the Chamber and ensure that they are withdrawn from the Chamber and take seats at a suitable designated place designated for strangers at the Bar of the House. Thereafter, I will call each one of them to the Bar for discipline to be duly meted.

Thank you.

**Hon. John Mbadi** (Suba South, ODM): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Leader of the Leader of the Minority Party, we will first allow the strangers to exit the Chamber then I will give you an opportunity because we do not transact business in the presence of strangers.

*(Mr. Babu Owino and Mr. Charles Njagua  
were escorted to the Bar of the House)*

What is your point of order, now that the strangers are out of the precincts?

**Hon. John Mbadi** (Suba South, ODM): Hon. Deputy Speaker, I am not raising a point of order to challenge the process, but I have a small matter that I think needs clarification.

It is my understanding that once you become a Member of Parliament, even if you leave this House, you are always honourable. I heard, Hon. Deputy Speaker, refer to the two strangers, Hon. Paul Ongili and Hon. Charles Kanyi as Messrs, meaning they have been stripped their honourable status. I do not know whether that power exists. Once you become an Hon. Member, even if you are voted out, in which case you will be a stranger in this House, you are still an Hon. Member.

Hon. Deputy Speaker, I do not know whether the “Mr.” status was a miscommunication or ...

**Hon. Deputy Speaker:** Are you challenging the Speaker directly?

**Hon. John Mbadi** (Suba South, ODM): I am not challenging, but I want clarity.

**Hon. Deputy Speaker:** I am sure you are not interested in doing that.



First of all, even that title “honourable” is not a title you call yourself. It is what others call you. Two, it is not automatic. I have chosen not to refer to them as honourable. You are the ones who made the decision that they violated the Standing Orders. I have chosen not to call them honourable. I choose when to call you honourable and when not to. In this particular instance, until the punishment is suitably meted against them, I will not refer to them as honourable. They are Mr. Njagua and Mr. Ongili.

I order that the Bars to be drawn.

*(The Bars were drawn)*

I will now order the first stranger, Mr. Njagua, to approach the Bar.

*(Mr. Charles Njagua approached the Bar)*

You will stand still and not address until I give the opportunity to do it.

By the authority of the House and the powers conferred on the Speaker, and following the adoption of the Report of the Committee of Powers and Privileges, and pursuant to the rules pertaining to the consideration of the report thereof, I wish to state as follows:

THAT, on Tuesday, 10<sup>th</sup> October 2017 at the Parliament’s Media Centre, and in full view of the public and glare of cameras, you, Mr. Charles Njagua Kanyi, engaged in an extended and vicious scuffle and altercation with a fellow Member of Parliament;

THAT, while aware of the responsibilities of leadership as provided for in Articles 73 and 75 of the Constitution, which provide that a Member of Parliament shall bring honour to the nation and dignity to the office, he or she holds and that a State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids demeaning the office he or she holds, you proceeded to portray unethical conduct;

THAT, you took oath of office upon being elected to this House in accordance with Article 74 of the Constitution and further swore to abide by the Code of Conduct of Members of Parliament, which in Rule 7 provides that a Member of the House shall uphold the dignity and integrity of the House by promoting respect for the House and its institutions at all times and ensure that the Member’s non-parliamentary activities do not interfere with or compromise the Member’s official duties or bring the House into disrepute;

THAT, despite your expression of remorse and unreserved apology tendered to the Member and to the Committee of Powers and Privileges for engaging in conduct that reflected adversely on the dignity of this House and its Members, you should have been aware of the consequences of engaging in such conduct, the prevailing circumstances at the time notwithstanding;

This House expresses its displeasure on your conduct which brought ridicule and disrepute to the House and its membership. You are hereby severely reprimanded and warned to refrain from engaging in such behaviour whether in public or in private life. I, therefore, reprimand you and require you to tender an apology to the House forthwith.

### **APOLOGY TENDERED**

**Hon. Charles Njagua** (Starehe, JP): THAT, I Charles Njagua Kanyi, by engaging in a public scuffle with Mr. Babu Owino Paul Ongili, on Tuesday 10<sup>th</sup> October 2017 within the precincts of National Assembly, I acted in breach of Section 16(e) of the Parliamentary Powers and Privileges Act, 2017 as the conduct reflected adversely on the dignity of Members of Parliament and this House;

THAT, in view of this, I Charles Njagua Kanyi, tender my unreserved apology to the Members and to this House for having acted in a manner that did not bring honour, respect, and dignity to this House and undertake that I shall always abide by the responsibilities of leadership set out in the Constitution, the Leadership and Integrity Act, 2012, Public Officer Ethics Act, 2003 and the Parliamentary Powers and Privileges Act, 2017.

I, therefore, beseech to be admitted to the Chamber.

**Hon. Deputy Speaker:** Apologies accepted. Now, I order that the Bars be drawn open and Hon. Kanyi be admitted to the Chamber.

*(The Bars were drawn)*

As you do that, you have to bow in the normal manner.

*(Hon. Charles Kanyi bowed to the Chair and entered the Chamber)*

*(Applause)*

You are now an honourable Member of this House. I now call upon Mr. Babu Owino Paul Ongili.

*(Mr. Babu Owino stood at the door)*

**Hon. Deputy Speaker:** By the authority of the House and the powers conferred on the Speaker, and following the adoption of the Report of the Committee of Powers and Privileges, and pursuant to the rules pertaining to the consideration of the report thereof, I wish to state as follows:

THAT, on Tuesday, 10<sup>th</sup> October 2017, at the Parliament's Media Centre, and in full view of the public and glare of cameras, you, Hon. Babu Owino Paul Ongili, engaged in an extended and vicious scuffle and altercation with a fellow Member of Parliament;

THAT, while aware of the responsibilities of leadership as provided for in Articles 73 and 75 of the Constitution which provide that a Member of Parliament shall bring honour to the nation and dignity to the office he or she holds and that a State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids demeaning the office the officer holds, you proceeded to portray unethical conduct;

THAT, you took oath of office upon being elected to this House in accordance with Article 74 of the Constitution and further swore to abide by the Code of Conduct of Members of Parliament which Rule 7 provides that a Member of the House shall uphold the dignity and integrity of the House by promoting respect for the House and its institutions at all times and ensure that the Member's non-parliamentary activities do not interfere with or compromise the Member's official duties or bring the House into disrepute;

THAT, despite your expression of remorse and unreserved apology tendered to the Member and to the Committee of Powers and Privileges for engaging in conduct that reflected adversely on the dignity of this House and its Members, you should have been aware of the consequences of engaging in such conduct, the prevailing circumstances at the time notwithstanding;

This House expresses its displeasure on your conduct which brought ridicule and disrepute to the House and its membership. You are hereby severely reprimanded and warned to refrain from engaging in such behaviour whether in public or in private life. I, therefore, reprimand you and require you to tender an apology to the House forthwith.

### APOLOGY TENDERED

**Hon. Babu Owino** (Embakasi East, ODM): Thank you very much Hon. Deputy Speaker. I would like to apologise. I would like to say that on that particular day I did not slap Hon. Njagua, it is his cheeks that moved towards my hands. But I am ready to apologise.

**Hon. Deputy Speaker:** Can you repeat the apology again, because it has to be unreserved and without jokes.

**Hon. Babu Owino** (Embakasi East, ODM): I, Babu Paul Owino Ongili, by engaging in a public scuffle with Mr. Charles Njagua Kanyi on Tuesday 10<sup>th</sup> October 2017, within the precincts of the National Assembly, I acted in breach of Section 16(e) of the Parliamentary Powers and Privileges Act, 2017 as the conduct reflected adversely on the dignity of Member of this Parliament and this House. In view of this, I, Babu Owino Paul Ongili, tender my unreserved apology to the Members and this House for having acted in a manner that did not bring honour, respect and dignity to this House. I undertake that I shall always abide by the responsibilities of leadership set out in the Constitution, the Leadership and Integrity Act 2012, Public Officer Ethics Act 2003 and the Parliamentary Powers and Privileges Act 2017. I, therefore, beseech to be admitted to the Chamber.

**Hon. Deputy Speaker:** I am asking you to do it again. In the first one you brought the issues of stories. I encourage you to be very serious when you are doing it because this is a very serious matter. So, the issue of denials could have been handled at the Powers and Privileges Committee, not here.

**Hon. Babu Owino** (Embakasi East, ODM): I, Babu Paul Owino Ongili, by engaging in a public scuffle with Mr. Charles Njagua Kanyi on Tuesday 10<sup>th</sup> October 2017, within the precincts of the National Assembly, I acted in breach of Section 16(e) of the Parliamentary Powers and Privileges Act 2017 as the conduct reflected adversely on the dignity of Members of this Parliament and this House. In the view of this, I, Babu Owino Paul Ongili, tender my unreserved apology to the Members and this House for having acted in a manner that did not bring honour, respect and dignity to this House. I undertake that I shall always abide by the responsibilities of leadership set out in the Constitution, the Leadership and Integrity Act 2012, Public Officer Ethics Act 2003 and the Parliamentary Powers and Privileges Act 2017. I, therefore, beseech to be admitted to the Chamber.

**Hon. Deputy Speaker:** Now, your apologies are accepted and I order the Bars to be drawn open for Hon. Babu Owino to enter the Chambers.

*(The Bars were drawn)*

*(Hon. Babu Owino walked into the Chamber)*

**Hon. Members:** Owino, Ongili.

**Hon. Deputy Speaker:** Whatever the names, they are many.

The ceremony is not over, the two Members are asked to deposit the signed apology sheets to the Clerks for record and future reference.

*(Hon. Charles Njagua and Hon. Babu Owino handed the signed apology sheets to the Clerks-at-the Table)*

Next Order please

## BILL

### *Second Reading*

#### THE PARLIAMENTARY SERVICE BILL

**Hon. William Cheptumo** (Baringo North, JP): Hon. Deputy Speaker, I beg to move that the Parliamentary Service Bill be now read a Second Time:

The Parliamentary Service Bill 2018 is an Act of Parliament to first make further provisions as regards the Parliamentary Service Commission and Parliamentary Service as re-established under the Constitution of Kenya 2010. Secondly, it is to repeal and replace the Parliamentary Service Act, 2000 for connected purposes.

This Bill is enacted and is necessary for a number of reasons. Before I go to the specific provisions of the Bill, I wish to say that this Bill's enactment is necessary because the current Parliamentary Act, Cap 185(a) of the Laws of Kenya was enacted under the former Constitution, to give effect to Section 45A and Section 45B of the former Constitution. That particular legislation established Parliamentary Service and Parliamentary Service Commission respectively.

These provisions of the former Constitution are no longer in force. In their place there is now Article 127 of our new Constitution and Article 128 which establishes the Parliamentary Service Commission and provides for the offices of the two Clerks of the two Houses of the Parliamentary Service. Therefore, in light of this and other changes in the new Constitution, it has become very necessary to review the Parliamentary Service Act, 2000 to ensure that it complies with the provisions of the new Constitution. That is a very important point to note. We want to realign the new Bill to the New Constitution.

The second reason is, the Fifth Schedule to the Constitution provides for a period of five years for the enactment of a new legislation required to implement the Constitution. Although Parliament extended this period, the Parliamentary Service Act, 2000 needs a review in order to comply with the requirement of the Fifth Schedule of the new Constitution.

Lastly, the House has already reviewed the statutes of the other two constitutional commissions that existed together with the Parliamentary Service Commission prior to the coming in of the new Commission, that is the Public Service Commission and the Judicial Service Commission. This House has passed statutes relating to those two commissions and we have not been able to pass a statute that can deal with the Parliamentary Service Commission.

In addition, all the other constitutional commissions and the dependant offices referred to in Chapter 15 of the Constitution, have also enacted operational legislation in conformity with the new constitutional principles. Whereas this House has been able to pass legislations relating to all Chapter 15 commissions, we have not been able to pass a legislation relating to our own commission as a House. Members will note that even in the 11<sup>th</sup> Parliament a number of Bills were brought before the House and they were not passed. They lapsed in the 11<sup>th</sup> Parliament.

Now this gives us as a House an opportunity to pass this Bill so that we have a Bill regulating the functions of the Parliamentary Service Commission just like we have done for the other commissions. The Bill was published twice during the 11<sup>th</sup> Parliament but was not enacted. I just want to say that as the Chairman of the Justice and Legal Affairs Committee, when this Bill was referred to the Committee, we undertook a very comprehensive public participation pursuant to the provisions of Article 118 of our Constitution. Pursuant to the provisions of Article 118 of the Constitution of Kenya and Standing Order No. 127 (3), advertisements were made in the dailies to invite the public to make representations on the Bill.

The Parliamentary Service Commission (PSC), the National Assembly, the National Police Service (NPS) and the Salaries and Remuneration Commission (SRC) responded. All what was presented to the Committee during the public hearings sessions forms part of the Report of the Committee. At this point let me encourage Members as we deal with the Second Reading of this Bill that they need to go to the Table Office and pick the very voluminous Report of the Committee, which encompasses all the comments and views by the PSC, the National Assembly and SRC because they gave important input to this Bill.

Let me very briefly highlight the essence of a few clauses in this Bill. Part I is on preliminary provisions. It sets out the short-title and commencement time of the Bill. In Clause 2, the Bill replaces the interpretation of several terms in the current Act to align with the new Constitution. The Bill proposes to replace the use of the word ‘Chairman’ to a more gender sensitive word ‘Chairperson’. The term “Clerk” is expanded to include the Clerk of the Senate and so on. That is the essence of Part I of the Bill.

I want to emphasise areas which I feel Members should focus on as we move on with the debate in the Second Reading. Part II is on the Parliamentary Service. Clause 4 establishes the Parliamentary Service as an independent, non-partisan institution of exemplary administrative and technical competence. I think, from the debate of the just concluded Motion, this House should be independent to regulate its functions and even deal with issues of discipline. So, this Bill will enable Parliament to be as independent as it ought to be. This is the essence of commissions established under our Constitution.

Clause 5 sets out the Parliamentary Service values in addition to the national values and principles set out under Article 10 of the Constitution and the value and principles of public service as set out under Article 232(1) of the Constitution. Again, these are not in the current Act of Parliament regulating its functions. So, by bringing all this we are then realigning this with the new Constitution. Clause 6 delegates the legislative powers of the Commission to prescribe a Parliamentary Service code of conduct applicable to every employee. It generally provides for conduct that is expected of officers of the Commission. Today, we were able to deal with misconduct of two Members of this House. Similarly, there should also be discipline of staff employed by this Commission and that is what the code of conduct will do.

I want to move faster, in PART III, Clause 8 provides for the qualification for appointment as a Member of the Commission under Article 127. Clause 9 of the Bill provides for the qualification and procedure of appointment of Members of the Commission who are non-

Members of Parliament as per Article 127(2) (d) of the Constitution. Clause 10 sets out the procedure for the removal from office of Members of the Commission which includes Petitions.

Clause 11 is very important. I want to encourage Members that when they get the Report of the Committee, they should focus on this clause. It sets out further functions of the Commission in addition to the functions set out in Article 127(6) of the Constitution. Allow me because I want to make this issue very clear to Members to refer to the Constitution Article 127(6)(a). The Commission is responsible for providing services and facilities to ensure the efficient and effective functioning of Parliament. I want to emphasize the words “providing services and facilities to ensure, efficient and effective functioning of Parliament.”

Clause 11 will bring on board and distinguish what SRC can do and determine for Parliament. We are not going to take away that power because constitutionally that is the function of SRC. Article 127(6)(b) distinguishes the functions and powers of the Commission. This particular clause deals with matters of medical cover, official transport, housing accommodation, mortgages, car loans and grants, travel allowance and public participation of legislative business of Parliament.

I want my colleagues to understand that for the first time now, we will be able to put SRC at its rightful position in determining certain benefits for MPs. This is by empowering the Commission to determine certain benefits for MPs, as I have mentioned. Sometimes we read in the newspapers some very disturbing comments that Parliament is deciding to allocate cars and houses to Members. What we have done in this Bill and it is important for the leadership of the House to really get this point since I have seen Hon. Mbadi and my leader consulting, I want to make this issue on Clause 11 to be very clear. Our House leadership has sometimes been accused unfairly for some of these decisions.

For the first time, if this Bill is passed we will isolate the functions of SRC in terms of determining certain benefits for Members by empowering the Parliamentary Service Commission as an independent Commission under the Constitution to identify areas that are empowered in law to determine for MPs matters of medical cover, official transport, housing and accommodation. I want to inform the country from this House today that there is no time Parliament has decided to allocate itself certain privileges and benefits.

We are passing a law to give powers to the Commission just like all other commissions under the Constitution have powers to deal with certain benefits of their Members and staff. Therefore, that perception should be corrected from the word go. I want to be very clear here, just like we have the Public Service Act, the Independent Electoral and Boundaries Commission (IEBC) Act, and the Teachers Service Commission (TSC) Act, setting rules and regulations to deal with their staff, so will the Parliamentary Service Commission. Therefore, I want to plead with Kenyans not be distorted in their perception of this law. We are passing a law which will comply with the Constitution.

*[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]*

*[The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu) took the Chair]*

Clause 12 provides for the powers of the Commission as a body corporate. I now want to move to Clause 16. It provides for the role of the Secretary to the Commission which includes preparation, planning, facilitating meetings of the Commission as well as record keeping.

Part IV deals with the clerks and officers. Clause 17 sets out the qualifications offered for appointment of the clerks of each House, pursuant to Article 128 of the Constitution. It includes experience, knowledge and understanding of the parliamentary practices and procedures. This will be coming out when we go to the Third Reading of this Bill. If you look at the other constitutional commissions and the Act of Parliament which regulates the same, every CEO... In this case we have the Clerks of the two Houses, who have no term limit of service. If you see the current law, there is no provision for the term of a Clerk. He serves for as long as he has not reached the retirement age. So, if you are 35 or 40 years of age and you become a Clerk, you are likely to serve for 30 years or even more depending on your age. This is because there is no provision for a limitation of the term. I do not want to say much about that now, but I will do so in the Third Reading. I want Members to read the Report. We will be making certain recommendations on that.

I want to stay in that same Part IV, Clause 24 seeks to anchor the Office of the Joint Services in legislation, which shall be headed by an officer appointed by the Commission. The Joint Services is already in place, but it is not anchored in law. What we want to do in this particular case is to have that particular department anchored in law. Why? This is because the Joint Service really performs essential services in Parliament, which include administrative services, financial, accounting, information research services, litigation and compliance, buildings and many more. All issues touching on Members of this House are being executed by the Office of the Joint Services. It is only fair that we anchor that particular office in our legislation. Of course, without again doing it in a manner that will undermine the powers of the Clerks of the two houses because the two Clerks are recognised in the Constitution. So, even when we do this, we will do it in a manner that is not going to usurp the powers of the Clerks of the two Houses. This should be clear because there are some concerns already. People think that perhaps we want to take away powers of certain offices. We just want to anchor this because of the kind of role it is playing.

Part V is on the Parliamentary Police Unit. This is a very critical area. Unless we have a unit that is purely functioning to take care of the security of Parliament...The current situation, as we all know, is that we have a small unit of the police in the next building. There is a serious concern that Members are not adequately resourced in terms of security and so on. So, this Part V provides for the establishment of a Parliamentary Police Unit under the command of the Inspector-General of the National Police Service. In this particular unit, we should have a command that is senior and higher and that can deal directly with the Inspector-General. This has been in other departments.

We already have the Diplomatic Police Unit, Tourism Police Unit, General Service Unit and the Anti-Stock Theft Unit. So, we are not departing from the practice. This is already established in other departments. It will be a process of engagement between Parliament and the Inspector-General with a view to establish how that particular unit can function. We wanted to put it in law so that it will enable the Inspector-General to provide.

Part VI is on miscellaneous provisions. Clause 33 provides for remuneration of staff which will be determined by the Commission. It provides that the expenses of the Commission shall be charged from the Consolidated Fund. These are the normal provisions for commissions. That goes all the way to Clause 46 which is on the powers of the Commission to make regulations. A lot of functions of the Commission, apart from the Act of Parliament, are done through regulations from time to time depending on the arising needs. So, we want our Commission to have that power to make regulations from time to time. The Committee to

approve those regulations, just like we are doing it currently, is the Committee on Delegated Legislation so that if there are issues of concern raised by our leadership of the House, we are able to deal with them through the regulations. Those are the provisions which are envisaged in Clause 46.

There is another serious problem. Clause 48 of the Bill seeks to entitle Members of Parliament to diplomatic passports, notwithstanding the provisions of Section 25 of the Kenya Citizenship and Immigration Act, 2011. I will spend a little time here. I want my colleagues to know that Section 25 of the Kenya Citizens and Immigration Act makes provisions for diplomatic passports to be issued as may be prescribed in regulations. Regulation 14 of the Kenya Citizenship and Immigration Regulations 2012 states... Schedule 3 of the Act lists a number of State officers who are entitled to have diplomatic passports. It will shock Members. The officers include:

1. The President and his family
2. The Prime Minister. Of course, that position is no longer there. It might come back. I am not saying it will not come back, but I am saying it is not there now.
3. The Vice-President and his family
4. Cabinet Secretaries
5. Principal Secretaries
6. Speaker of the National Assembly
7. The Chief Justice
8. The Deputy Chief Justice
9. Supreme Court Judges
10. Court of Appeal Judges
11. Attorney-General
12. Director of Public Prosecutions
13. Solicitor-General
14. Controller of Budget

There are 29 State officers. The last one is the Foreign Service Officers' spouses and dependent children below the age of 19 years. There is no mention of a Member of Parliament. There is no mention of a spouse of a Member of Parliament. So, the person to determine who should be issued with a diplomatic passport is the Cabinet Secretary in charge of security. So, on application, he will choose to or not to. What we just want to do today, through this Bill, is to add Members of Parliament and their spouses to be included in that list of 29. That is not demanding too much. What does it cost? Members of Parliament had been conspicuously omitted from the list and more than 29 State officers and their spouses are entitled to diplomatic passports.

The Commission is discriminatory against Members of Parliament in light of the functions of Parliament as set out in the Constitution. Clause 48 of the Bill seeks to remedy this situation. I am about to conclude. I plead with Members that, that is a critical area which we need to look into. Let me just mention a few countries where MPs are automatically issued with diplomatic passports. They include Armenia, Algeria, Benin, Cameroon, Mali, Togo, Chile, Uganda, Ecuador, Hungary and Romania. The list is long. Kenya should be in that list of countries that honour their MPs and issue them with diplomatic passports because we are a House that travels a lot to serve our country.

Clause 49 provides for the transitional provision, the First Schedule deals with the procedure for appointment of a member of the Commission, the Second Schedule deals with the provisions



as to the conduct of the business and affairs of the Commission and the Third Schedule deals with the oath or affirmation of office.

In conclusion, this Bill is necessary for the reasons I have given. Secondly, this Bill, does not – contrary to what has been in the newspapers for the last three days - enable Parliament to wake up one morning and start allocating cars, houses or medical schemes to Members. It sets the law and gives powers to the Commission, in addition to the powers which are given to the SRC in law, to make certain facilities available to MPs. I plead with my colleagues to take time, go to the Table Office and get the Report as we debate in the Second and Third Readings. This is so that this House can take the position it is supposed to in this country.

With those remarks, I beg to move and request my able Leader of the Majority Party to Second the Bill.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Second Reading of the Parliamentary Service Bill, 2018.

It is very unfortunate that as a body mandated to legislate, it is now eight years since the promulgation of the new Constitution and we have been unable to pass a law that touches on the very foundation of this House - which is parliamentary service. We are still relying on archaic, old, outdated and spent legislation, namely, the Parliamentary Service Act, 2000. Can you imagine that this House managed to pass all the Bills establishing constitutional commissions as found in Article 248 of the Constitution which are 10 in number, with the exception of only the Parliamentary Service Commission? We have even established a law to regulate the Law Society of Kenya (LSK). We have done that for all the other 10 commissions. We have come up with their regulations. It is very unfortunate that it is only the Parliamentary Service Commission that does not have a current law.

There is a direct link between the efficiency of the performance of this House and there being a Parliamentary Service that is aligned to the dictates of Article 127 (6) of the Constitution. What does Article 127 (6) of the Constitution say? With your indulgence, I am getting old. The font is too small for my eyes.

Article 127 (6) (a) states:

“The Commission is responsible for –

(a) providing services and facilities to ensure the efficient and effective functioning of Parliament;”

That is what Article 127 (6) says. Have we attained that? Have we passed that provision? The Commission constitutes offices in the Parliamentary Service, appoints and supervises office holders. The Commission shall prepare annual estimates of expenditure of the Parliamentary Service and submit them to the National Assembly for approval. We must actualise Article 127(6) of the Constitution which this House has not legislated on.

It is very unfortunate that the 11<sup>th</sup> Parliament was unable to conclude this Bill. Therefore, it calls for this House to ensure that we pass this Bill. Suffice it to say, this House should go down in history as the one which oversaw the implementation of Article 248(2) of the Constitution in terms of passing the relevant enabling laws establishing constitutional commissions including the Parliamentary Service Commission.

Of great importance is to know that the Departmental Committee on Justice and Legal Affairs, chaired by our brother, Hon. Cheptumo, has the responsibility of ensuring that the process of realigning the Commission in accordance with the dictates of the new Constitution is concluded before the end of the 12<sup>th</sup> Parliament. The mantle, therefore, is with the Committee to oversee the conclusion of this important Bill. Each one of us must take part. Allow me to remind

Members of this House that this is our Bill. We have legislated bills for other people but this is ours. We should not shy away from it. It is ours and it will legislate how the functions of Parliament must be conducted.

The Parliamentary Service Commission Bill, unlike the misconception out there, is not about the staff. It is not a staff Bill. It has never been about the staff of this House. It is about the welfare of Members of this House and the Senators who are also Members of Parliament. This Bill is about Article 127(6) of the Constitution. It is about our welfare. We must legislate on it. It is not about the staff. The staff of this House work for Parliament.

To bring it closer home, the Parliamentary Service Bill is akin to the Judicial Service Commission law which is about judicial officers and not the staff of the Judiciary. We must, therefore, rise, support and own this Bill as one that belongs to the 416 Members of both Houses. In this regard, although I am the sponsor of this Bill, it relates to all of us as Members.

Under Article 108, the Constitution has created the office of the leadership of the minority and majority parties. That provision is just hanging. It must be legislated. We must know the role of the Leader of the Majority Party and the Leader of the Minority Party and their deputies. We are not Chairs of Committees. We represent political parties here. We represent Members. We do not sit in the Parliamentary Service Commission. So, we must create an avenue in this Bill where we can represent our Members. This is very critical.

Hon. Temporary Deputy Speaker, if you allow me, let me look at the highlights of this Bill. One, it prescribes Parliamentary Service values which include inspiration of public confidence and respect for the institution of Parliament. We will use this Bill to create value system for Parliament where people can respect us and the institution of Parliament. Two, this Bill prescribes Parliamentary Service code of conduct. As we stand here, there is no code of conduct for Members of Parliament. We will use this law to create a code of conduct. Today is a very good day. There is a ritual we went through in Parliament through Hon. Babu Owino and Hon. Njagua. I am sure Members of Parliament will not want to go that route because your constituents will be watching that you violated the Constitution and the Standing Orders.

Under Article 73 of the Constitution on integrity, this Bill outlines the qualifications of the members of the Parliamentary Service Commission. There must be Members of Parliament in the Parliamentary Service Commission. We must ask ourselves whether a Commissioner can serve two terms or one term. It is for us to decide whether a Commissioner can serve for three terms or one term. We must decide in this Bill the procedure of removing a Commissioner.

*(Applause)*

This Commission is totally different. It is this House which approves who sits among us to be a Commissioner. The process of removing a Commissioner must be within this House. This is a very unique Commission. If you have no confidence in the leadership of Hon. Duale as the Leader of the Majority Party today, there is a procedure. The parliamentary caucus of that party will sit under the party leadership, they will bring the minutes to Parliament and Hon. Duale will be removed. The same applies to Hon. Mbadi. However, as we sit today, the removal of a Commissioner of Parliamentary Service Commission cannot be similar to that of the Judicial Service Commission and Public Service Commission. The dynamics are different. The opportunity is found in this Bill. I am not saying there are Commissioners in the current Commission who have failed. We make laws for posterity. Twenty years from now, another Parliament will come. It is the law that we make today that will help that Parliament.

This law will define the functions and powers of the Commission. What is the function and powers of the Parliamentary Service Commission? This role will define the role of the Secretary to the Commission and the functions of the two Clerks. There is a story out there in our country. I am not against our Clerks because they are performers. I served under the late Mr. Ndindiri, Mr. Gichohi, Mr. Bundi and now under Mr. Sialai. They are very competent and men of integrity. When I walk there, I have a lot of respect for them the way I see my former teachers in the school and university I attended. Every parastatal or Government institution's position has a limit.

We passed laws last week that you can be a Chief Executive Officer or accounting officer, for one term which is renewable based on your performance. You cannot have a Clerk who will be here for 20 or 30 years. Even as Members of Parliament, we do not have that luxury. We always beg our voters to give us another chance so that we can get the pension. This will help us to protect the Secretary to the Commission. What is the role and functions of the Secretary to the Commission, so that if the Commissioners violate his rights, the law protects him?

This Bill will require the Parliamentary Service Commission to prepare and lay before the House annual reports of its activities. We receive reports from the Controller of Budget, Judicial Service Commission, Office of the Director of Public Prosecutions (DPP) and Ethics and Anti-corruption Commission (EACC). The Parliamentary Service Commission must be put under obligation. They must table reports about their activities. This is a Commission that gets Kshs33billion which is not money for buying *mandazi*. It is serious money and budget. That Commission must table its report and activities annually or quarterly.

Lastly, this Bill must confer upon the Parliamentary Service Commission power to make regulations. After we pass this law, there will be regulations.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, allow me to communicate. Hon. King'ola, there is nothing out of order. The Leader of the Majority Party is moving and then after he finishes, the Bill will become the property of the House and then we can proceed.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I have a lot of respect for the Leader of the Majority Party in this House. In the spirit of mentorship, the Leader of the Majority Party in this House has in the past confessed that he is a student of Hon. Raila Amollo Odinga, Hon. Ruto and the rest.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): What is out of order?

**Hon. Patrick Makau** (Mavoko, WDM-K): Hon. Temporary Deputy Speaker, I am concerned. In the spirit of mentorship, we have been listening to the Leader of the Majority Party in this House. Is it in order for him, because he has a deputy and other leaders in that order, to be moving all these Bills instead of giving them to others in this House?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You are out of order. Resume your seat. The Leader of the majority Party is seconding the Bill and you are debating.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I am a Seconder, I am not even the Mover. This is why we need this Bill to regulate Members. Next time and the leadership will agree with me, ask the Member which Standing Order the Member violated.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well.

**Hon. Aden Duale** (Garissa Township, JP): I have lost my train of thought, but he is a good friend of mine. He has a long history as the former Mayor of Masaku.

This law confers upon the Parliamentary Service Commission power to make regulations, and among other things the conduct of the business of the Commission, security of Members of Parliament and public participation outreach. We must have a regulation. The Bill also seeks to amend the Kenya Citizen and Immigration Act 2012 to provide Members of Parliament access the entitlement to diplomatic passports. People do not know the value of diplomatic passports. One, there are many countries where you do not need a visa if you hold a diplomatic passport. Parliament is paying a lot of money on visa charges. By the stature and role we hold as leaders in this country, we are entitled to that.

Let us look from the cost of it. We travel a number of times. If we get diplomatic passports, Parliament will save huge resources. If you have a diplomatic passport, you do not need to get a visa from South Africa, Turkey and many countries. We are not asking for diplomatic passports. The headlines are saying that Members of Parliament are asking for diplomatic passports. Why are you not writing about the Principal Secretaries and Cabinet Secretaries? We draw our powers from the people. That amendment should be there.

I can go on to some of the great provisions in this Bill. This Bill touches directly on the well-being of the Members of this House. Allow me extra three or four minutes. Every time there is a new session, our car grants become a national issue. It was not there in the 10<sup>th</sup> Parliament when I was new Member of Parliament with Hon. Cheptumo and Hon. Mbadi. But from the 11<sup>th</sup> Parliament, it became an issue because of the Salaries and Remuneration Commission (SRC). We must anchor it in law so that nobody can question it. Our constituency office resources and management must be anchored in this Bill. It is about our welfare. Our house allowance question must be resolved and must be anchored in law. Our mileage, when we go to our constituencies has become a debate: we must anchor it in law. It is about welfare. It is within Article 127(6) of the Constitution.

Hon. Temporary Deputy Speaker, I can talk for long. We need to put in law the role of political parties under the presidential system of Government. The National Super Alliance and Jubilee parties must be funded by the Commission. We must have a secretariat and offices where we can do party caucuses. In other jurisdictions, there are party caucuses every Tuesday. We must have specific infrastructure designated for political parties and parliamentary political party caucuses and paid by Parliament.

The Kenya Women Parliamentary Association (KEWOPA) must be recognised in this law. Other caucuses in Parliament that are just hanging must be anchored in this law so that if today the Women Members of Parliament want to meet, it must be in law and it must be upon the Clerk of the National Assembly to provide the resources and the infrastructure like offices and the secretariat to work with.

This Bill is very important. Let us not trivialise it. We must establish a mechanism for the House to collaborate with relevant bodies. Let me hasten to finish and allow my colleagues to make their contributions.

We shall bring serious amendments in the Committee of the whole House. In fact, as leadership, we will go for a retreat and come up with amendments. This is a presidential system. Today if you go to the USA House of Representatives, the Congress, you are told you cannot meet the leadership because the party caucuses are meeting. In fact, every Tuesday of every week, the parties must have a parliamentary group meeting within Parliament, where they decide how they will deal with business of the whole week. But here we come and you see we are about 10 or 20 of us in the Committee of the whole House.

Allow me to reiterate that this Bill is not just for Members of this House but also for Members of the Senate. I know monitoring and evaluation, which has been in the air from the Senate, will be put in this Bill and it will be for all Members of Parliament. The Senate cannot have their cake and eat it. They have county offices and mileage. So, what makes a Senator be given Kshs500 million for monitoring and evaluation? We either put it in this law and all of us get the monitoring and evaluation money or none. That is the point. This Parliament cannot act like the *Animal farm*. We are all equal as Members of Parliament. We all get resources for monitoring and evaluation or we do not. But I think the best thing is, so that we do not fight our friends, to put the monitoring and evaluation in this law for everybody.

(Applause)

The Departmental Committee on Justice and Legal Affairs Chair needs to do it.

In conclusion, this Bill is therefore critical and lies in the definition of our ability as Members of Parliament. A renowned Parliamentary Service will lead to an enhanced public service delivery and effective Members of Parliament. For this reason, I rise to support.

As I second, let me say it. I have stayed in this Parliament for a long time now. We have very good staff in legislation, Budget Office, Legal and other departments, but let me also put a rider. Over the years, and Members who served in the 10<sup>th</sup> Parliament will agree with me, there has been a deterioration of service delivery by some of the staff of this House. We have seen it. You can tell from a report of a Committee. If I read five reports, I can say three are done by very good people but two will look very sub-standard. One of the reports I want to quote as one of the best was the Report that discussed the Public Accounts Committee when there was a problem in the 11<sup>th</sup> Parliament. It was tabled here. I am talking about the language that it was written in.

Our staff members are paid very well with very good insurance. There must be a serious personal space between staff of Parliament and Members of Parliament. Even the great men and women who serve us at the cafeteria must keep a personal space. There is a place meant for only Members of Parliament and there is a board that displays that very clearly. Colleagues, let us respect that. There used to be a very tough Serjeant-at-Arms called Wendo. I wish we would get another Wendo in this Assembly. If you crossed with a visitor to the Members' area, he would deal with you properly. So, let us respect our staff and make sure there is personal space between us and them and let us motivate them. I am sure we will also bring issues in this Bill. Staff in this Parliament must progressively rise to positions. If you join Parliament, as staff, you must aspire to become a Clerk one day. So, we do not want somebody somewhere to run Parliament like an animal farm; that you have your own personal staff. We are telling the Clerks that they cannot discriminate against staff. They work for all the staff of this Parliament. There was a director of finance who left called Mr. Obudo. The moment Obudo left, the whole finance department of this Parliament collapsed. In the 10<sup>th</sup> Parliament, a member of staff used to bring us a form for mileage where we have tea. We used to sign and the same member of staff, two days or one week later would bring you the cheque. These days, Members of Parliament queue; their files are hidden and have to bribe staff of Parliament. We know. Members of Parliament bribe these days!

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Leader of the Majority Party, you should substantiate the bribery allegation. It is a very heavy thing.

**Hon Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, no. When I am on the Floor of the House, it is the time I can speak my mind: my free thoughts and free speech. The moment I leave the Chamber, I am gagged, but here I can say anything under the

sun. What I am saying is true. Hon. Members, please, do not bribe. It is your right. In fact, you should call the person to your office and demand service.

Thank you very much, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I will give the first chance to the Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Parliamentary Service Bill. I also want to start by saying that it is an observation that this Act has been in existence since 2000. It was enacted pursuant to the old Constitution under Article 45. Now, we are operating under the new Constitution and yet for eight years we have been unable to enact legislation that would actualise the provisions of that Article. We continue to operate as if the new Constitution does not exist. We have passed all the legislation anchoring all the other commissions that were required to be anchored in law.

That was not an oversight because we were very much aware of our responsibility. Maybe it is negligence in terms of our responsibility as a House. A time has come for this House to see it fit to debate this Bill and pass it. I thank the Chair and the leadership of the Departmental Committee on Justice and Legal Affairs which extensively looked at this Bill, sought the opinion of Kenyans as required by law and has done a very comprehensive report from which we will derive a number of amendments to make this Bill much better.

The first question that one would want to ask in any organisation is the core function of that institution. I used to work with the University of Nairobi in the Finance Department. We were always reminded that the core function of the University of Nairobi is to teach and do research. Any other services being provided whether it is student welfare, catering department, halls department, finance, procurement and so on, were the support functions of the University. The question you need to ask is: What is the core function of Parliament? It is legislation. Therefore, I want to ask: If there are no Members of Parliament, would we have a Parliament? If we have all the staff from the Clerk to the lowest cadre of staff without Members of Parliament, is that a Parliament? The answer is no. Parliament exists because of legislation. Parliament exists because there are Members of Parliament. Without Members of Parliament, you have no Parliament. Therefore, in this Bill, it is very important and critical that issues of Members of Parliament are addressed.

I want to disagree slightly with the Leader of the Majority Party. It is not just Members of Parliament who are addressed by this Bill; it also addresses the issues of staff of Parliament. We are in this Bill handling issues of Members of Parliament and also issues of staff. It is for a good reason. The Judiciary has the Judicial Service Commission (JSC) which looks into the interests of members of the Judiciary. It goes without saying that when it comes to services and facilities for the Judiciary, it is the JSC that has a primary mandate and responsibility to provide the same to Members of the Judiciary and nobody has ever complained about it. In fact, we appropriate funds religiously to the Judiciary to provide facilities and services so as to make the work of the Judiciary possible.

The Public Service Commission also has a responsibility to ensure that the public sector functions; that facilities and services are provided for those who work in the public sector to provide service to the public. Equally, Parliamentary Service Commission has a responsibility

and a duty to provide facilities and services to Members of Parliament so that Parliament can function. I do to think there is any apology.

This Bill has touched on a number of issues. It talks about setting up the Parliamentary Service. It sets out the Parliamentary Service Commission, the membership, the values - what we need to follow as those who are governed by this law. There is the code of conduct as the Leader of the Majority Party has said. I had noted it but I do not want to dwell on it because that would be repetition. There is also how to constitute the Commission.

I want to agree with the Leader of the Majority Party that just the same way we bring the Commission into office, there should be a way through which if we are dissatisfied with the performance of the Commission, we can have them exit the office. You cannot hire someone you cannot fire. I have never come across a situation where you hire a person that you cannot fire. There must be a procedure of how the commissioners are removed.

I want to be, and I hope I will be understood in the correct context. If, for example, in the JSC...

*(Several Members consulted loudly)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! Is it Bomet corner?

**Hon. John Mbadi** (Suba South, ODM): Yes. There is a Bomet corner.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Bomet corner, please consult in low tones.

**Hon. John Mbadi** (Suba South, ODM): The Bomet corner is led by the woman representative.

**Hon. Member:** They will walk out.

**Hon. John Mbadi** (Suba South, ODM): No. They are not going to walk out on me.

Hon. Temporary Deputy Speaker, before I was interrupted, I was saying if, in the JSC, you are representing the Court of Appeal, there is no way you can act contrary to the needs of the Court of Appeal Members. They would remove you. In our case, if you are representing Jubilee in the Commission, it does not make sense that you fight the same Jubilee. By the way, we have our freedom. If you want to fight Jubilee, you simply relinquish the position that you were given by Jubilee and you go do your things. Commission is such a senior position that if you have been privileged to be allowed by a coalition or your political party to serve them in the Commission, some level of loyalty is required, and I dare say decorum.

There is something that I need to talk about. I have been here for a while now. When I look around, the person who has been here longer than me is probably Hon. Cecily Mbarire. I do not see Hon. Angwenyi.

I know there have been a lot of negative reports about anything that Members of Parliament try to do which is touching on Parliament. It is usually scandalised. As our women colleagues said yesterday, dehumanised –you look as if you are not a human being. I do not fear constant criticism but criticism should not be taken out of context. When I read some of the things that I read in the media, it baffles me. When you talk of Members of Parliament trying to create a medical cover that will ensure that inpatient is Kshs10 million for every Member, that is what is already in place. We have that inpatient of Kshs10 million. Go to these parastatals like Kenya Power. Their inpatient for some middle level staff is higher than Members of Parliament.

I am not saying that Kenyans should shoulder more burden, I am saying if you are criticising or critiquing what Parliament is doing, employ some level of objectivity.

There is this thing about diplomatic passport. My background does not allow me to understand many things. Actually, I am yet to understand the major benefits of this diplomatic passport. I am being educated. I was listening to Hon. Duale. I do not own one. I am being told if you have it, you will be policed by National Intelligence Service (NIS). I do not want to be policed, I want to be free. The question is: At what extra cost if you give it to the Members of Parliament? When we walk with other Members of Parliament, they are cleared faster than us when they have these diplomatic passports. The question is: Does it come with an extra cost? If it does not, why criticise it? What is the harm? Is it just because anything that Members of Parliament talk about becomes a crime? When you talk about the food in the restaurant, you are told you want continental food. By the way, I thought we were all buying this food that we eat. If I walk to Intercontinental Hotel and I am served some lousy food that I do not like, I will complain right there. If I walk to Kenyatta Market for *Nyama Choma* and it is not properly done, I will not just pay, I will complain. If I am served food that I do not think is good here in Parliament and I am paying for it anyway, and I complain, it becomes a crime. Why do you give me bad food that I am buying and you expect me not complain? Those criticising Parliament should target areas where they think Parliament is going out of the way. It would make sense. But critiquing and criticising every aspect of our lives is being unfair.

You will hear talks that Members of Parliament are buying fuel guzzlers, *et cetera*. Most of these Members of Parliament have four-wheel drive cars. The question is: Is it a luxury for a Member of Parliament? For us it is a requirement. I would tell you that if I had good roads in my constituency, I would want to buy a Mercedes Benz. I would not want to buy these four-wheel drives that I have, I would want to buy a Mercedes Benz or I would even go in a Vitz. These small cars are very comfortable. It is like you are seated on the floor and you move comfortably. But with the kind of roads that we have... that is why most of these MPs would not buy Range Rover vehicles because that is a luxury car. It would break on our roads. So, we go for these vehicles not because we want, but because of the roads. Someone will ask why we are not pushing hard for the roads. How hard can we push? If you want the roads to be done, then it is not done because of lack of resources. I know I will be told that we are increasing our salaries and that is why there are no resources. How much can you accumulate from these salaries of Members of Parliament even if we were to work for free? Even if you accumulate it for 10 years, would you even do 10 kilometres of tarmac road with the salaries of Members of Parliament?

As a country we are using excuses for mediocre performance sometimes by our system or the Government. It is mediocre because we get our priorities wrong in terms of managing our economy. I think going forward; this House has been challenged enough. It is high time we collectively started holding the Executive to serious account for the resources that we vote to these Ministries. We cannot continue voting for money to the Ministries and that money is wasted.

Finally on that point, we continue to allocate a lot of resources to counties and the amount of money that is lost in these counties in one financial year... One single county loses on average not less than half a billion shillings. There are reports that we have seen where someone could get over Kshs2 billion out of this country. Where are our investigative organs? Where is the security? How can you get out of this country with Kshs2 billion as a single individual in a period of less than five years? It means that there is laxity in our system of monitoring the



conduct of affairs of Members. By the way, I hear people saying that if you go for *Harambees*, no one should ask how much you give. Why then ask Mbadi to explain and justify when I have Kshs1 million in my account and you cannot ask me when I contribute Kshs1 million? It is the same. If you are caught having a lot of money or resources you should be able to explain, the same way you should explain the resources that you use. Let our organs that are tasked with the responsibility of ...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. I will give the Floor to the Member for Tharaka.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill. This Bill is here pursuant to the provisions of Article 127 of the Constitution. The Constitution of Kenya establishes the Parliamentary Service Commission and it proceeds to set out the mode of its establishment and the functions of the Commission. The Commission is also supposed to perform any other functions prescribed by the national legislation. It is important to also emphasise that this House has enacted Acts of Parliament in respect of the other organs of the State. The House has established the Public Service Commission Act for the Executive and the Judicial Service Commission for the Judiciary. For the last eight years or so, the House has not been able to establish an Act of Parliament in respect of its own self and in consonance with Article 127 of the Constitution. It is fortunate that this House now has the task to establish an Act of Parliament that is going to govern the Parliamentary Service Commission. This is why today; we debate on the Parliamentary Service Bill that is before the House.

A lot has been said out there with regard to what the House is doing. The Press has said that the House is out to enhance its perks, its salaries, give itself more benefits and everything else that goes with what they term as a greedy House. Nothing would be far from the truth with regard to this because we are required by the Constitution to pass a law such as what we are doing today. We are also required to ensure that our own institution is entrenched in a legal statute, in an Act of Parliament. We cannot escape this even if we went whichever way; we have to enact this law. It is my view that we should not shy away, we should not show remorse, and we should not regret that we are doing this. We are required to do this by the law and we must therefore do it. The Parliamentary Service Commission is not for 12<sup>th</sup> Parliament, it is a commission that has regulated Houses previously. It will continue to do so until such a time that either the Constitution changes or it will be there for eternity. Therefore we have to entrench this Commission in law. What does the Act entail? The Act entails what the Parliamentary Service Commission will be in terms of its establishment, its staff, functions and what it is supposed to do. Under Article 127 (6)(a), the first function of the Commission is to provide services and facilities to ensure the efficient and effective functioning of Parliament. The Parliament consists of the National Assembly and the Senate. It also includes the staff members who work under it. Therefore, the Constitution promulgated by the people of Kenya makes a provision that will be a Parliamentary Service Commission. The people of Kenya considered this particular provision, found it good, included it in the Constitution and passed it.

Today, we cannot turn around and say, it is a bad provision. It is a provision that was passed and approved by the people of Kenya and whatever it provides is good for them. It is for that reason that I want to say, the Bill we are debating today has contents or provisions which provide what facilities and services the Parliamentary Service Commission will lender to MPs and staff. It also has provisions relating to other functions which are set out in the Constitution that have been approved by the people of Kenya.

Today, everyone should understand that we are not even defying wise counsel from His Excellency the President and all other leaders, that MPs should not increase their perks. We are not increasing our perks or benefits. There is no provision in this Bill that says we are increasing them. We are ensuring that everything that happens under the roof of Parliament is legislated and anchored in a section of the law. So, as it has been ably presented, we do not have to go round begging for what is rightfully ours. Let us entrench it in the law, and have it enforced in the best way possible bearing in mind that we have a country whose interest we have to protect.

Therefore, this law is part of the protection of the interests of this country. It is important to remind everybody in Kenya that this country cannot function without a functional Parliament. If this Parliament does not function, the country will ground to a standstill. Parliament must legislate, exercise its oversight law and conduct the budgetary process of this country. If there are facilities and services that must be extended to this House so that it is able to discharge its duties perfectly then so be it. This is why we are passing this law. Whatever will make Parliament to perform its duties in a manner that is dutiful, we will legislate.

For those reasons, it is my humble view and I want to urge Hon. Members to consider this Bill. Effectively, there will be numerous amendments which will be proposed from all quarters. If those amendments are for the good of the people of Kenya, the legislative arm of the State and everyone we will pass them. If they will be bad and not acceptable to the people of Kenya, we will reject them. For now, I take the stand that we should pass this Bill and move on to have an Act of Parliament that is in charge of the Parliamentary Service Commission.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Kiminini, Hon. Chris Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill because it is long overdue. I say this because as Parliament we passed other legislative policies that were operationalising other independent commissions. Unfortunately, for Parliamentary Service Commission we had not passed it, I think it is because Parliament already had something that existed before.

Today, as we debate this Bill, there are good and bad things in it. We are here to speak about them so that when it comes to the Committee of the whole House, we make amendments. I was just reading about some Australian politician, who said that Parliament reflects the will of the people. For Parliament to function successfully there must be a joint responsibility of Government and opposition. The core business of Parliament is to legislate and under Article 127 of the Constitution, it is very clear that the Parliamentary Service Commission must be able to provide facilities and services for Parliament to act effectively and efficiently.

For you to bring a Bill, you must research. You cannot just wake up and bring a Bill here. For you to do research, you must be facilitated. The position of a MP is unique. Hon. Members have two offices, one at the constituency level and another one here. It goes without saying that when it comes to facilitating, the Salaries and Remuneration Commission (SRC) cannot handle it. This is because it does not understand the challenges and circumstances of this Parliament. Article 127 of the Constitution is clear, that when it comes to issues of remuneration let SRC handle them. When it comes to matters of facilitating, it is the responsibility of the Parliamentary Service Commission.

I want to address the issues of commissioners because this is a unique Commission. I know in line with Chapter 15 of the Constitution we have independent commissions. The Parliamentary Service Commission is an independent commission but it is unique. When it

comes to commissioners we have those who come from outside and those we voted for in this House. It is important for us to put in the law how this House can put a commissioner and how to remove. If we have a commissioner who is not taking care of the interests of Parliament, it is this same Parliament that should remove that person. When it comes to the Committee of the whole House I will bring an amendment.

The moment commissioners are appointed they become rogue and forget the interests of the parliamentarians. We have been complaining severally, but the moment they go there they keep quiet. Some of them go there to take care of their own interests. We are not going to allow this. If this Floor brought you as a commissioner, it can as well remove you. When you look at our Standing Orders, it is very clear. You can be removed through a vote of no confidence. At the Committee of the whole House I am going to propose an amendment that, if you are a commissioner through Parliament, you should be removed by a vote of no confidence. We cannot be taken for granted.

When you look at Article 127 of the Constitution, it says how the composition of the leadership of the Parliamentary Service Commission should be. It clearly states that the Speaker of the National Assembly shall be the Chairman. It goes further to say that the Clerk of the Senate is the Secretary of the Parliamentary Service Commission. Some of us have our reservations about the amendment they are bringing on the Floor, particularly on Article 127. We cannot legislate to target individuals. We are legislating for posterity.

Article 93 of the Constitution is clear: It talks of Parliament having two Houses - the National Assembly and the Senate. So, it goes without saying that if the Chairman of the Parliamentary Service Commission is from the National Assembly, obviously, the Secretary is the Clerk of the Senate who is the Chief Executive Officer (CEO) of Parliament, as we talk. We cannot say we have joint services and we must create another office. We are creating that office for whom? We want accountability. In line with other independent commissions where there is consistency, the Secretary of the Commission is the automatic CEO of that particularly entity. So, I am not convinced with that provision that has been brought. We cannot legislate because we are targeting a few issues here. We cannot legislate because someone wants to be the Authority to Incur Expenditure (AIE) holder to target some procurement process in this Parliament. That one is not allowed.

You do not become a commissioner to go and enrich yourself. We are saying no. We want consistency and Parliament is not going to be an exception. The Clerk of the Senate shall remain the Secretary to the Parliamentary Service Commission and more importantly will be the CEO. As such, he is the accounting officer, AIE holder and is in charge of all joint services. This is a House of debate and tradition. This is how Parliament has been. Why is it that all of a sudden we want to bring a piece of legislation and you say here it will only be one or two terms just like others, yet we have seen Parliament is unique? That is why you see commissioners come from outside and others are elected Members of Parliament. So, some of us are uncomfortable. We are not convinced at all because in this Parliament, some people have interests. They have their own targets. They know what they want and we are saying no. The accounting officer remains the Clerk.

This Bill, much as it does not involve the issues of counties, must go to the Senate. This Bill must go to the Senate and I am saying that because under Article 93, when you talk of Parliament, you are talking about the National Assembly and the Senate. So, it goes without saying that the Senate must have a say in this Bill. We are going to protest if this Bill will not go to the Senate. Senators, wherever they are, must stand up to be counted. This Bill must go to the

Senate for purposes of checks and balances. When you have two Houses, the purpose is to check each other. If someone wants to bring something because of malicious interest, then the other House can be able to check and say no. This is what we are calling upon. When it goes to the Senators, they must check what the National Assembly has put in place.

Otherwise, it is a good Bill. We are going to support it but when it has some mischief somewhere, we are not going to keep quiet. That is why we are preparing amendments to bring them when that time comes. I have a lot of respect for Hon. Cheptumo. When I was listening to him, I heard the issues of public participation and all the others he has said. He is a humble man and he means well. When it comes to the leadership of this House, we have the Leader of the Majority Party and the Leader of the Minority Party. These are anchored in the super law, the Constitution. We must find a way when it comes to the Parliamentary Service Commission because we are trying to operationalise that. Some of us who are in the leadership have a lot of responsibilities but when you look at the Parliamentary Service Commission, the recognition of the leadership must be anchored. The recognition of the Chairs of different committees must also be anchored. I went through it but I did not see this. So, when it comes to the Committee of the whole House, I am calling upon Members to come up with amendments so that as we put this law in place, it is inclusive. It must include everyone. We should not leave anyone behind.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You should be winding up.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Hon. Temporary Deputy Speaker, the days of this Parliament going to beg the Executive are gone. We must legislate everything here so that we do not have to go begging the Executive every time there is an election. Parliament must remain independent.

With those few remarks, I support and I will amend at the Committee of the whole House stage.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Amendments are always welcome. Next is Hon. Cecily Mbarire.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this chance to add my voice to the Motion that is before us on the Parliamentary Service Bill, 2018. I begin by first thanking Hon. Cheptumo and his Committee for the work they have done in terms of this particular Bill. May I say that this is a long journey that started way back in 1970 when one Hon. Jean Marie Seroney brought a Motion on 20<sup>th</sup> March 1970 that aimed at making Parliament an independent organ of government from the Executive. Although he did not succeed in achieving what he wanted, we saw those efforts taken up again in 1998 by Hon. Oloo Aringo and we had the establishment of the Parliamentary Service Commission. At the time, we are all aware that welfare was not taken care of very well. The Executive wanted to control what Parliament did. One way they felt they could control how parliamentarians behaved and run government business was to make sure that they were not properly empowered, whether in terms of their salaries, staff and in terms of having the capacity to bring the necessary legislation as Private Members. The result was that the performance was not very good. However, we have seen that, that independence has now grown over the years and we really must continue to support any effort to make Parliament truly independent to make sure that Parliament has the necessary support to do its legislative and oversight role as enshrined in the Constitution.

In this Bill, I am extremely happy that we have gone into what the values of the Parliamentary Service Commission shall be and also the values of the staff and employees of

Parliament. This has been lacking. It is actually worrying that we have been able to pass legislation for the establishment of all the other commissions other than the Parliamentary Service Commission. So, I am happy to see that we have enshrined critical values that we will take up as the Parliamentary Service Commission and as the employees of this Parliament so that we can be able to maintain the dignity of this House and we can understand that there are certain things we must uphold as Members of Parliament as enshrined in the Constitution and we must be the ones leading by example.

Let me talk about the need to support caucuses of Parliament. I am talking about this out of experience. I have been in several caucuses of Parliament. One of them is on Sustainable Development Goals (SDGs). I have been a Chair of the Kenya Women Parliamentary Association (KEWOPA), a very powerful and strong caucus of this House for the women parliamentarians. I have also been in one which we used to call the Parliamentary Network on World Bank. Those caucuses are not very well supported. I am happy that KEWOPA has support in terms of parliamentary office and in terms of free space but we need much more support especially when it comes to meetings and ensuring that the workings of these caucuses continue because they add value to what happens on this Floor in terms of issues, legislations and in terms of lobbying for budgetary allocation to key issues that these caucuses are pushing for. Therefore, it will be important that going forward, we can have Parliament actually second members of staff into those caucuses so that they are adequately supported in terms of technical support and they can do their work on a day to day basis and they do not have to keep running to donors for support. I really hope that we are going to push that amendment so that caucuses may become properly supported and recognised so that they can do their work because they are very critical. I hope that the chairman of the committee has heard this so that it can be part of the amendments that we bring on the Floor.

Let me also talk about the support to the House leadership and also Members of Parliament. The House leadership needs a lot of support in terms of technical staff, especially in the area of research. More often than not, when you go to researchers who are already available in Parliament, they are too busy doing work for committees and, therefore, they do not give adequate support either to the House leadership or to Members of Parliament who want to bring Private Members' Bills. That has made Private Members' Bills very expensive because you are forced to look for external support which you have to pay for. You have to conduct public participation and it becomes very expensive. We are not seeing a lot of Private Members' Bills finding their way to the House because of that challenge. I hope that as we think about the Parliamentary Service Bill, we will ensure that provisions for technical support of Members of Parliament and the leadership are clearly mentioned in the Bill.

We have seen the establishment of the Parliamentary Service Commission and the qualifications of the commissioners, which I agree with. What is lacking is the process of removal of commissioners that do not perform. Those commissioners go there to support Members of Parliament and the staff of Parliament. Should we, as parliamentarians, feel that a particular commissioner or commissioners are not performing or doing what they ought to in our support, there must be a provision for their removal so that we do not have people who think they are there for eternity and there is nothing we can do about it. Just like other commissions, we need to provide for their removal.

On the functions that they are asked to undertake in terms of welfare, I want to talk about the issue of pension. In the past, some parliamentarians who left this House were almost subjected to poverty. We now have a pension scheme. I hope that the Commission will come up

with a clear way of ensuring that the pension scheme is run in an accountable way and that when Members leave, they do not have keep pushing for their money - they can get it without any problems. In this Parliament, we had to discuss the issue of former Members of Parliament who had not been paid their dues. I hope that going forward the Parliamentary Service Commission will look into the matter of pensions and make sure that they take care of the MPs who are in and out of the House so that we can take care of everyone.

I would like to add my voice to that of Hon. Chris Wamalwa. To avoid future conflict between the Senate and the National Assembly, it would be a good thing for the Senate to get a chance to have a look at what is in this Bill. It is a Parliamentary Service Bill that takes care of both the National Assembly and the Senate. If we are to pass it and forward it directly as the National Assembly, we are likely to start a conflict between the two Houses that we have been hoping can come to an end so that we work in harmony. There are commissioners that come from the Senate. Once we pass the Bill in the National Assembly, I hope we can forward it to the Senate so that they can also have a look at it and we avoid competition between the two Houses because it is not healthy for the entire Parliament.

With those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well, Hon. Cecily Mbarire. Let us have the Member for Mathare.

**Hon. Anthony Oluoch** (Mathare, ODM): Thank you very much, Hon. Temporary Deputy Speaker. I also rise to support this Bill.

I will begin by addressing the issue of whether this Bill should go to both Houses. I agree. This is a Parliamentary Service Bill. Parliament, as constituted under the chapter on the legislature, contemplates that we have the Senate and the National Assembly. As indicated by Hon. Cecily Mbarire, there are also commissioners from the Senate and the welfare cuts across. This Bill should go to the Senate.

Having said that, allow me to dissent with my good friend, Hon. Chris Wamalwa, on the issue as to whether the contracts of the CEO ought to be limited and also on the issue as to whether the National Assembly should have a hand or a say in the AIE holder. Those two arms of Parliament are co-equals. To suggest, therefore, that one arm of Parliament which is the Senate should provide a CEO whose term is not limited, contrary to known practices in employment and also to suggest that the AIE holder must be from the Senate is to pour cold water on the position of the National Assembly.

Secondly, there is the history of the Parliamentary Service Commission which was very well elucidated by the Mover, the Leader of the Majority Party and the Leader of the Minority Party. The current Parliamentary Service Commission Act is anchored on Article 45A and 45B of the old Constitution. As per the dictates of the current Constitution, Articles 127 and 128 as read together with the Fifth Schedule gave a timeline of five years for us to put this Bill in place.

In 2015, you will recall that a Bill of a similar nature was brought to Parliament and lapsed. To date, we have passed all other Bills which have been elucidated before but we have failed to pass a Bill that speaks to the welfare and well-being of MPs. Looking at Chapter 15 all commissions, without exception, have legislation to guide them. There is the Kenya National Commission on Human Rights (KNHRC), the National Land Commission, the Independent Electoral and Boundaries Commission (IEBC), the Public Service Commission (PSC), the Judicial Service Commission (JSC) and the Teachers Service Commission (TSC). They all have legislations to guide them. In my humble view, those commissions exist to champion, ring fence and protect the interests and the welfare of the persons for whose membership they exist.

I would like to speak to the issue as to why Parliament has shied away from discussing, debating or legislating on issues affecting them. This is something that I can only attribute to the bad name and mudslinging that is the collective duty of the media and now the presidency. With a lot of respect to my President, the wage bill is not contributed to by MPs. Somebody said it here that even if MPs were to earn zero shillings today, it would not add an inch of a road or reduce the tax burden on Kenyans.

I would like to share some statistics on how the Kshs3.02 trillion for the 2018/2019 Financial Year will be shared. Out of that, 54.3 per cent is utilised by the national Executive and 31.3 per cent of that is the Consolidated Fund. The Consolidated Fund is used, appropriated or disbursed by the national Government. Collectively, the national Government controls 85.4 per cent while the National Assembly and the Senate collectively control just a mere 1.4 per cent. We will not be embarrassed into not discussing the welfare and well-being of MPs on the presupposition or argument that MPs are trying to add to their salaries or remunerations.

I wanted to also point out the provisions of the Constitution. This Bill does not seek to add anything that is not already an entitlement within the Constitution. In the Sixth Schedule of the Constitution, it states quite clearly in Part 2 that the rights, duties, obligations and existing laws, things that accrued to MPs or anybody under the Constitution continued to be existing obligations after. What we are doing currently in terms of the mileage and other things that will be brought into this Bill are not adding onto our salaries. We are merely entrenching those provisions and entitlements into law, the same way it is entrenched for the Judicial Service Commission and other members of other organs.

Hon. Temporary Deputy Speaker, I also wanted to address the issue about equality among the different arms of Government. Parliament is not subordinate to the other arms of Government. The responsibilities that Parliament has must be funded in the same way that we have given 85.4 per cent of our Budget to the national Government. The roles of the National Assembly and the Senate are clearly indicated under Article 95 of the Constitution. The National Assembly represents the people of their constituency and their special interests. Parliament also exists to solve the problems of its people and the people they represent. We are in the unique position in which we sit everyday here to make legislation without, like what Hon. Cecily Mbarire has said, sufficient staff to help us with research and other things. We also run our constituencies. To date, our constituencies' members of staff have not been paid. I am going to propose, among other things in the Committee of the whole House, that we create a parliamentary fund similar to that in Article 173 that has created a Judiciary Fund. Every time when you need to go for a trip or seminar, you are told the Integrated Financial Management Information System (IFMIS) has failed. When you need your mortgage, you have to go back to the National Treasury in order to do the duties of an independent organ of Parliament. This is one of the things we must do in order to ring fence the independence of Parliament. I will bring that amendment so that we establish what mirrors that which is in Article 173 of the Constitution.

I support this Bill because it helps to delineate the boundaries between Parliament and SRC. The SRC is well established and its duty is to look at the salaries of State officers. When you are speaking about State officers, it is important that we look at Article 260 of the Constitution. It is very instructive that in defining State officers, the President is put first, the Deputy President, the Cabinet and then the Members of Parliament. In the pecking order as per this Constitution, we are supposed to be number four. However, this is not reflected in the manner in which Members of Parliament are treated. In public functions, you have to scramble to sit next to a Member of the County Assembly (MCA). If you manage to sit next to an MCA, you

will be very lucky. People whom we vet, appropriate money to and do other things to have more preference than us.

I want to support this Bill whose time has come. Let us not be embarrassed and intimidated. They can put all the headlines they need. As a Member of Parliament who represents people from Mathare, the headlines have said that we earn Ksh1million. I earn Kshs540,000 with no mileage. Somebody does not think that I need to run around and represent the people of Mathare Constituency. We will pass this Bill. We will ask the President that we respect him very much but kindly on this one, *atusamehe. Hata 8 per cent ya VAT, alileta, ukatuwhip, tukapitisha*. Why was it not important at that time to think about the tax burden on the people of Kenya?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Your time is up. The Chairperson of the Departmental Committee on Education and Research, I am aware you do not have your card. You can use the Dispatch Box. Members, please remember to carry your cards. That is how we identify you and for the purposes of recording to know who spoke.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to say that this Bill is very important to us because of the importance of Parliament as an arm of Government. Parliament as an arm of Government has to function very well and efficiently so that it is able to discharge its functions and duties as the representatives of the people and to legislate on issues that affect Kenyans.

I want to bring to note that this Bill is very important in the sense that when you look at the establishment of Parliamentary Service Commission, this Bill points out exactly how Commissioners come into office. These Commissioners detail what is supposed to happen and the functions of the various departments within Parliament. I want to bring to point that the office of the Parliamentary Service Commission, especially the Commissioners need to be strengthened so that services to the Members of Parliament are improved. I want to point out that the offices of the Clerks need to be strengthened, especially to have officers who are well informed and schooled in particular areas. The Department of Research is very important. The Drafting Department needs to be strengthened, so that when Members of Parliament have issues to be tabled, officers are able to go through those particular issues and draft them on time. As we speak today, we have insufficient staff. There are a number of issues that are supposed to be researched on, especially issues in other democracies like Parliaments in foreign nations like Canada. The Legal Department has given us a comparative analysis of some of the countries they went to. If you look at their Research Department, it is well entrenched. The members of staff are enough. They are able to serve the Members very well and write Bills and table them on time. They are able to research on a number of issues.

We can have issues affecting our constituents today but because of the lean staff whom we have, those particular issues cannot be well attended to. I remember a number of cases where we wanted to attend to peculiar issues affecting constituencies which are in far flung areas. I want to point out an issue affecting people such as the El Molo people of this country. We have no representative in this Parliament who addresses their issues. If we have a good Research Department, we will know how we can assist them. That will be very good.

Two, I want to talk about issues of human resource. This is a very important issue which I want to raise before this House. I will bring an amendment on this. This one affects mainly the employment, deployment and recruitment of staff. I want to bring to the notice of Members that although the Parliamentary Service Commission and the Office of the Clerk are supposed to recruit, it is good that we recruit staff to reflect the face of the country and constituencies in this



House. I want to bring to your attention that I have done a research. I have a paper that has separated the number of staff in each constituency in this House and the staff they represent. Majority of the staff in this Parliament come from 50 constituencies. Majority of over 100 constituencies do not even have a single staff. It is not good. The Parliamentary Service Commission should ensure that every constituency is represented here. The employment of staff is supposed to be constituency-based so that in the event that we are recruiting staff, any constituency in far flung areas like Mandera, North Eastern, Rift Valley, Coast and Central region are represented here. You realise that the staff who are the majority in this Parliament mirror the times the Commissioners were in this House. You realise that Commissioners who served for five or 10 years ago have their staff in Parliament. I know the same trend will continue today, if we will not stop it by ensuring that we have a very clear amendment, especially on the employment of staff so that each and every constituency is well taken care of and Kenyans are represented across the country. This Parliament will represent the face of the Republic.

I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Melly, you will have a balance of four minutes.

**Hon. Julius Melly** (Tinderet, JP): Thank you.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time being 1.00 p.m. this House stands adjourned until Thursday, 22<sup>nd</sup> November 2018, at 2.30 p.m.

The House rose at 1.00 p.m.