

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 26th August, 2015

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon.
(Dr.) Laboso) in the Chair]*

PRAYERS

QUORUM

Hon. Deputy Speaker: Hon. Members, I can see that we do not have a quorum. Could the quorum Bell be rung?

(The Quorum Bell was rung)

Order, hon. Members! The Bell may now stop ringing; we have a quorum. Settle down, hon. Members, so that we can begin.

PAPERS LAID

Hon. Deputy Speaker: Hon. Members, we have two Reports from the Committee on Finance, Planning and Trade. The Chairperson, or the Vice-Chairperson, can go ahead.

Hon. Gaichuhie: Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:-

The Report of the Departmental Committee on Finance, Planning and Trade on its consideration of the Tax Procedures Bill, 2015; and,

The Excise Duty Bill, 2015

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next Order!

NOTICE OF MOTION

ENTRENCHMENT OF GOVERNMENT

ADVERTISING AGENCY INTO LAW

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

THAT, aware that Article 35 of the Constitution entitles every citizen to access information required for enjoyment of their fundamental rights and freedoms; recognizing that advertising is an irreplaceable platform through which information is disseminated; recalling that the Government recently created a Government Advertisement Agency (GAA) vide Treasury Circular No.9 of 2015 on 10th June 2015; noting that the agency is, *inter alia*, mandated to authorize public sector advertising, implement sectoral standards, procedures and guidelines and manage consolidated Government advertising funds; concerned that the agency now requires all Government Ministries, public institutions and agencies to be subservient to it in procuring advertising services; worried that this conflicts with the Public Procurement and Disposable Act, 2005 that allows Ministries, public institutions and agencies to establish internal procurement structures; further concerned that GAA introduces a bureaucratic red tape in the procurement process, this House:

(i) notes that GAA is not entrenched in law and that Government Ministries, public institutions and agencies are not obliged to obtain approval of GAA in procurement of advertising services; and,

(ii) resolves that the National Treasury proposes appropriate legislation for consideration by Parliament with a view to establishing GAA as a statutory body charged with the management of public advertising and matters incidental thereto, pending which GAA should not continue to operate as a statutory body.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Harrison Kombe, are you on a point of order?

PERSONAL STATEMENT

CLARIFICATION OF DEFECTION CLAIM POSTED ON SOCIAL MEDIA

Hon. Kombe: Hon. Deputy Speaker, I rise under Standing Order No.84 to make a personal statement.

Last Thursday, Hon. Wandayi and I, on the invitation of the former, and probably the last Prime Minister, Hon. Raila Odinga, visited his office. The issue for discussion then was whether I could convene a meeting of salt manufactures in my constituency, so that he could address them and probably seek their support in the 2017 general election. I told the former Prime Minister that I was not in good terms with the salt manufactures and, therefore, I could not undertake such an exercise. I suggested that I could consult my Coast Parliamentary Group Chairman, Hon. Mung'aro, but he said: "Leave Mung'aro alone." I then told him that I needed to go and consult.

As we discussed, a lady took some photographs. Unfortunately, by 4.00 p.m. on that Thursday, the photographs were posted on social media with the caption "Hon. Harrison Kombe, MP Magarini Constituency, has defected from URP to ODM, which is a big blow to the Deputy President, Hon. Ruto."

(Applause)

Hon. Deputy Speaker: Order, hon. Members!

Hon. Kombe: Hon. Deputy Speaker, in itself, that amounts to defamation. However, the position is that I have not defected, I have no intention of defecting, and if I am to defect, I cannot defect from my progressive party to a non-progressive party. Swahili people say “*Fuata nyuki ule asali*”. I have no reason for not following the bees to get honey. I have no reason for following a housefly, which I know will take me to the pit latrine.

Thank you, Hon. Deputy Speaker.

(Several hon. Members stood up in their places)

Hon. Deputy Speaker: Order, hon. Members! There can be no debate on a personal statement. Please, follow your Standing Orders. Personal Statements are not debatable. Hon. Kombe clearly stood under Standing Order No.84, which clearly states that he makes his statement and that is the end of that matter.

Next Order!

BILL

Second Reading

THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! Can you settle down? We have moved to the Second Reading of the Parliamentary Powers and Privileges Bill.

Hon. Members, it is not upon you to judge whether what the Hon. Kombe said was a personal statement or not. Our Standing Orders are very clear. Therefore, Hon. Wandayi, let us follow our rules.

Proceed, Hon. Keynan.

Hon. Keynan: Hon. Deputy Speaker, just for general information, any statement made under Standing Order No.84 cannot be interrogated on the Floor of the House, period. One has to look for another opportunity to respond to what the hon. Member said. We need to respect our Standing Orders. Hon. Members will have to look for another platform to respond to the same. Unfortunately, that is the law and the law is an ass.

Hon. Deputy Speaker, I beg to move that the Parliamentary Powers and Privileges Bill (National Assembly Bill No.35 of 2014) be now read a Second Time.

Hon. Deputy Speaker, this House and I plead with my colleagues to listen to me in silence. It is not Hon. Keynan's Bill. This Bill has been prepared and generated by the Parliamentary Service Commission (PSC) as part of our mandate of being a welfare Commission.

Hon. Deputy Speaker, if you look at the provisions of Article 127, one of the functions of the Commission is to provide services and undertake other activities that are tailor made for the benefit of Members. What has informed this? For those of you who have had an opportunity to listen to both the print and electronic media, there is one former Member of Parliament called Hon. Gor Sungu, who has been taken to court. May be I will give out the details later.

Today, or in the next few weeks or so, unless maybe something drastic happens, he going to serve a civil jail term. Initially, when someone took him to the High Court, I think the award was Kshs3 million. He went to the Court of Appeal and it went to the highest court. Today he is expected to pay Kshs10 million. Plus interest, I think, it will be about Kshs30 million for utterances he made within the precincts of Parliament. Therefore, because all of us are vulnerable, we felt as a Commission that taking into account the provisions of Article 117, this Bill should have been enacted in the last Parliament. It should have been in place at the beginning of the 11th Parliament, but because it did not happen, as a Commission we sat down and came up with this Bill.

I felt I should clarify because I do not want someone to mistake me - I want members of the Fourth Estate to hear that it is not Hon. Keynan's Bill. It is a Bill generated by the PSC for the welfare of Members of Parliament who include the Senate.

Before I go to the contents of this Bill, I want also to go on record that members of the Fourth Estate, both the media practitioners and the media owners, have petitioned me as the Mover of the Bill and also the Chair of the PSC, who is also the Speaker of the National Assembly. I want to assure them that the suggestions they have made, in particular on enforcement, publication and broadcasting of certain parliamentary materials are worth considering. We will look at it at the right stage when we will be looking at the different provisions of this Bill. I also want it to go on record, because at times misrepresentation of facts has been the hallmark of parliamentary deliberations---- I felt I should do this and say that the representations made by a group called "Parliamentary Reporters, the Media Owners Association and the Media Practitioners" through the Speaker of the National Assembly, who is the Chair of PSC, and also through me as the Mover of this Bill, will be taken into account where applicable.

Having said that, I want to take this opportunity to move this Bill. In Part I, the preliminary, we have defined terms. Maybe before I say this, we have an Cap.6 of the Laws of Kenya called the "Powers and Privileges Act" of the National Assembly. In essence, that Act has become obsolete or redundant after the promulgation of the new Constitution, because it is anchored on a unicameral House. We have a bicameral House, which means we have two Houses. Therefore, that Act was to be amended after the promulgation of the new Constitution. Since this did not happen, this is the time when God has willed. I urge all Members - I know at times Members do not have time - to, please, get a copy of this Bill. This is about you as a legislator. Get a copy of this Bill, analyse it, interrogate it and look at the provisions and, where possible--- Where you think the Commission may not have captured certain provisions that you understand as a Member of Parliament, or where we might have gone overboard, please, make your informed suggestions at the right time.

The first part is the definitions; it is the preliminary. We have defined the Bill as "the Parliamentary Powers and Privileges Bill of 2014". It defines committee. A

committee in this sense as far as this Bill is concerned, means committee of the National Assembly or the Senate, or a Joint Committee of the Houses of Parliament. It means we can have a joint committee of both the National Assembly and the Senate. That is why we are defining it as joint committee.

There will be the Committee of Powers and Privileges, as you will see under Section 16 of this Bill. We have it right now. The way it is envisaged right now, it will have more powers and jurisdiction. Eventually, some of the issues we have seen being canvassed by busy bodies or NGOs and other entities, sometimes giving Parliament the wrong image, will be addressed. It is going to be a very powerful committee. I hope once this Bill is enacted that committee will do some of those things.

A House of Parliament means the National Assembly and the Senate. Journal is a new definition. As you will see it under certain sections of this Bill, it means minutes and official records of the House of Parliament whether audio, electronic or in any other form, including all papers and accounts howsoever presented to or belonging to the Houses of Parliament, or any other records of proceedings of Parliament. In the past this was lacking.

A Member is a Member of the National Assembly and the Senate. A member of staff, in the past was not covered. It also defines who a member of staff is. National Security as defined under Article 239 (1) is defined. Parliament is also defined.

The critical thing in this particular Bill is to define, first of all, what constitutes the precincts of Parliament. Precincts of Parliament have had different definitions in statutes and in other jurisdictions in constitutional definitions. Others are in precedents, traditions and court rulings. In our case, we felt we should be fair and more civilised if we contextualise this and define what we consider will constitute precincts of Parliament. In the particular judgement against Hon. Gor Sungu, there was a definition problem. This is one thing that this Bill attempts to cure, so that any layman or any would be litigant will understand once this Bill is legislated what we will have. In law, there is something called the original intention of the Mover. In the original intention sometimes, even in courts, people refer to the minutes of a particular judicial decision. The intention of this House, or the intention of the Commission, when we define this should come out clearly.

The precincts of Parliament shall comprise that area of land and every building or part of a building under Parliament's control including - there was a definition problem and we felt we should clarify this - the Chamber in which the proceedings of Parliament are conducted, including the Galleries and lobbies of the Chambers. That is the first definition.

Two, all parts of the building in which the Chambers are situated including the entrances, the fore courts, the yards, the gardens, the enclosures and all open spaces.

Three, committee rooms and other meetings places provided or used for parliamentary purposes. This definition was missing.

Four, offices of Parliament including--- Right now you realize, and Members will appreciate this, that there are some Members who have their offices in KICC. There are Members who have offices outside somewhere I do not have the name. What this Bill attempts to define is the work place of a Member of Parliament or a member of staff, so that utterances made in certain--- You will realise how critical it is because in this Parliament, being a transitional one, we have been unfortunate because most of us did not

get enough office space in areas where ordinarily our offices are supposed to be located. Because of this new challenge, you will realise that some of these serious legal challenges, in particular for this 11th Parliament--- That is one of the definitions.

The other definition of precincts of Parliament is:

“Places provided for the use or accommodation of the members, members of the public and representatives of the Press used in connection with the proceedings of Parliament or its Committees.”

This further clearly qualifies what constitutes the precincts of Parliament. Paragraph (f) of Clause 3(1) is critical. It reads:

“All other buildings or parts of a building provided or used in connection with the proceedings of Parliament or its Committees while so used by Parliament, including such premises as may be leased by Parliament.”

Therefore, if because of certain challenges we decide to lease a facility, that facility by definition becomes part of the precincts of Parliament. Nobody will say: This is not Parliament because it is not the space or land allocated to Parliament. I want to inform Members that the legal team of Parliament considered and analysed the court rulings from the High Court to the Court of Appeal and the Supreme Court on the unique case of Hon. Gor Sungu. We learnt a lot. These are the issues that we are addressing. The courts made a pronouncement, which must be respected. It is up to us to legislate and seal the loopholes that were exploited in that case.

Clause 3(2) provides that:

“Where Parliament or a committee convenes outside the premises ordinarily used for its sittings, this Act shall apply as if the premises where Parliament or the committee is sitting were within the precincts of Parliament.”

We have had challenges with the definition of the precincts of Parliament. All of us are in committees. Sometimes we travel, either within or outside the country. The facility which a committee uses for its sittings, as long as it is in a formal session, will qualify as a precinct of Parliament. This is critical because the current Act does not cover it.

When these issues are not clearly defined, you get different interpretations, which sometimes mislead even the courts. In legal parlance, people normally say there are as many opinions as there are lawyers. You do not know who is likely to sway the thinking or the final persuasion of whoever is presiding over a particular case. That is why we felt we should be crystal clear in the definition of what constitutes the precincts of Parliament.

The National Assembly and the Senate are organs established under Article 93 of the Constitution. This Bill will eventually go to the Senate. Article 94(1) of the Constitution provides as follows in relation to the role of Parliament:

“The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.”

Parliament is therefore a critical institution. Article 109(1) of the Constitution explains how Parliament executes its legislative role. It provides that:

“Parliament shall exercise its legislative power through Bills passed by Parliament and assented to by the President.”

It is important to note that, that unfettered constitutional mandate is second to none. In some jurisdictions, there is no clarity as to which of the three arms of Government is superior. Is it Parliament, the Executive or the Judiciary? If I was asked the first arm of Government, without fear of contradiction I would say it is Parliament. The Executive comes second and the Judiciary is third. This is because this is the arm that originates every legislative mechanism that enables the functioning of different institutions of the Republic of Kenya. Therefore, it is the mother arm of the other arms. You might agree or disagree, but that is my perspective. In other jurisdictions, they say the first arm is the Executive, the second arm is Parliament and the third arm is the Judiciary. However, that is the definition that I hold as long as I continue to represent people.

(Loud consultations)

Hon. Deputy Speaker: Order Members! The level of consultations is high. This is a Bill about yourselves, Members. You need to take keen interest in it as a House.

Hon. Keynan: Hon. Deputy Speaker, Article 117(2) of the Constitution provides that:

“Parliament may, for the purpose of the orderly and effective discharge of the business of Parliament, provide for the powers, privileges and immunities of Parliament, its committees, the leader of the majority party, the leader of the minority party, the chairpersons of committees and members.”

This Bill makes provision for regulating admittance to and conduct within the precincts of Parliament. Article 117(1) of the Constitution provides that:

“There shall be freedom of speech in debate in Parliament.”

The word is ‘shall’. The framers of this Constitution were not naïve. They knew the national representatives had to be protected. Luckily, this Article is so clear. Therefore, this Bill attempts to put this Article into effect. Matters that might not have been clearly explained under Article 117 of the Constitution have been clearly spelt out in this Bill. Once this Bill is legislated, I have no doubt in my mind that Members of Parliament will be more robust, articulate and fearless. They will respond to issues timeously. Right now there is the fear of the unknown hanging above their heads because you do not know where what you are about to utter is likely to take you.

We should have done this in the last Parliament. This Bill should have been in place by the time the 11th Parliament came into session. The National Assembly (Powers and Privileges) Act, the current law on this subject, does not envisage the bicameral structure of Parliament. This Bill takes into consideration the bicameral nature of Parliament. It also covers some of the issues that may not have been envisaged by the framers of the current Act, which is Cap 6 of the Laws of Kenya.

The main objective of the Parliamentary Powers and Privileges Bill, 2014 is to give effect to Article 117 of the Constitution. I have already explained Part I of the Bill. Part II of the Bill describes the areas that constitute the precincts of Parliament, which I

have also explained. I hope and pray that colleagues will contribute to this Bill. There are copies of the Bill in Room 8. I want the indomitable Hon. Linturi, who is a lawyer in the making, to also listen to me.

Part III provides for the privileges and immunities for Members. I want to plead with the Members to look at this Part, critically, interrogate it and come up with any amendments that will further reinforce the intention of this Bill. The Part provides for privileges and immunities of Members, their freedom of speech in Parliament, immunity from legal proceedings and freedom from arrest for civil debt during the session of either House.

During the one-party era when freedom of speech was limited, sometimes Parliament acted as a sanctuary for those with divergent political views. This was the only institution where you would not be arrested by the then dreaded Special Branch. We might have passed that age because we now have a generous and one of the most reformist constitutions.

Sometimes, the law is one thing and the application is another. You never know when we are likely to have a rogue head of State, or heads of institutions. Therefore, the law is the only protector. This is why it is important that some of the issues that may not have been envisaged must be clearly spelt out. I said there is freedom of arrest from civil debt during the session of Parliament. This Bill gives circumstances where proceedings of Parliament, or Committees, are barred from being given as evidence in court, or when that can be allowed. This Bill attempts to provide a *modus operandi* on how parliamentary recordings and proceedings are supposed to be used by any would be litigant. I also want to remind Members of Article 125 of the Constitution. This is the bit that all of you must worry about, as legislators; this is a hanging article. Article 125 (1) of the Constitution says:

“Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.”

Article 125 (2) of the Constitution says:

“For the purposes of clause (1), a House of Parliament and any of its committees has the same powers as the High Court.”

Hon. Deputy Speaker, I just want to remind Members of the amendment by Hon. Kaluma yesterday. Many of us may not have appreciated it. The amendment takes this into account. I really want to use this opportunity to thank Hon. Kaluma for having brought that critical amendment to the Constitution. It is not my intention to discuss the functions the Judiciary. God forbid; today nothing stops a rogue judge from injuncting Parliament from having the Wednesday 9.30 a.m. session. There is nothing in the Constitution. Somebody can go to court and say that Parliament shall not sit for the next one year. For those of you who were not aware, what Hon. Kaluma did yesterday--- I am surprised at the way the media is reporting. It is not that we are covering Parliament. Article 165 of the Constitution says that the court cannot injunct what is before an environmental tribunal, but it says it can stop any other.

You can imagine the level of impunity in the minds of those who drew up that particular article. Therefore, none of us should fear. I ask the media to report correctly what Hon. Kaluma did. What Parliament passed yesterday is not an attempt to coerce and

intimidate the media or any Kenyan. What he did is a neat way of allowing different institutional functions. I urge you that when it comes for Third Reading, all the 349 of us should be present to signify the importance of that Bill. I urge the media to correctly inform the public because information is power. Under Article 35 of the Constitution, please inform correctly. The intention is not that. The intention is to allow for a cleaner and neater operation of different institutions. I, therefore, congratulate Hon. Kaluma for a job well done and congratulate Members who devoted time and energy to be around to provide the two-thirds constitutional requirement.

Article 125 tells us that we have the same powers as the High Court. Is there anyone of you who has exercised the powers exercised by the High Court judge? Is there any? I have not heard the Speaker, a committee chair, the Leader of the Majority Party or a Member of Parliament exercise this power. The intention of this Bill is just to allow Parliament to function independently. Its intention is not to usurp the functions of the Judiciary. Therefore, what this Bill does is to provide for the *modus operandi* of how we are supposed to summon, interact and interrogate witnesses. The witnesses have the same rights as Members. Currently, the Powers and Privileges Act, Cap 6 of the Laws of Kenya, does not provide for the *modus operandi* between Parliament---

*(Hon. Linturi and Hon. Ekomwa
consulted while standing)*

Hon. Deputy Speaker, it is like there is a debate there. I pray that you intervene. I pray that you ask my good friend, Hon. Linturi, who is a very serious lawyer in the making---

Hon. Deputy Speaker: Order! Order, hon. Members! Order, Hon. Linturi and Hon. Lomenen. You know the Standing orders. When you are in the Chamber, you should be seated or leaving. Choose one of the two.

Hon. Keynan: Hon. Deputy Speaker, the other thing I was trying to explain, which is part of Article 125 of the Constitution---

*(Hon. Midiwo and Hon. Naicca
consulted while standing)*

Hon. Deputy Speaker: That applies to the other hon. Members, Hon. Naicca and the Deputy Leader of the Minority Party. That order also applies to you. You should be seated in the Chamber or leaving but not standing.

Hon. Keynan: Hon. Deputy Speaker, Article 125 (2) (a) of the Constitution says:

“(2) For the purposes of clause (1), a House of Parliament and any of its committees has the same powers as the High Court—

(a) to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;”

All of you are in committees. How is this supposed to be exercised? It is not defined. Therefore, what this Bill attempts to do is to define this and provide a *modus operandi*. If you invite a witness, the rights of that witness must be respected. The Bill tells us how we are supposed to invite that witness, who is supposed to give the notice,

how it is supposed to be executed, what happens in case the witness fails to appear and how the witness is supposed to be treated when he/she appears before a committee, or when he/she appears before the House or any other arm of Government.

What this Bill attempts to do is to simplify the provisions of Article 125 of the Constitution. Article 125 (2) (b) of the Constitution says:

“(2) For the purposes of clause (1), a House of Parliament and any of its committees has the same powers as the High Court—
(b) to compel the production of documents; and”

Yesterday, I saw in the papers the leadership of the Public Accounts Committee (PAC) lamenting. I want to go on the record. No committee of this House shall lament in the execution of their mandate. You have the powers and everybody must respect the mandate of committees. You have every right to enforce the attendance of anybody under the Constitution. It is again because of this that this Bill attempts to provide how that critical function is supposed to be executed.

In the past, we have had challenges with witnesses who are either economical with the truth, or who are arrogant or aggressive. Therefore, if this Bill is passed, the law will be very clear.

I felt we should also look at that particular aspect. Because of time, Part IV deals with the breach of privileges. It tells us what happens to a Member of Parliament, a member of staff or a member of the public in case they breach the privileges. There are punishments for Members of Parliament, members of staff and members of the public, including the media. That is what Part IV deals with.

Part V is with regard to the production of witnesses. It tells us how they are supposed to be summoned, what parliamentary staff are supposed to execute and what other arms of Government that are working in tandem with Parliament are supposed to do.

Part VI provides for how the publication and broadcasting of materials is supposed to be done. Part VII deals with enforcement and how these things are supposed to be enforced. Part VIII contains miscellaneous provisions.

I want to provide copies of my talking notes. We have looked at what happens in different parliamentary jurisdictions. We have looked at what happens in South Africa and Zanzibar. I want to particularly refer Members to an informed parliamentary opinion by a famous British parliamentary specialist called Erskine May on Parliamentary Practice. I will provide these notes. Because of time, I may not go through them.

Look at practices in other democracies like South Africa, Zanzibar, the UK, USA, New Zealand, Canada, Ghana and India. In Kenya there were two unique cases before this Parliament that were very serious. One was between the Government and Hon. Kiraitu Murungi; the other one was between the Government and Hon. Raila and the State *vis-a-vis* parliamentary immunity. I will provide these notes.

Hon. Deputy Speaker, in conclusion, I want to tell hon. Members that this is their Bill. Next time we will bring The Parliamentary Service Bill. These Bills are being generated by your welfare commission. That is our work. To do what appertains to the rights of Members of Parliament and members of staff whom we represent.

The Bill is now before the Departmental Committee on Justice and Legal Affairs. That Bill takes into account critical welfare issues that have been denied to Members by

Ms. Sarah Serem. I urge you, as you look at it, to also interact with it. Time will come to interact with the Departmental Committee on Justice and Legal Affairs.

I beg to move that the Bill on the Powers and Privileges Bill, 2014 be read a Second Time and ask Hon. Makali to second.

Hon. Deputy Speaker: Hon. Makali

Hon. Mulu: Thank you, Hon. Deputy Speaker, for giving me the chance to second Hon. Keynan on this important Bill.

I will start by thanking the Commission for coming up with this Bill because as it has been said, this Bill is focusing more on the welfare of Members of Parliament. It is also bringing on board the fact that we have two Houses now, the Senate and the National Assembly.

Before I put my points forward, I would like to quote what the Constitution says, so as to put this debate into context. Article 94(1) of the Constitution says:

“The Legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament”.

Article 94(2) says:

“Parliament manifests diversity of the nation, represents the will of the people and exercises their sovereignty”.

Article 117(1) says:

“There shall be freedom of speech and debate in Parliament”.

Article 117(2) says:

“Parliament may, for the purpose of the orderly and effective discharge of the business of Parliament, provide for the powers, privileges and immunities of Parliament, its Committees, the Leader of the Majority Party, the Leader of the Minority Party, the Chairperson of Committees and Members.”

Looking at those two clauses, the importance of this Bill is to ensure that parliamentary privileges are provided to make sure that Parliament survives, and at the same time ensures that it discharges its constitutional mandate.

As Members of Parliament, there are many ways we can undertake the work of a parliamentarian in terms of what we call parliamentary proceedings. This can be done through speech as I am doing. At the same time, it can be done through voting where we debate then at the end of it we are required to vote. At the same time, it can be done through presenting a Motion to the House. It could also be done by having petitions. It could also be done through participation in committees.

You realize that since we represent the people of Kenya, this Bill is trying to ensure that, as Members of Parliament, we cannot be sued neither can we sue as we undertake this important national responsibility. That is why I want to appreciate Hon. Keynan for spearheading this process. We must appreciate, as Members of Parliament, that Hon. Keynan has done a lot of work to ensure that the welfare of Members of Parliament is taken care of. This is one of the many things he has done. You must appreciate the effort which has gone into preparation of this Bill.

The reason why Members of Parliament need to take this Bill seriously is that when you look at Part II of this Bill, it defines what precincts of Parliament means. Looking at the case of Hon. Gor Sungu, as has been said, it is reported that he was

commenting on something within the precincts of Parliament. For the fact that he was not inside the Chamber, he was taken to court and we know what has happened.

This Bill is trying to make sure that Members of Parliament are not gagged as they do their work and they have the freedom to undertake their responsibilities without any fear. This is very important because as we move forward as a country; we need to make sure that, just as we appreciate and respect separation of powers, we make sure, as parliamentarians, we do our work; we have no business to look back to see who is behind us, or look sideways to see who is beside us. This, at the end of the day, will ensure that we shall do our work professionally.

If you look at other countries where individuals or organizations who have taken Parliamentarians to court complaining about them going against the law as they were undertaking their duties, the rulings have always made sure that parliamentarians are not punished. The rulings have confirmed that as parliamentarians do their work they should not be interfered with.

The other important thing is, even as we go ahead to make this Bill a law, we need to think about our county assemblies. I plead with them that when this law goes through, they also enact laws with the same thinking, so that they are also protected while undertaking their work. The county assemblies are also legislative assemblies. They make laws just as we do. They represent people and also provide oversight.

The other important thing is the issue of ensuring that as a Member of Parliament, even when you are doing your work, you are able to do all the research you require and when you get inside the compound of Parliament, you can say all you want to say; but we need to note that outside the precincts of Parliament, we must be careful and ensure that we do not say things which should have been said while inside this compound. In that way, we will make our work easier and ensure that we will have no problem doing our work.

Hon. Deputy Speaker, I urge my colleagues in the House to take time to read through this important Bill, and ensure that when it comes to Committee Stage all the necessary amendments will be considered to make sure that we have a law which protects us as Members of Parliament.

With those few remarks, I will conclude by urging Members to take time, read through and make sure that we have the best law.

Finally, I want to appreciate all the Commissioners of the Parliamentary Service Commission for ensuring that this is going to be a law which protects Members. With those remarks, I second.

Thank you very much.

(Question proposed)

Hon. Deputy Speaker: On my list, I can see Hon. Maanzo. He is the first one on the list.

Hon. Maanzo: Thank you, Hon. Deputy Speaker for giving me an opportunity to support this very important proposed law. It used to exist previously but on the coming of the new Constitution, parts of it became unconstitutional, necessitating the enactment of this Bill of 2014.

I also want to join others in thanking Hon. Kaluma for coming up with an amendment to the Constitution, so that Article 165 of the current Constitution which refers to the High Court privileges and its proceedings, also applies to Parliament because of the issue of separation of powers. What has been happening in the recent court matters relating to privileges enjoyed by Parliament is that the courts have reasoned that an Act of Parliament which has been existing, including the one we are enacting, is inferior to the Constitution. Therefore, unless there is a constitutional provision to that effect, the provisions of the Constitution take precedence. There is need to amend the Constitution to put some of the requirements of the Constitution to such a level that the Parliamentary Powers and Privileges Bill is able to protect Members of Parliament sufficiently, so that they can serve the greater good of the nation and the people better. This is not merely for the purposes of Members of Parliament, particularly.

I have had an opportunity to peruse through this proposed law. I have seen that it is a good law. We will be urging Members to support it though there may be need to make amendments during the Committee Stage. I have seen the definition of precincts of Parliament. If you look at--- A lot of times, Parliament conducts its proceedings even outside the jurisdiction of Kenya. When you look at the courts, they do not do things which affect matters touching other jurisdictions. In this case, the closest it can be is sub-clause 3(2), which states thus:

“Where Parliament or a committee convenes outside the premises ordinarily used for its sittings, this Act shall apply as if the premises where Parliament or the committee is sitting were within the precincts of Parliament.”

Therefore, that particular sub-clause proposed, takes care when a parliamentary committee has visited another jurisdiction to deliberate on matters touching the House, or while executing its mandate for the people of Kenya and happens to be outside the jurisdiction of Kenya; whatever matters happen there will be treated as they took place within this particular Parliament.

Therefore, it is good law. In my opinion, there is only one other thing which may not exactly be right, though other jurisdictions have been quoted. A committee sitting to prosecute a Member who has breached privileges are also Members of this Assembly. Looking at times where we have two divides in the House - the majority and the minority sides - then the drawings must be such that you balance the two sides of the House, if not so, then we will end up being judges sitting in our own cause. A situation could arise where somebody with interest, or a Committee already interested in a matter, sits down to judge a matter where even the decision is predetermined elsewhere and not at the sitting of that committee.

When it comes to principles of law and justice, and even the current Constitution, you may find that germinating an area of challenge in the courts whether really justice

was done, and whether we sat to judge ourselves. So, when one becomes a judge of their own cause, then does it serve the law? Does it serve justice? Equity demands that whoever goes before it goes with clean hands. Therefore, whoever is sitting to dispense equity must have clean hands. We need to relook at how to set up a committee which sits to judge our own. If you give it at a big image, you will find that we Kenyans appoint judges who judge us. If we constitute ourselves as Parliament, then we can also appoint a small court within ourselves to deliberate on matters about ourselves. That particular court should also reflect what we expect of the bigger court outside there, if you were to deal with the whole country and probably even have to vet the people who sit on that panel to make sure when they judge their own, then politics does not apply, but rather fairness applies.

You have seen issues of criminal and civil nature arising in this Bill. I would like to say that some of the matters not covered here are covered by the Penal Code. For example, the last time when we had problems in the House, when Members rose against other Members for differing of opinion on the Security Laws (Amendment) Act--- Suppose somebody committed manslaughter, murder or a misadventure to an extent that somebody lost an eye, would that person not have been personally liable for that commission? Would that person not have been personally liable in a court of law to pay damages to a fellow Member? Nobody has thought of that. Suppose it goes an extra mile and, say, an assault happens does it fall within the privileges, or is that not a criminal who should be tried under the Penal Code by the right court? Whatever privileges we have, do not allow Members to commit crimes while in the pretext that they are covered by the privileges of the House.

Therefore, I wish to support this very important Bill, which I will classify as one of the constitutional Bills pending. Before we serve others, we should first serve the House, so that we make sure that the House has followed the law before it begins to execute laws for the rest of the country.

I support and urge other Members to support this important proposed law. Thank you.

Hon. Deputy Speaker: Hon. Jimmy Angwenyi, a ranking Member and a Member of Parliamentary Service Commission.

Hon. Angwenyi: Thank you, Hon. Deputy Speaker for giving me a chance to contribute to this important Bill. We should thank Hon. Keynan for mooted this idea in our Parliamentary Service Commission. We gave him support and we developed a Bill. This law should have been enacted immediately after promulgation of the new Constitution, but it was not done. So, let us do it with dispatch it today.

We have three arms of Government. Each of one of those arms of Government has its mandate and roles that it plays in the country. The legislature has been shy in enacting laws that can enable it to perform its roles and discharge its mandate. The case of Gor Sungu was given here. All that Gor Sungu did was this: He was a Chairman of the Ouko Committee. He gave a statement outside there to the Press. He has been pursued for almost seven years since he gave that statement. He has been under torment and stress. Now, he has been given a judgment which requires him to pay a total of Kshs10 million. This is a person who has not been in any employment for the last seven years; a person who was performing the duties of being a Chairman of a committee of this House.

What this Bill has done is to clearly state the mandate of Parliament, its role, powers, privileges and immunities. We need to be aware that when we perform our duties and offer services, we are, indeed, covered and protected by law.

Hon. Deputy Speaker, the other thing which this Bill has addressed is clearly stated sanctions of those who might offend this law. Right now, we have a lot of shortfalls in the current legislation with regard to the powers, privileges and immunities of Parliament, Members of Parliament and staff. This Bill brings out clearly the defences and sanctions for those offences. This Bill has also brought what is being done in other jurisdictions very clearly. I thank the team which prepared this Bill under the chairmanship of Hon. Keynan for bringing out all this information and knowledge. So, we can compare ourselves with those other jurisdictions which have been in place for centuries like New Zealand and the United Kingdom (UK). We can compare whether we are performing as those long established jurisdictions.

Parliament exercises the sovereignty of the people of Kenya. So, it should be paramount. I know there are people who will contest that. It exercises the sovereignty of the people of Kenya. So, who is this Judge who is going to impose upon you Kshs10 million fine when you are exercising the sovereignty of the people of Kenya? This Bill removes all the threats and fears that we would suffer before we undertake our roles and mandate. Therefore, I wish Members of the National Assembly will come here in big numbers when we will be going through the Third Reading to make the appropriate amendments if they think there are amendments to be made. Then, we pass it with an overwhelming majority, higher than what we did yesterday on extending the period for considering some laws. This one affects us.

All of us have travelled by air. In an aircraft, you are told to take care of yourself first before you take care of even your own child or spouse. So, let us take care of ourselves first and then we take care of those others whom we want to work with.

With those few remarks, I beg to support.

Hon. Deputy Speaker: Yes, the Deputy Leader of the Minority Party.

Hon. Midiwo: Thank you, Hon. Deputy Speaker. I rise to support. This is an important proposal. We need to revise the rules of our engagement within ourselves and with the people outside this Parliament. I want to be very brief so that I can give other Members a chance to contribute.

The situation that the former Member of Parliament for Kisumu Town East finds himself in is one that we must cushion ourselves against. It is very disheartening that a member of a committee can be striving to fulfil the mandate given to him/her by the people of Kenya and be fearful of some court action which more often than not is mischievous. We do not want to be gagged. Therefore, we must help and protect the proceedings of our committees and this House.

I want to plead with the Commission. It is unfortunate that my friend Hon. Jimmy is leaving but I would have loved if he would hear my plea. I plead with the Commission that even though the case against Hon. Sungu went against Parliament, Hon. Sungu was just a name. I am now in the know that the Commission had offered to send legal representation to court. I am also in the know that the Legal Department was pathetic. They refused to defend that case. So, we find ourselves in a scenario whereby our proceedings are subject to some exterior action which abrogates every intention and

protection that the Constitution gives this House. In that light, we found it very necessary to support the Bill by Hon. Kaluma yesterday because it will help us in that regard.

I wanted to plead with the Commission. I see three of our most active Commissioners here. I have seen Hon. Sungu along the corridors of Parliament, at least, three times in the last one week. That must be stopped. That is a responsibility which he cannot shoulder on behalf of Parliament. That must be settled. He is a former Member of Parliament who thought it wise to investigate the mysterious death of a very strong Minister, the late Dr. Robert Ouko. His death remains a mystery. A Member of Parliament tried to unravel it but he ended up with a debt of Kshs10million. That is not something that we want to find ourselves in. So, I want to ask the Mover, Hon. Jimmy and Hon. Gladys to please make sure that Hon. Sungu does not walk around and die on the streets out of unnecessary worries and Parliament remains enjoying what we should have otherwise not have for the bravery of such people. Please take care of him.

Secondly, I know that Hon. Keynan is taking blame for certain sections of this Bill. However, this is a Commission generated Bill. That needs to be clarified so that it is not Hon. Keynan versus the world. It is Parliament versus the world. Therefore, it is incumbent upon us to do it right. I want to plead with Hon. Keynan, Hon. Jimmy and Hon. Gladys that Section 27 of this proposed Bill is not good. It is causing the rest of this Bill to be looked at in bad light. This Bill has a lot to do with how Members of Parliament engage the institution of Parliament. So, there is one bad thing. In my language, they say: "Only one worm spoils the meat." The section suggests that for the media to engage us in a committee or in the House, they need permission from the Speaker. This is something that we do not need. It violates the Constitution. Let us shy away from things that will put us at loggerheads---

Hon. Keynan: On a point of information, Hon. Deputy Speaker.

Hon. Midiwo: I will take the information, Hon. Deputy Speaker.

Hon. Deputy Speaker: Yes, Hon. Keynan.

Hon. Keynan: I thank the Deputy Leader of the Minority Party. Hon. Deputy Speaker, we had a very interactive session with the media owners, media practitioners and the media station that covers Parliament.

Therefore, I want to confirm that Sections 27, 33, 34 and 35 will be amended. It might not reflect 100 per cent of the proposal that we have, but we are almost reaching a common ground. That is the assurance that I want to give to the Deputy Leader of the Minority Party.

Hon. Deputy Speaker: I hope Hon. Jakoyo is now happy.

Hon. Midiwo: Hon. Deputy Speaker, I love Hon. Keynan because he is a magnanimous man. He does things upfront. Even that opportunity alone to inform the world so that it is not the headline tomorrow that Parliament was debating here to take away the rights of the Media is a good opportunity. We have had a good opportunity. I thank the Commissioner.

I beg him to engage them and let us do the right thing for our country. The Chairman and many Members of this House must know that the things that we have been crying for, especially indiscipline by Members of this House, we want to cure them in law, so that a Member does not think he is in a market.

Very often, you hear the Speaker telling people to stop behaving like they are in City Hall or in a market and many people faulted him. Probably the Speaker was left without any meaningful description to teach us how to behave. So, we want the law to teach all of us, so that when we behave or misbehave, we know the consequences.

With those very many remarks and by the gracious acceptance by the Mover of the Motion to sort the offending parts, I support 100 per cent.

Hon. Deputy Speaker: Let us have Hon. Ahmed Maalim. He is not there. Yes, Hon. David Kangongo.

Hon. Bowen: Thank you, Hon. Deputy Speaker. I support this Bill by Hon. Keynan, which is very timely. Article 1 of the Constitution delegates the sovereign power to the three arms of the Government, namely, the Executive, the Legislature and the Judiciary. If you check on the legislation to do with the Judiciary, when a judge discharges a ruling, he is not doing so by himself, but is exercising the sovereign power given by the people of Kenya.

This Constitution has not given lesser powers to any of the three arms of the Government. It has given roles to the Executive, the Legislature and the Judiciary. We want to see a Member of Parliament debating and discharging his or her role with confidence. The case of Hon. Gor Sungu, which all of us sympathise with - the tribulation he is undergoing because of what he said as a Member of a Committee of this House - is a very good example.

Article 125(2) of the Constitution provides that a Committee of Parliament is equal to the High Court when discharging duties.

(Loud consultations)

Hon. Deputy Speaker, protect me from Hon. Wanga and her group who are having another debate.

Hon. Deputy Speaker: Hon. Wanga seems to be having a small Kamukunji. Can you break up your meeting, so that Hon. Kangongo can be heard?

Hon. Bowen: Thank you, Hon. Deputy Speaker. Hon. Gor Sungu was discharging his duties as a Member of a Committee of this House. Article 125 of the Constitution talks about a Committee of Parliament being equal to the High court. It is very unfortunate that Hon. Sungu is going through a very serious tribulation because of what he did as a Member of Parliament.

This Bill seeks to empower and give protection to Members of Parliament, so that whenever they are discharging their constitutional duties, they are not liable to any prosecutions or intimidation. We want Members of Parliament to feel free in their legislative role. We have not, at any one point, interfered with the Executive or the Judiciary. We want to be given a free hand to discharge our mandate. I want to ask all my colleagues to support this Bill so that we can give Members confidence.

Articles 95 and 96 of the Constitution, in terms of the National Assembly and the Senate respectively, have given us a clear role in terms of what we are supposed to do as Members of Parliament. We should exercise this constitutional mandate without fear. So, in the Third Reading of this Bill, we want to bring many amendments to ensure that

Parliament, the Judiciary and the Executive work together in a very harmonious way for the welfare of Kenyans.

We want to see the Government functioning. The Government cannot be the Executive, the Judiciary or Parliament without the other two arms. Members of Parliament would like to see if there are gaps in the communication between the Judiciary, the Executive and Parliament, so that we can have a working Government.

With those many remarks, I support this Bill and congratulate Hon. Keynan. I wish to ask all the Members to be here during the Third Reading, so that we can pass this very important Bill.

Hon. Deputy Speaker: Okay. Hon. Millie Odhiambo is the first one from the other gender that appears on my list.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Deputy Speaker for giving me this opportunity. I can see my good friend and neighbour, Hon. Mbadi, is wondering why I am given preference, but the Bible says:-

“The Kingdom of God suffers violence and the violent ones take it by force”.

So, when you have a Speaker who is very conscious about issues of gender, then we must be given priority. I support this Bill, of course, with amendments. I will personally be moving amendments in relation to what Hon. Jakoyo has said in relation to Clause 27. There may be one or two other amendments that I will be proposing.

This Bill is coming at the right time especially when we are in the process of passing the proposal by Hon. Kaluma. If you look at the law; that is the Constitution and the existing law, you will find we should not have had Hon. Kaluma’s amendment. We have a Judiciary, unfortunately, because of the push and pull between it and the Legislature, sometimes it does not abide by the law.

Otherwise, the Constitution provides very clearly for shielding of Parliament and Members of Parliament on matters that they discuss or do while in Parliament.

Hon. Kaluma’s amendment seeks to expand that provision. The saving grace is that it gives provisions for a matter that is done in good faith. It still gives some discretion to the Judiciary in that when you have a matter that is done in good faith, then it is still okay.

This is not unique to Members of Parliament. As public officers, especially the ones that protect the interests and rights of Kenyans, we must be shielded in our work so that we are not fearful when we are conducting our work. If we strictly follow the technicalities of law and the strict rules of evidence, then the work of this Parliament would not be done. There are times when, what we call *prima facie* evidence or information is allowable in Parliament, but is not necessarily allowable in court. To me, as long as there is good faith by MPs in conducting their business, then it is okay.

I want to indicate, though, that we must be careful that, even as we shield MPs, there are certain things that cannot be protected, especially acts that are criminal in nature. These cannot be the subject of privilege. The events that happened on 18th of December, last year were an embarrassment to this country and Parliament. I wrote a letter to the Office of the Speaker.

As a person who has worked for years in the women and gender sector, including being the Chairperson of the Coalition on Violence Against Women (COVAW), I was

disappointed by the non-action by the Speaker when I reported a case of gender violence against me. I know many people were shocked that I was able to raise that issue. Because I have done this work for years, I understand the will of power, relations and violence against women.

One of the tools that is used is silence - that when you are violated you stay silent. I will not be silent. If my rights are violated, if any woman's rights are violated to whatever extent or even if I had been raped, I would have spoken. Violence against women must stop. As we speak on issues of privilege, we cannot protect privilege or purport to protect privilege that violates the rights of other people.

One of the other issues that we must look at in tandem with this is the issue of public participation. Now that we have extended the one year period, I am hoping that within that one year period, we must bring to this Parliament a Bill, which is five years in the making, that guides public participation. I want to speak to this in relation to the unfortunate incident that happened in this House when there was a disagreement between women who wanted to present their views and my good friend Hon. T.J. Kajwang', who was presiding. I know that the women were very well intentioned but because they were not given guidelines, they may have appeared to have gone overboard. In order for us to be clear, we must give clear guidelines to members of the public who want to appear before Parliament in terms of how they dress and address Parliament, so that when they come here, are unruly and are thrown out, they must have had that information prior, so that we do not have the excuse that they were not informed and they did not know. They were not informed but for those of us who are in Parliament, we know that there are certain standards that must be adhered to, which they were not aware of.

Looking at the definition of staff of Parliament, there is a critical element of support staff of Parliament that is permanently excluded. That includes the staff that serves MPs. It is a crying shame for us as MPs to have our staff having their salaries delayed, every now and then, when we have our own salaries. It is one of those unspoken issues that most of us do not want to speak about.

As I speak, many of our staff have not been paid for this month. They have rents and salaries to pay. They would not understand. They would think that we are the ones who are obligated to pay them. It is not right. If we are to talk about our own privileges, they must start by protecting the privileges of those who serve us even as we serve others. Staff of Parliament should be defined to include, even if it is under different terms of service, those who serve us as drivers, personal assistants and other categories because they serve the Parliament of Kenya.

I will be bringing several other amendments but for now, I will just limit my contribution. I want us to look at how we define Parliament. This is a minor one. We have made reference to the definition in the Constitution. Just for clarity, a lot of people think that Parliament is just the National Assembly when Parliament is both the National Assembly and the Senate. For avoidance of doubt, we should define Parliament as the National Assembly and the Senate.

I will stop there. I will push the rest of the issues that I want to comment on as I bring my amendments.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Millie. I now give the Floor to Hon. Ali Rasso.

Hon. Dido: Thank you very much, Hon. Temporary Deputy Speaker. I rise to support this Bill. I want to congratulate Hon. Keynan and the Parliamentary Service Commission for bringing this Bill which is long overdue.

This Bill is not about insulation of MPs from the jurisprudence of law in this country; rather it is about showing the sense of separation of powers between the Legislature and the other arms of the Government. In recent times, we have seen citizens coming to the precincts of Parliament or outside Parliament to picket, demonstrate and to show their anger because this is a democratic society. That has been captured in this Bill. Citizens must speak out if Parliament is not doing what the Constitution says it should do.

There are important bits that this Bill has attempted to bring out such as immunity from legal proceedings for witnesses coming before Parliament and Committees of Parliament and Members speaking out on either the Floor of Parliament or in Committees. In Kenya, since Independence, for lack of such laws, MPs who have the privilege to represent their people and speak out on issues affecting those they represent, have remained mum on issues they do not believe in mainly because there is no law that safeguards them as individuals who have been thrust to the front edge of leadership. There is no law that says that if you do this you are safeguarded.

The other issue is about the media. This Bill has talked about the aspect of broadcasting, both print and audio.

I am glad that the issue has come up. As a first time legislature, what I have generally seen is that the media, particularly in covering this House, has been very accommodative. The attempt by this House should not be how to lock out the media but rather how to work with them, so that they can inform our people out there. There are two Clauses that are sticking out: Clauses 17(2) and 27. During the Committee of the whole House, we must focus on the two Clauses and tackle them with a toothcomb, so that we do not end up with a pedestrian law that can be challenged in court for not being in tandem with the Constitution.

Finally, I see within this law, protection of members of the public. The public should not perceive us to be making laws to insulate ourselves but we are also safeguarding the rights of our people to come to this House.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this important Bill.

I would like to thank my good friend, Hon. Keynan. He has been at the forefront for the time I have known him as a legislator, in ensuring that Parliament and Parliamentarians are given the space they need to exercise what is democratically bestowed upon them by the people of Kenya. The Constitution is very clear that the sovereign power of our country belongs to the people of Kenya.

(Hon. (Ms.) Kanyua consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Nyokabi, please take your seat.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, the three arms of the Government, namely the Legislature, the Judiciary and the Executive, draw their legislative, judicial and executive authority from the people. As we discuss this Bill, it cannot be lost to us that during the general elections, the people of Kenya exercised their dual democratic mandate and elected directly the leadership of the Executive at both the county and national levels. They also elected representatives at both the county and the national levels.

Talking about the National Assembly, in particular, I do not think there is any other place in Kenya with a higher concentration of elected leaders. It is, therefore, not for nothing that the Constitution empowers the people of Kenya to exercise their sovereign power either directly or through their elected representatives. As the representatives of the people, we have been given power by our Constitution to make laws and represent the people. As we all know, representation is a very intricate affair. We are also mandated to provide oversight in the utilization of public resources.

The powers and privileges provided in the Constitution can only be successfully discharged with guarantees of certain immunities and privileges. As an engineer, the function of representation in particular is what I would describe as a thoroughly complex polynomial equation. This is because other than the fact that it is unpredictable, many times Members of Parliament find themselves in situations where they have to respond without any prior preparation. I am very pleased with the attempt by my brother, Hon. Keynan, to bring this Bill to this House.

Hon. Temporary Deputy Speaker, we have had a problem with the definition of “precincts of Parliament” – which need to be clearly defined. I have said before that each one of us seated in this House is a potential former Member of Parliament. At one point, most of us will be former Members of Parliament. The last thing we would like is to be haunted from wherever we will be after doing our duty to the nation as a result of actions we took when we were Members of Parliament. When we sit here and tend to be pervious to the problems that are bedeviling former Members of Parliament, then we are being unrealistic.

In fact, it amounts to putting ourselves in precarious positions. I have in mind, and I have said it before the matter that has really dogged the former Member of this House, Hon. Gor Sungu, who represented Kisumu Town East for 10 years. He has been taken to court and fined because he made a pronouncement on a matter that was live before this House. We have to provide those safeguards. Those who have not had the privilege to sit in this House might want to think that we are merely hoping to surround and capsule ourselves in hived environment that make us look like sacred cows. Far be it from such thought as we do not, in any way, intend to make ourselves sacred cows because rights and privileges come with responsibilities. I do not, in any way, think that this Bill says that when we get these rights and privileges, we throw the responsibilities we ought to discharge to ourselves and to the people of Kenya, out of the window. I think this is very important.

I know that there are several colleagues who want to contribute to this Bill. I want to conclude by saying that as we talk about the rights and privileges that should be

bestowed upon us, as Members of Parliament, as has been eloquently said by my good friend, Hon. Millie, let us also think about the rights of those who work for us. Our work is enabled by parliamentary staff - those who work for us in our constituencies and parliamentary offices. It is wrong when it starts to look like their rights and privilege becomes a secondary issue, especially with regard to the matter of their payment. This has been a long standing issue, and I am glad that Hon. Keynan, apart from being a sponsor of this Bill, also sits in the Parliamentary Service Commission (PSC). This matter has to be sorted out once and for all.

Parliamentary officers are seen as people who work in a very privileged environment. In fact, part of the problem that parliament officials have is that, out there, people see them as people who work - indeed they do - in a very exalted environment. Parliament is a very privileged and prestigious environment. However, it would be wrong if that impression is not supported by the way they are supported to do the work given to them by their true employer, the PSC.

Of course, I have looked at this Bill. Going through it, Hon. Temporary Deputy Speaker, issues to do with the summoning of witnesses, publication and broadcasting, and issues to do with enforcement, at one time or the other a number of our Committees have had problems with enforcing the powers that have been bestowed upon us. I think we will be looking through this Bill to see how we can strengthen it by proposing useful amendments so that not only are we provided with these powers and privileges but we are also enabled to effectively discharge our duties to the expectations of the people of Kenya.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Kipkemoi.

Hon. Kisang: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill by Hon. Keynan. This Bill is due or overdue because, as an independent arm of Government, Members who represent constituencies and people of Kenya, we need to be independent and insulated from any prosecution because of discharging our duties. It is very sad that one of us who was in this House for 10 years has gone through some tribulations because of what he said as a Chairperson of a Select Committee to discuss one of our departed Members. It is very important that this Bill is supported by all of us.

In the history of Kenya or anywhere else in the world in the Judiciary, we have never seen a judicial officer taken to court because of discharging his or her duties in terms of judgement. So, I also want to propose that we ask the Parliamentary Service Commission to assist this colleague, Hon. Gor Sungu, to pay the fine of Kshs10 million. If the PSC does not do this, maybe as sitting Members of Parliament, we might have to do some fundraising to ensure our colleague does not die because of sickness from this.

As Members of Parliament, it will be good for us to speak in this House with confidence and freedom without looking behind or worrying that, maybe, after we leave this House, as Hon. Gumbo has said all of us are potential former Members of Parliament because in one way or the other, after some few years, all of us will be voted out or we will retire from politics. We need to be free and lead good lives outside without thinking that I will be taken to court because of what we said in this Chamber. I also believe that this Bill will assist us especially in terms of discipline. What we saw on 18th December,

2014 was bad. It portrayed Parliament as a place of indisciplined people. I believe this Bill will set rules and procedures to ensure we are disciplined.

Finally, I want to talk about what Hon. Millie Odhiambo discussed about the welfare of our staff. For the last three, four, five or six months, some of our employees have gone without pay. I was thinking that we need to amend the Bill at the Committee Stage so that we ensure our employees get their salaries like the rest of us. I do not see the reason why we should not pay our employees every month like PSC staff so that they get their dues to be able to get mortgage and loans.

That is what I had. I beg to support. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. John Mbadi.

Hon. Ng'ongo: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the Parliamentary Powers and Privileges Bill which is repealing the National Assembly Powers and Privileges Act.

I will not repeat what my colleagues have said with regard to the good provisions in this Bill. I agree that freedom of speech and debate is cardinal for our functions. Without that, this Parliament will not be able to execute its functions effectively. I am happy that through Hon. Keynan, the PSC has decided to put a clear definition of what precincts of Parliament mean. This will cushion Members of Parliament because we not only transact our business in the Chamber but also outside which includes our offices and even in the Media Centre.

Having said that, I think there are various clauses in this Bill that require refining as we do the right thing to give this House power to cushion it. I want to say that I wish we shelved the Constitutional Amendment Bill by Hon. Kaluma which I opposed in preference to this Bill. I do not believe that we can provide immunity to this House by amending the Constitution. What we would have done is to strengthen this Bill so that this House is protected from unnecessary interference through legislation. But, there are certain provisions in this Bill which I feel need to be looked at very carefully.

First, I see an attempt to give the Speaker too much power. I am afraid that we are giving the Speaker too much power. Before I come to that, Clause 5 needs clarity. We need to clarify how much we want to limit access to Parliament. If you look at Article 117 of the Constitution, it allows members of the public access to Parliament because this is a public institution. I know there are threats to this Parliament. Therefore, you need to restrict access in a way that protects the Members of Parliament and staff. But while doing that, you need to be very clear, through legislation, what limitation of access to Parliament would mean. If we leave it generally, it can easily be abused by the Speaker by denying people who, rightly, should access Parliament that very access.

Clause 8 provides that the Speaker may designate areas within and outside the precincts of Parliament where members of the public may, pursuant to Article 37 of the Constitution, assemble, demonstrate, picket or present memoranda to Parliament. This is constitutionally guaranteed that members of the public can picket, demonstrate and assemble in Parliament and precincts of Parliament. This Clause is bringing order that we need to designate an area for those members of public to do that.

Hon. Temporary Deputy Speaker, it goes ahead to provide that any assembling, demonstrating, picketing and presentation of memoranda to Parliament under that subsection shall be in accordance with such guideline as the Speaker may issue.

I have a problem with that. Why are we placing the responsibility of coming up with guidelines to regulate such an important function and a constitutionally guaranteed benefit to the public to one person, that is the person of the Speaker? I read it together with Clause 41 which, again, gives the speaker powers to--- It says that the Speaker of the National Assembly may from time to time issue such orders as may be necessary or expedient. The relevant Speaker may, from time to time, as may be expedient, issue a code of conduct regulating the conduct Members of the respective House of Parliament whilst within the precincts of that House other than the Chamber.

There are two problems. The first one is that that Clause starts with the Speaker of the National Assembly and then it goes ahead to say that the relevant Speaker may, from time to time, as may be expedient, issue a code of conduct. If that Clause is talking about the Speaker of the National Assembly, then you cannot bring the two Houses under his ambit.

Again, why do you give the Speaker the power to come up with a code of conduct to regulate the conduct of Members? If you have a rogue Speaker, he may issue a code of conduct that would not serve the interest of this House. So, those too much powers that we give the Speaker in this Bill may not be very helpful to the same principle of giving the Members of Parliament the capacity to execute their functions and discharge their responsibility as the representatives of their constituents.

Hon. Temporary Deputy Speaker, Clause 16 talks about the Membership of the Powers and Privileges Committee. It talks about the quorum of the Committee. That is where I have a problem. It says that the quorum of the Committee in the case of the National Assembly shall be the Speaker and four other Members. It says “shall” be the Speaker and four other Members. What if the Speaker opts not to sit in the Powers and Privileges Committee like the case we had with the issues of the Public Accounts Committee? It means that the Powers and Privileges Committee cannot conduct its business. We need to put a rider that the Speaker can choose not to attend the Powers and Privileges Committee and can nominate someone to discharge the functions that he would otherwise have discharged.

Those orders and the code of conduct that the Speaker is allowed to come up with can land a Member in serious problems. If you do not follow those codes of conduct, then you are in breach of the powers and privileges and the consequences are provided in law. We need to bring this House to approve those codes of conduct that the Speaker comes up with.

Quickly, I want to talk about Clause 30. I really support this provision because it will stop cases of what we have been hearing about rent-seeking and Members of Parliament abusing their responsibilities and privileges that they enjoy in Committees to extort money out there and even in Parliament. I want to thank the Parliamentary Service Commission, through Hon. Keynan, my friend, who thought it wise to legislate that a person shall not by fraud, intimidation, force, insult or threat of any kind or by offer of promise, influence a Member in the performance of the Member’s functions, induce a Member to be absent from Parliament or attempt to compel a Member to declare

something. Even those people who are offering bribes, it is now clear that that will be in breach of the powers and privileges.

Hon. Temporary Deputy Speaker, as I wind up, I want to thank Hon. Keynan for giving us an assurance that Clauses 27, 33, 34 and 35 will be looked at. In fact, it should go up to even Clause 36. Clause 27 provides that a person shall not broadcast televised or otherwise transmit by electronic means the proceedings of a House or a Committee of Parliament or any part of those proceedings. That is in contradiction to Article 38, 34, 35 and 118 of the Constitution and even Clause 34 which provides that a person commits an offence if the person publishes any false or scandalised libel on Parliament.

The Constitution allows the Media and the public to participate in Parliamentary proceedings and they can only be restricted under exceptional circumstances. This would have prohibited coverage of Parliament unless allowed to do so.

With those many remarks, I am happy to support this Bill. We will amend the provisions in Clauses 27, 33, 34, 35 and 36 which provide that the Clerk, an employee of Parliament, can report a Member to the Director of Public Prosecutions (DPP) for prosecution.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Florence Kajuju.

Hon. (Ms.) Kajuju: Thank you, Hon. Temporary Deputy Speaker for this opportunity to speak to this Bill. I thank Hon. Keynan for finding it fit to bring this Bill for us to ventilate and pass it as a House to guide the proceedings of this House and the conduct of Members in as far as the proceedings are concerned.

I have looked at this Bill and there are several very good issues and applicable. However, there are other areas that we need to firm up, so that we can come up with a clean law that is a fit for all purposes.

Like other Members have said, we have the three Arms of Government and each one of them has its own powers to execute. We know the powers that the Judiciary and Executive have. We want to be clear in terms of what the Legislature can do or not do. Therefore, this is one of the ways in which we are ensuring there is clear separation of powers between the three arms of the Government.

This Bill seeks to harmonise the various laws that have been in existence before the passage of the Constitution and after the passage of the Constitution. This will ensure that the clauses that, in any way, contradict or contravene the provisions of the Constitution are harmonized to bring up a proper law for the Members.

The courts have their own ways of exercising their jurisdiction and discretion. When a magistrate or a judge sits, there is something that the courts enjoy. The courts have their dignity that must be respected. They exercise their authority and discretion when they are in session. They have laws that provide for the dignity of the courts to be upheld.

The institution of Parliament must be dignified and respected by all the stakeholders within the institution and those who come in as guests of the House or as witnesses to give their testimonies to the House. For us to exercise the discretion of Parliament and put Parliament in its stature, so that it is respected by Members and especially the people who come from outside, then we must have a *modus operandi* to show how these persons are supposed to exercise the privilege that they have been granted when they enter Parliament.

In the courts, they have something they call “contempt of court”. A judge or a magistrate can exercise his or her powers to cite a person who misbehaves in a court room for contempt of court. We also need to have such a law, so that any person who comes within the precincts of Parliament upholds the dignity of the Houses as it is expected of them. Therefore, this is a good way of ensuring that the conduct of any Member and those who come in as third parties is regulated.

In the professional world, we have a professional code of conduct or ethics that guides the various professions. In the Law Society of Kenya, for example, we have the code of conduct that guides lawyers when they are practicing or appearing before magistrates or judges. Therefore, I am happy to see that even within ourselves, we find it fit to have a code of conduct that regulate the behavior of the Members when they come before the House and when they conduct their businesses in the House and in the manner they relate to each other.

Therefore, this is very important because it sets out the areas in which we should relate with one another. Therefore, the Members will not say that they did not know because there is a code of conduct that guides them in the manner they relate with each other and behave towards each other.

We have very important constitutional duties we must perform, as the Legislature. We have been blessed by our various constituents to serve them. We cannot, therefore, exercise the mandate of oversight in law making if every time we stand up to speak we are worried about what is going to happen to us because of the utterances that we make here as we engage in debate, or we have a sword of Damocles hanging over us. That is why this Bill is very important to Members of Parliament. When we participate in debate or speaking on issues, we must have the freedom to exercise our minds in the various fields in our capacity as Members of Parliament.

Even though this is a very good piece of work, there are some areas which need to be looked at so that we do not contravene the Constitution on the various freedoms and rights that are guaranteed especially in as far as Chapter Four is concerned. We have been engaging the Mover with a view to re-looking at Clause 34, on freedom of the media and freedom and right to access information.

It is important that we know to what extent we are talking about defamatory matters relating to media publication of matters happening within the Committees or the Chamber of Parliament. We need to know the extent to which we can allow the media to access information because we also want Parliament to be an open institution. Whatever happens in Parliament should be easily accessible to members of the public and the media so that they can know what exactly goes on in this building. I remember that as we grew up, we never used to know what our Members of Parliament used to do.

Hon. Temporary Deputy Speaker, when live broadcast was accepted as a form of expression to enable Kenyans follow what their Members of Parliament do in the Chamber, it became a very important tool for educating not only members of the public but also school children. It is a way of telling them: “This is what we do. This is why you elected me. In Meru County, these are the sensitive issues you have allowed me to raise in *Bunge*”. Therefore, this is very important and we really have to look at it and be very clear on what we want.

On Section 36, as raised by Hon. Mbadi, we need to know the extent of the powers we are giving to the Clerk of the National Assembly and the Clerk of the Senate, so that they can have the capacity or the *locus standi* to refer matters to the Director of Public Prosecutions. Will they be deciding on their own, once an issue has been raised, that it ought to be referred to the DPP or will such decision be arrived at through consultation with other bodies?

I have also pointed out to Hon. Keynan that we need to look at Clause 37 because it talks about every member of staff of the Parliamentary Service Commission enjoying the powers and privileges of a police officer. I know we employ Sergeant-At-Arms, who have the capacity to do what a police officer is supposed to do. However, the reference to every member of staff allows even persons who do not have the capacity to either arrest or summon to deal with members of the public in a manner that they do not have the capacity to deal.

So those are some of the---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Kajuju, your time is up.

I now give the Floor to Hon. James Nyikal.

Hon. (Prof.) Nyikal: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill.

Let me start by congratulating Hon. Adan Keynan for bringing this Bill to the House. The work that Members of Parliament do really needs freedom of speech and privileges. At the same time, it confers upon Members of Parliament, great responsibility. With freedom of access to information, we have the media participating in all our activities. There is the danger of the reporting being done by the media on what we do putting us, as Members of Parliament, into great jeopardy. The work that we do sometimes gets into areas of great detail. At times it is not really possible for people to deal with information which is not fully processed. Therefore, it can be subjected to some legal processes.

It is important that we support this Bill because it seeks to operationalise Article 117 of the Constitution. Considering the interactions that take place in parliamentary Committees, it is important for us to have some guidelines for handling of information and its protection. This Bill goes a long way in doing that. I am particularly happy with the definition of "Precincts of Parliament". The definition should not just cover the debating Chamber because it is too small that sometimes we are forced to transact parliamentary business away from it. Neither should the definition cover only the fences around Parliament Buildings because we have to go to other places that have been leased. It is important that this Bill recognizes that when we are working in Committees, or wherever we maybe, we are actually transacting business of Parliament and, therefore, the privileges and freedoms should be there as well.

At the same time, it is important, as we are protected, to be aware of the fact that there are state agencies that have to ensure the security of this country. That bit is recognized in this Bill. Clause 4 says that there is need, at times, for security personnel to get into the precincts of Parliament. There may be a problem on this Clause, but we can handle it when we get to the Committee of the whole House.

Clause 5 also regulates access to Parliament by members of the public, including the Press. This is also important. In accordance with our Constitution, the Press has access to what we do. In parliamentary deliberations, there is open participation of the public and the Press under, Article 118 of the Constitution. It is, however, important that the privilege given to members of the public is in some way controlled. This Bill adequately takes care of that aspect.

Regarding the issue of immunity from arrest that is supposed to be enjoyed by Members of Parliament while within the precincts of Parliament, history shows that Members of Parliament have previously been arrested from within the precincts of Parliament. I do not know if at that time the definition of “precincts of Parliament” was as broad as it is now. That is a privilege which should be safeguarded. The Bill addresses that aspect in Part III.

However, if you look at it, it can also, in some way, over-protect Members of Parliament. Therefore, in criminal cases, we may need to look at that protection. The Bill attempts to do that.

Hon. Temporary Deputy Speaker, I like this because the Bill also brings in the Committee of Powers and Privileges that will regulate what needs to be done, how it is to be done and who the members of the Committee will be. It outlines clearly its functions. We have had experiences and we need to look into very carefully how this works. But its presence is extremely important when we look at the details.

It is also important that when it is decided or when it is apparent to somebody that there is need to summon witnesses, whether they are Members of Parliament or not, there has to be a procedure in place. It has to be done with dignity. Again, this is provided for in this Bill.

Part IV looks at publication and what can be publicized. As I said earlier, we now have open participation and, therefore, a lot will be publicized. If we seek, as Clause 27, to limit this, we may very easily go against the Constitution. It is important that what we do and say within limits is known to the public.

Part VII adequately covers the enforcement. Clause 28 clearly outlines what one can do and what one cannot do and what will need sanctions and what will not need sanctions.

As Hon. Mbadi said, Clause 30 is extremely important. Members of this House and Members of Committees have been accused of extortion and seeking favours. That has clearly been taken into consideration to preserve the dignity of the House. I also think that being in this position, sometimes, allegations can be made. It is important that we look at this clause to protect Members of the Assembly from allegations which may actually not be true.

What is publicized as stated here, sometimes, will be very close to libel. Clause 34 of the Bill brings that out. When we come to the Committee Stage, we will have to look at that.

In all, I find this Bill coming at the right time taking into consideration all matters that should be considered regarding powers and privileges that we enjoy.

With that, I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Philip Rotino.

Hon. Rotino: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to join my colleagues in supporting this important Bill. At the outset, I want to thank the Mover of this Bill and the Committee that thought it wise to bring it. As Members of Parliament, we are a privileged group. Being a privileged group, we must be shielded or protected because we act on behalf of the people. We represent people and speak on their behalf. We do not speak our own words. We speak words that have been given to us by the people. When we speak those words, we carry the load of the people. It is important that we have this very important Bill to protect and shield us from the problems that might arise out of this.

Hon. Temporary Deputy Speaker, you are very much aware that as Members of Parliament, we do not have written terms of employment. We do not have terms of references that say these are our duties. But, when we speak, we speak words that people give us. It is important that we are shielded by this Bill.

Several times before 1992 - I came here in 1993 - people were being haphazardly arrested within the precincts of Parliament because there was no law protecting Members of Parliament. I feel that this Bill will go a long way in protecting us and giving us the freedom to speak and say whatever we want to - in freedom without fear or favour. Even the clerks or members of staff who work within Parliament should feel free when they are discharging their duties. They should feel free and not fear. This Bill will go a long way in protecting them in Part III, Section 9 paragraph 3, where the clerks or other members of staff shall not be liable to be sued in civil court or joined in any civil proceedings or for any act done or ordered by them in discharging their duty. It is important that as Members of Parliament are shielded, even the clerks and staff you are working with must also be seen to be protected by this Bill. This Bill goes along to do that.

I congratulate the Member of Parliament who brought this Bill. I wish all of us support it and pass it when it comes for Third Reading.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Onesmus Njuki.

Hon. Njuki: Thank you, Hon. Temporary Deputy Speaker, for giving me the privilege to contribute to this Bill. I want to congratulate Hon. Keynan. He comes up with very good Bills. I remember the one of emblems. The only issue is usually implementation because I still see some governors flying flags. We should really be keen on implementation.

The principle of Parliament privileges is entrenched in Article 117 of the Constitution of Kenya 2010, which provides that there shall be freedom of speech and debate in Parliament. In our roles, the job description of a Member of Parliament is very shallow because it is just to legislate, to oversee and to represent. The details on what the Member of Parliament should go through to carry out those duties need to be protected. When Members of Parliament want to transact their private businesses, they do not do it in the precincts of Parliament. They have their private offices where they do that. Therefore, when we come here, whatever we transact is on behalf of the people we represent and the Government of Kenya. Therefore, when a Member has to suffer because of a noble duty they carried out on behalf of the Government and the people, it is not fair. That is why even in businesses and companies, we normally have insurance so

that if you are injured while on duty, you can be protected because you are carrying out a duty that is for the many; not just for yourself.

Most of the provisions of this Bill are very good. I am impressed by the description of precincts of Parliament. It is not restricted to these premises of the Chambers and the compound. The description is very definitive. Clause 3 describes precincts of Parliament as where the Members could be transacting business, including such places that may be leased by Parliament. While Hon. Keynan was moving the Bill, he put it clearly that we have offices of Members of Parliament scattered everywhere in this city, including at the Kenyatta International Convention Centre (KICC) and Harambee Plaza.

We also have premises away from this city, where Members of Parliament operate from. Every Member of Parliament has two offices, one in the constituency and another in Nairobi. Sometimes, we transact business that is of the nature that is within our duties provided by the law in our offices in the constituencies. Therefore, we should consider them during the amendments stage and see whether the constituency offices can also be included as forming part of the precincts of Parliament. Members transact parliamentary business in those offices. We also have employees paid by the Parliamentary Service Commission (PARLSCOM) in those offices. However, as much as we may not be putting them in the same payroll as the staff here, they are within the description of members of staff of Parliament.

Secondly, I have looked at the fines provided in Clause 35. There is the option of Kshs500,000 fine or a two-year imprisonment as the maximum sentence. This can be misused by a rogue judge in a case of a small matter which may have been misunderstood. We do not have separate laws for a small thief and a big thief. Any thief is treated equally before the law. Somebody can get the maximum of two years' sentence or Kshs500,000 fine for a small offence that may have been said in a committee or in the premises of Parliament. Therefore, we should look at these fines and see whether they are adequate or punitive for a Member.

Lastly, Clause 30 protects the Members of Parliament when they are conducting their duties against being harassed by members of the public. However, the clause does not say anything about members of the public that we interact with. I sit in two Committees and I want to give a very specific incident. I do not want to say in which Committee I was sitting. At one time, Paul Kamlesh Pattni appeared in one of the Committees. There was a Member who was very arrogant to him and he was saved by the Chairperson of the Committee. It looked personal. I could see that the members of the Committee were getting a bit uncomfortable with the whole scene. It was like this member had had a grudge with Kamlesh Pattni out there. There was no way Kamlesh Pattni was protected by our privileges in the way he was being treated except, maybe, at the mercy of the Chairperson. We can bring some amendments to ensure that Members of Parliament do not abuse these privileges by going overboard in dealing with the public.

With those few remarks, Hon. Temporary Deputy Speaker, I support the Bill. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Jacob Macharia. He is not in the House. Hon. Samuel Gichigi.

Hon. Gichigi: Thank you, Hon. Temporary Deputy Speaker. I rise to also support this Bill. I commend Hon. Keynan for bringing a timely piece of legislation.

Freedom of speech is very important to the Kenyan citizens, who have suffered decades of muzzling where even thinking of certain eventualities in respect of our leaders would make you rush to your toilet. It is important that we defend the gains we have made over the years. Freedom of speech is one of the gains.

As representatives of the people, Members of Parliament are bound to cover wide ranges of issues in debate. It is only fair that we get the necessary protection and cover so that we are able to articulate the issues that are in the interest of this country and the people we represent. Indeed, freedom of speech should start from the Chamber, but should also extend out there. I am happy that in addition to being given the power and privilege to speak and not be taken to court for what we say, we are also told to be careful so that we do not use those powers and privileges with impunity.

I am also happy that with heightened insecurity in the country, the security of the precincts of Parliament has been taken care of. I am hoping that this law is going to assist the people in charge of security of Parliament so that Members are not exposed to security risks. Almost every day when we come to Parliament, we see demonstrators and pickets outside Parliament. While that is now a right under the Constitution, it is not an absolute right. It is important that we facilitate such demonstrations, expressions and picketing.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Gichigi, let me interrupt you for one minute to I recognize the children in the Public Gallery. They have been there for a while. I recognize Kasarani Sub-County Children's Assembly from Ruaraka Constituency, Nairobi County and pupils of Kapset Primary School in Konoin Constituency, Bomet County. Let us welcome them.

(Applause)

Thank you. Hon. Gichigi, you can continue.

Hon. Gichigi: Thank you, Hon. Temporary Deputy Speaker. It is important that we designate proper areas where the picketing and demonstrations can be held so that they do not interfere with the operations and proceedings of Parliament. Sometimes, I enjoy when I interact with demonstrators and they are able to make their presentations. However, we also need to be alive to the risks of the possibility of mischievous or ill-intended people waylaying Members of Parliament within the precincts of Parliament or the roads leading to Parliament.

I am also happy with the curtailment of some of these privileges by way of sanctions and penalties. It is important, like my colleague Hon. Muthomi has indicated, that we do not take advantage of the forum that we have in Parliament to settle scores that have arisen outside Parliament. It would be shameful for a Member of Parliament to come here and attack a person just because we have these privileges. It is important that we protect people who cannot defend themselves in this House through the sanctions that have been provided for in the Bill.

Whenever a Committee wants to summon witnesses, the provisions are not very clear. I am happy that Part V of this Bill takes care of that. It provides how to summon

witnesses, how to handle them when they appear before Committees and what to do when they are not co-operative or fail to appear. This lacuna has been hindering the conduct of business of our Committees.

I have a “beef” with a few clauses. Perhaps, they can be looked into at the Committee of the whole House. Clause 11 suggests that we can legislate to completely oust the jurisdiction of the courts. That is not possible under the current Constitution. We need to see what we can say the courts cannot interfere with. Where the courts have constitutional jurisdiction to review conduct of Parliament, we cannot oust their jurisdiction.

I also support the proposal that when the Speaker prepares the code of conduct, let it be brought to the House for us to approve. That will ensure that we are governed by what we know. We do not want a code of conduct prepared by the Speaker and implemented before it is examined and approved by this House.

Clause 27 also has an issue. I would rather wish that we express ourselves in a manner saying that anything that is banned from broadcasting or publication should not be published. However, we cannot say that there is a ban on broadcasting all the proceedings in the House. We should actually make it an exemption rather than the norm. If you do not want certain proceedings or broadcasts to be taken to the public, you should say so. But you should not give a blanket ban.

Hon. Temporary Deputy Speaker, I support but hope that those areas are going to be taken care of at the Third Reading. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you Hon. Gichigi. I request the other Members to please keep time. We will finish this particular Bill in this sitting. I give the Floor to Hon. Geoffrey Odanga.

Hon. Odanga: Thank you, hon. Temporary Deputy Speaker. I also support the Bill which is sponsored by Hon. Adan Keynan. Parliament, both the Senate and the National Assembly, is a House of privileges and honour. This Bill seeks to protect Members of Parliament (MPs) from prosecution for anything that they utter in Parliament or in the precincts of the House. Therefore, it needs a lot of support from the Members of the National Assembly. We heard from last week when we were prosecuting Hon. Kaluma’s Bill about Hon. Gor Sungu who had to go to court because of the job he was doing in Parliament as the Member of a Committee. The Parliamentary Service Commission (PSC) should have informed the House in good time or even appealed on his behalf. Given that already a verdict has been made, Kshs10 million is too much for a Kenyan who is not working and earning regular payment. That is a fine that will only send the former Member of National Assembly for Kisumu Town East to his early grave.

Therefore, I urge that if there is anything that the MPs can do to help settle the fine that has been imposed on Hon. Gor Sungu, that will do us very well. The Bill has done very well by defining what the precincts of Parliament are. We really need to do a lot to improve this Bill so that it is acceptable to all of us, even the members of staff that we have. We have known that for quite a long time, they have all been going without regular emoluments. Sometimes, the emoluments delay beyond three, four to five months. They are supposed to be the image of MPs and yet, when they are in the constituencies, they look like beggars. Sometimes, they ask for funds from their MP and

even from other constituents and yet, the reverse should be true. I ask PSC, which hon. Keynan is a member, to ensure that our parliamentary staff are remunerated on time.

Lastly, these privileges should also extend to other people or Kenyans who are invited to Parliament, mainly in Committees, so that they are not unduly harassed.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Yusuf Chanzu.

Hon. Chanzu: Thank you, hon. Temporary Deputy Speaker. With the rapidly changing times, there must be improvement in everything we do. What is being suggested or proposed is just in line with the changing times because there is sophistication in everything, even in the way people do things, the way criminals operate and so on. So, we must keep with the times by introducing changes that everybody can be comfortable with. Those who use who cross the road to go to County Hall must have seen people driving from the roundabout at very high speeds and yet, there are so many vehicles ahead of them as they approach Uhuru Highway. They drive at very high speeds and there is a pedestrian crossing sign. We cannot take some of these things for granted. They must be documented. The only thing we must do is this: We must make sure that we do not step on other peoples' toes. The bigger picture of it is in Chapter IV of the Constitution on the Bill of Rights. Everybody must have his/her space. Everybody must have his chance.

Again, everybody must also be given an opportunity to perform whatever role he/she is supposed to perform. School children must be given the peace for them to perform in school. Equally, the Members of Parliament must also be given peace to perform their roles. If each one of us respected the space of others, then there would be no conflict. It is because of the human nature that they keep on trying some things. When they are given the opportunity, they try to do excesses. That is why we want to make an improvement on this privileges aspect.

The issue of the former MP is a sad one. He had to come out of Parliament. In fact, I met him yesterday walking outside here very desperately. The sooner PSC puts in place some measures that can protect him or, at least, get him out of the problem--- My friend, hon. Odanga is saying that everybody must have a salary. Even if you have a salary, it has a purpose. Somebody cannot just put on you something like that. Even if it was Kshs1 million or Kshs100,000 which is not within the scope of what you are supposed to do with your money, it will still be a burden. So, Kshs10 million is a lot. PSC should then take steps to have the former Member of Parliament sorted out of this.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Aghostinho Neto

Hon. Oyugi: Thank you, hon. Temporary Deputy Speaker. I would like to support this particular Bill. It has a couple of very interesting components. Whereas many MPs have lauded the definition under Clause 3 of the precincts of Parliament, I really have issues with Clause 3 (d), which makes the offices of Parliament, including places where Members sit, to be precincts of Parliament. That would give us a lot of latitude as MPs to do whatever we do in the name of the precincts of Parliament. It is a Clause that really needs to be looked into and thought through. Whereas Parliament and the

Committees of Parliament can be useful in doing what we do, I really think that making the offices of MPs also precincts of Parliament is too much latitude because we have seen what MPs can do. I am just trying to be cautious that we do not bite too much.

Clause 5 also speaks to various things in terms of where members of the public can raise petitions and picket. This would also be in violation of Article 38 of the Constitution on the rights to picket. If at all you are going to give the Speaker the power and authority to designate specific places where members of the public can picket and raise issues, I really think that goes counter to the right to picket because you want to picket where you are mostly felt. For example, if the Speaker were to designate that you picket towards Haile Selassie Avenue, which is also within the precincts of Parliament, no one will know what you will do there. You will sound like a mad person. The right to picket, which is a constitutional right, ought to be respected. I really think that that cannot be limited in that particular manner that the Member has suggested.

The other Clause is 6 (2) which speak to the limitation of rights. In fact, this has gone through the whole of this Bill.

This Bill seeks to limit various Articles of the Constitution in a manner that is so general. If you look at Article 25 of the Constitution, it allows for the limitation of rights and speaks to the fact that you must specify the part of the right that you want to limit. That limitation ought not to be the core content of that drive. I think there is an omnibus flow through the Bill that talks about Article 48 and 50 of the Constitution are thus limited. That particular omnibus is an infringement; it is not what the Constitution anticipates.

Hon. Temporary Deputy Speaker, the other thing which I have spoken to and which was shown properly under clause 8 is this: The power is given to the Speaker to limit the sections and parts of Parliament where you can picket or present Petitions. That cardinal rule of fundamental right is allowed so long as it does not infringe on peoples duties and rights. That cannot be taken away.

Hon. Gichigi has spoken to Clause 10. What the hon. Member seeks in Clause 10 is to ouster a constitutional provision Article 103 by dint of a statute. I am not sure that is practically possible. Even though we want to ouster several things, I am not so sure you can do that by dint of statute in the manner that he proposes to do.

Clause 12(2) - and I would like to read it almost verbatim - says:

“No civil suit shall be commenced against the Speaker, the Leader of the Majority Party, the Leader of the Minority Party, Chairpersons of Committees and Members for any act done or ordered by them in the discharge of the functions of their Office.”

I thought that particular clause though good, needs an addition there that would be reading “within the precincts of Parliament” so that you are not giving omnibus powers and privileges to these particular offices if at all they deal outside the precincts of Parliament. Then the Offices of the Speaker, the Leader of the Majority Party and the Leader of the Minority Party are walking offices. So, you do not want to use those powers and privileges in manners that are not stipulated and then running back to this particular Bill for purposes of seeking immunity.

Clause 13 is very interesting and queer. The Hon. Member says that a members shall not be liable to arrest for civil debt while the Member is going to, attending or

returning to a Sitting of Parliament. That particular civil debt is not one that is incurred within the meaning of the functions of a parliamentarian. I do not know how you want to seek the ouster of that particular jurisdiction.

Clause 15 speaks to very many things. I think what it seeks to do in Clause 15 is what Article 125 of the Constitution does. I like the fact that he raises it here. Article 125 of the Constitution is very clear in terms what powers of Parliament are in terms of when we summon a witness.

Clause 16 seeks to create a Powers and Privileges Committee. I am not so sure how that stands in with our Standing Orders. The Standing Orders already creates a Powers and Privileges Committee. We must be careful that then what we are creating under this particular law is not in conflict with what is in our Constitution.

Clause 19 speaks to powers of summoning witnesses under Article 125. I like it. I think it is a very interesting Article because, for the first time, a Member of Parliament seeks to show the way in terms of how summons can be issued and who effects them. That is a brilliant inclusion in terms of giving effect. That needs to be lauded.

One of the things he does in Clause 20 is that he gives Parliament power. Of course, Article 124 of the Constitution gives power in terms of issuing summonses and penalties. Clause 20 seeks to give the power of Parliament to issue fines and such like things. It will be interesting to see how the courts will deal with this, especially when Parliament has already imposed fines or certain sanctions. It will then be seen because ordinarily, the power of fines and sanctions is a function of Parliament. So, it will be nice to see how this particular thing works for both Parliament and courts going hand in hand.

Clause 25 - and I will read the first part - says that a person shall not be liable for civil proceedings in respect of publication of any journal by order or authority under Parliament. I am just worried about the law of defamation. If at all something is defamatory, a publication of that very document then becomes defamatory in its very sense. So, I am not very sure what it seeks to achieve by taking away that particular right. Article 27 also speaks to the same thing in that it seeks to take gains that are already made.

Right now, we are agreeing that most Kenyans are watching the proceedings of Parliament and this is something that has already been negotiated over time. To seek to take away broadcasting or televising of proceedings of Parliament is taking away the gains that have already been made, especially taking into consideration Article 35 of the Constitution which gives Members of Parliament the right to information. There is nothing we do here in Parliament which members of the public ought not to know. Televising or broadcasting the proceeding of this Parliament does not go counter to privilege issues.

If you look at Clause 27(3), I do not understand how limiting, in terms of right to access the information, helps in facilitating immunity. One of the things that has also caught my eyes is Clause 30(3) where he speaks to contravening of sections in terms of improper influence of Members. Clause 30 speaks to rent seeking Members of Parliament and people who take bribes and influence in terms of decision-making. Curiously in this Section, the hon. Member does not put penalties which I would like to see. What sort of penalties as opposed to leaving an omnibus penalty in the general penalty section. There

ought to be specific penalties for this particular section so that if at all you engage in rent seeking and other things, there ought to be penalties.

Since my time is running out, there is one thing I would like to speak to - Clause 34. Clause 34 speaks to a person who commits an offense if he publishes any false or scandalous libel from parliamentary proceedings. Members of the Fourth Estate ought to take that seriously if at all this Bill will pass and see the light of day. Half the things and what is defamatory or libelous if at all you tune in the proceedings of Parliament in a way that Parliament does not anticipate.

Hon. Temporary Deputy Speaker, I would have wished to speak some more but because time is running out and Members want to speak. I support and hope that we will make suggestions for amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Hassan Mwanyoha.

Hon. Mwanyoha: Ahsante sana, Mhe. Naibu Spika wa Muda. Ningependa kukushukuru kwa kunipatia nafasi hii na pia kumshukuru Mhe. Keynan kwa kuleta Mswada huu.

Mswada huu ni muhimu kwa sababu sisi Wabunge ni watu ambao tunafanya kazi kama mawakili wa wananchi na vile vile tunafanya kazi kama watetezi wa wananchi na pia kama viongozi ambao lengo letu ni kuhakikisha kwamba maendeleo yameingia kila mahali katika zile sehemu tunazoongoza.

Wakati wowote, Mbunge ni lazima aweze kuzungumza maneno hata kama yataonekana kama ni maneno makali. Anastahili kulindwa kwa sababu bila ya kulindwa, tutakuwa waoga na hatutaweza kuwatetea watu wetu. Kwa hivyo Mswada huu ni muhimu sana kwa sababu utatuwezesha kutetea watu wetu bila hofu ama uoga. Kwa hivyo, tunahitaji tupate ulinzi mkali katika hali hii. Mswada huu ukipita ndio tutakua tumepata ulinzi mzuri.

Kwa hivyo, sitakua na marefu sana. Langu ni kuwauliza Wabunge wenzangu waweze kuunga mkono Mswada huu ili tuweze kuwa katika hali nzuri, isiwe kama ile hali ya kutoka zamani ambapo mtu anahangaishwa hapa na pale kwa sababu ya kuzungumza ukweli. Ni ukweli tu ndio utatengeneza nchi hii na ni Mswada huu upite ili tuweze kupata nafasi ya kutengeneza nchi hii.

Ahsante. Naunga mkono Mswada huu.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now given the Floor to Hon. Rachael Amolo.

Hon. (Ms.) Amolo: Thank you, Hon. Temporary Deputy Speaker. I stand to support this Bill and I thank Hon. Keynan for bringing the Bill to this House. It feels very nice as Members of Parliament to know that we have freedom of speech and protection. When I comment or utter any words as a Member of Parliament, with respect of course, I need to be assured of protection according to this Bill. The other thing is the protection of members of staff. This is very important because even as they work with us, yes, they know we are Members of Parliament, but it also feels so good for them to know that they are protected while working with Members of Parliament wherever they are taking their minutes in committees and within the premises of Parliament.

The other thing that makes me support this Bill is the establishment of the Committee of Powers and Privileges. This will enquire into the conduct of Member who,

say, could be alleged of having committed assault. This will make Members of Parliament to also style up. Some of us may be working not knowing that we are protected. This Committee will give us powers and structure. We will work knowing that there is a Committee that could call us to explain when things are not right or when our conduct is not right.

The other thing is about enforcement. I want to support the Bill because of the penalties that have been put there. Anytime you know there is a penalty, you have to work according to the laws that have been put there. The other thing is about those who have been aggrieved. They will also have a place to go to. At times, you may not know where to turn to when you know very well that you are working and yet, your grievances cannot be heard. Now, it will be done by the Committee of Powers and Privileges. I stand to support this Bill and I thank Hon. Keynan for sitting down and thinking about the Members of Parliament, the staff and the media around the premises of Parliament.

I stand to support this Bill. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I give the Floor now to Hon. Manson Nyamweya.

Hon. Nyamweya: Thank you, Hon. Temporary Deputy Speaker for giving me a chance to make a contribution to this very important Bill. I also want to thank the hon. Member for bringing it up. This Bill, in effect, is going to give effect to Article 117 of the Constitution. More important, it lays down privileges which we enjoy in the National Assembly. It gives the rules on how we should behave as Members of the National Assembly. It clearly states what happens to us when we are in this National Assembly. I am happy that yesterday, we amended the Constitution.

Now, we are talking about this Bill which gives Members the comfort they need to execute their duties, responsibilities and contribution when they are in Parliament without fear or favour. But there are some sections which I am not sure of. With regards to the precincts of Parliament, we have put other places, including the dining. Somebody can be violent on you. They could even punch you, but still the person cannot be said to have committed a criminal offense. It is upon us Members to see how we use this judiciously so that it does not become abusive. My only fear is that when you make it very broad, this section may be abused. If it is abused, what happens? Those are the challenges that it brings out. Overall, I support it because it touches on us Members as Parliament. We need to behave as Members of Parliament. Another area I want to speak to is summoning of witnesses.

It is critical because we have the Constitution 2010. It has not been actualised properly. People do not know their roles. Sometimes, when witnesses are summoned, they are not forthright. They do not give evidence as they should. They hide information from committees of the House. It is good we have come up with this Bill. When such a thing happens, what do you do? We have put in law the action which will be taken on those who will appear before committees and give false information. They mislead the committees. This is very important.

Another important point here is that the evidence which has been tendered to the committees should not go outside. The information you provide as a witness to the National Assembly should not be used against you. That is very important. It will allow

those who have been summoned to appear before the committee to give the evidence that they have.

With those few remarks, I also support this.

There is another point about privileges, Hon. Temporary Deputy Speaker, which I want to speak about. So long as we honour them, they are very good and nice. We should not misuse them.

Hon. Kobado: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Let me interrupt you for a minute. Hon. Kobado, you have a point of order.

Hon. Kobado: Thank you very much, Hon. Temporary Deputy Speaker. I am rising on Standing Order No.95 on closure of debate. Given that this Motion has been exhaustively discussed, debated and well ventilated, could I be in order to urge you to call upon the Mover to reply?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I will put that Question to the Members as soon as the Member who was on the Floor completes his contribution.

Hon. Nyamweya: Thank you, Hon. Temporary Deputy Speaker. What the Member is saying is right, but let me finish what I was saying. We have breach of privileges. This is the biggest challenge that we have. While we enjoy those privileges, can we also behave as Members of the National Assembly so that they are not abused? If they are abused, they become an issue to the members of the public. It will not look good for us to do anything that can make us not to be honourable Members.

Finally, there is a section here that I do not agree with. You know that we cannot reach a point and say that we cannot have broadcast from the media. If we say there is free access and there is an Act which is going to come about free access to information that it should be provided by all, the National Assembly is trying to say that we stop the media from covering us. We are going backwards from where we have come from. Yesterday, we extended the time for the passage of some of the Bills which are going to touch on this. So, I thank the Mover for the good job that he has done and the time he has taken to bring this up. But for those small sections which need to be amended, we request that they are amended so that we do not look like we want to give with the right hand and take away with the left hand.

With those few remarks, I support the Motion. Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, a Member has rose to ask the Mover to reply. May I put this to the Floor?

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now call upon hon. Kenneth Okoth of Kibra Constituency.

Hon. Okoth: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. As you know, I represent a constituency in Nairobi County where the Parliament of Kenya is hosted. This Bill has a lot of sensitivity for the interests of our people who have close access to Parliament. So, it raises important questions on who can access Parliament and how they behave around Parliament. It also raises issues of the

privileges and authorities the administrators and managers of Parliament have to control, where necessary, demonstrations, to designate spaces for citizens to come and petition Parliament to express their views in a manner that is not restrictive or that kills their freedom of speech and their freedom of expression that is in the Constitution. This should also be fair to many Members of Parliament who think that some of the recent demonstrations that we have seen here were a little bit out of order and risky for Members.

I am one of those Members of Parliament who have been fighting for the increase in the number of women Parliamentarians. In fact, I am taking part in what is known as “The Green Amendment Campaign” to try to ensure that the two-thirds gender rule is achieved. As we get more women Members come to Parliament, this is important because we have seen crowds and demonstrators trying to intimidate Members of Parliament and occasionally harass them. We just want to make Parliament a safe and friendly space. Even where there are spaces for debate, all Members can feel safe. So, in that sense, I think it is a great thing.

On the other hand, we do not want to cross our constitutional thresholds where we extend parliamentary immunity too far. Members of Parliament acting in their personal capacity and making mistakes should be held accountable. They should not use the institution as a shield from being held accountable for civil or criminal behavior in any other context. This Bill should be amended to make sure that the behaviors, duties and privileges it grants relate to the official and professional State duties of a Member of Parliament and not to their personal adventures out there and their business deals that have nothing to do with serving the State.

With those few remarks, I look forward to the opportunity to propose some fine tuning amendments to take out elements that might be excessive and hope that we will move this thing quickly. Also, we will make sure that in future, more women Members of Parliament will enjoy these Parliamentary privileges and contribute to the leadership of our country when we get them elected through the Green Amendment Campaign.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Janet Wanyama.

Hon. (Ms.) Wanyama: Ahsante sana Mhe. Naibu Spika wa Muda kwa kunipa hii nafasi. Nataka kujiunga na wenzangu kwa ajili ya Mswada huu. Ningependa kumshukuru Mhe. Keynan kwa ajili ya Mswada huu.

Hapo awali, tulikuwa na Wabunge katika Bunge hili na niliona kwamba kuna wengi ambao walikuwa wanasumbuliwa sana, haswa, na mambo ya korti. Nakumbuka tulikuwa na Mbunge kutoka kule Saboti, Mhe. Davis Nakitare, ambaye kule nje, hangepata nafasi ya kukaa vizuri kwa sababu korti ilikuwa inasumbua sana. Kwa sababu yeye mwenyewe hangeweza kujisimamia, ilimbidi atafute wale ambao walimpigia kura wamsimamie katika korti.

Naunga mkono Mswada huu kwa ajili utatupa sisi mamlaka ya kuhahikisha kwamba tunaheshimiwa kule nje na tunaheshimiwa pamoja na wale ambao wametuchagua. Kama vile wenzangu wamesema, tukiwa na mambo yoyote kortini, kama vile kushikwa ama unatakikana kutoa ushahidi kwa mambo ambayo yametendeka, utasukumwa na askari bila kujali kama wewe ni Mheshimiwa. Watasema: “Hii sheria ambayo ni nyinyi wenyewe mmeunda inafanya hivi na vile”.

Tunaposhikwa na polisi kwa barabara zetu, ukisema kuwa wewe ni Mheshimiwa, wanakwambia kuwa uheshimiwa wako uko Bungeni wala si huko nje. Naunga mkoni ili tuwe na mamlaka ama sheria kama hii ya kuturuhusu sisi kama viongozi kuheshimiwa katika taifa letu.

Naunga mkono.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Wanjiku Muhia.

Hon. (Ms.) Muhia: Thank you very much, Hon. Temporary Deputy Speaker. I stand to support and congratulate the Mover of this Bill because it is very timely.

Members of Parliament have many enemies for obvious reasons. Competitors never admit that they were defeated honourably. As a result, even the civil society or the world out there is keen to find any way to embarrass a Member or find a Member in a cornered situation. As this Bill comes into place, it will clearly define in law, how or which situation the Members can categorically claim to be in, and then come out without intimidation.

Time and again, our Members have found themselves in very serious situations. I can recall one Member who was not feeling very well and, as a result, his vehicle overlapped on the road. He was arrested and a huge scenario was created out of this situation. In an ordinary case, an ordinary Kenyan would also have done the same. But the fact that this was an MP, the situation was surrounded by a lot of intimidation. It is as if an MP needs to live in a different world. All these things come about because of the competition that is always there in political careers. It is very important to have laws that guide and clearly indicate the situations or the possibilities of an MP enjoying the honourable position that they hold.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Peris Tobiko.

Hon. (Ms.) Tobiko: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill.

In positions of leadership, there are responsibilities that go with them. There are privileges that come with such positions. Though I support the Bill, I want to caution the Members that we must never take advantage of such laws, privileges and our positions. We have also seen scenarios where MPs look like they are obviously not obeying the law or are taking advantage of the good name that they have, which they should not. With privileges, comes obligations and heavier responsibility. To the Members, we must always equate with the honourable name that we have been given and must not take advantage of any privileged situation that we find ourselves in.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I give the Floor to Hon. Grace Kiptui.

Hon. (Ms.) Kiptui: Thank you, Hon. Temporary Deputy Speaker. I also rise to support the Bill.

Hon. Members occupy a special position in the society. There are certain things without which we may not be able to perform our duties. I support that the privileges so-

indicated should be enjoyed by MPs. As my colleague Peris has said, we should be wary of not abusing the same.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give a chance to the Mover to reply.

Hon. Keynan: Thank you, Hon. Temporary Deputy Speaker. The essence of having a structured format of coming up with Bills is to allow for the participation of the public. There are provisions for public participation, scrutiny of committee, First Reading, Second Reading, Third Reading and Committee Stage. All these are meant to allow for important input from different stakeholders.

Taking into account that this is also a deliberative House, the fact that we prepared and brought a Bill; had the guts and the opportunity to sit down, reflect, contextualize it, synthesize it and eventually come up with this format; required a lot of time.

Hon. Temporary Deputy Speaker, the Bill is now before the House. Therefore, I do not want to see an hon. Member lamenting. The Bill is theirs, and they have unfettered rights to introduce any amendments to add or delete any of the provisions contained therein. They can introduce further new clauses. That is the work of the Legislature. The only thing I would like to bring to the attention of hon. Members is the fact that this is neither a new phenomenon nor a phenomenon that is peculiar to Kenyans. At one time, some Members of Parliament went to court to stop the then Minister for Finance, Hon. Musalia Mudavadi, from presenting the Budget. I am referring to High Court Case No.152 of 1997, in the matter of Hon. Kiraitu and six others versus Hon. Musalia Mudavadi.

The High Court then noted that the plaintiff had sought a permanent injunction to restrain the Speaker of the National Assembly from permitting debate on the Financial Statement by the then Minister for Finance. The Honourable Justice ole Keiwa held that under Section 4 of the Parliamentary Powers and Privileges Act, Parliament has absolute immunity from process and, therefore, a Member of Parliament cannot sue or be sued for what they speak in Parliament. That is one Kenyan case.

Prior to that case, there was High Court Case No. 394 of 1993 in the matter of Hon. Odinga versus Hon. Francis ole Kaparo, which served as a precedent. Eventually, the court upheld the same position. There was another interesting case in the United Kingdom (UK) between the Stockdale versus Harvard in 1839, and the court ruled: "Beyond any dispute, it is necessary that all proceedings of the House of Parliament should be entirely free – that is, whatever was said or done in either House of Parliament should not be liable to examination elsewhere. Therefore, this is something which affects almost all civilised parliamentary democracies.

I would also like to mention another case in the United States, concerning a congressman accused of conspiracy to defraud the US people on the basis of the speech he made on the Floor of the House. On appeal, it was held that the judge was barred by free speech and the debate closed. What I am trying to say is that this is not cast in stone. This Bill belongs to this House. Hon. Members own it. I have got the comments of the Members on every clause. I am glad that this Bill will be committed to the Departmental Committee on Justice and Legal Affairs for them to scrutinize. At that stage, any hon. Member has a right to introduce an amendment either directly through the Committee or

the Mover, or through the Speaker. Therefore, I plead with hon. Members to contextualize the comments they have made on this Bill in the form of amendments that will generate debate, so that the House will eventually pick what will add value to this important Bill.

The import of this Bill is to give effect to Article 117 of the Constitution. I would like hon. Members and members of the fourth estate to reflect on the provisions of Clause 17. The clause clearly spells out areas where Members of Parliament may be deemed to have digressed from their main work and engaged in other things. It talks about contravention of Section 26, Chapter 26, Section 27(1) and Section 28 or Section 30. The Bill provides a *modus operandi* by saying that the relevant House of Parliament shall have all the powers necessary for inquiring into and pronouncing upon any Act or matter constituting a breach of value by an hon. Member.

Secondly, an inquiry of the relevant House shall not preclude criminal investigation. That is an important inclusion in this Bill. Thirdly, where the relevant House finds that an hon. Member has committed a breach of privilege, the relevant House may, in addition to any other penalty to which the Member may be liable, act on this particular aspect. The relevant House can do this by giving the Member a formal warning, a reprimand, asking the Member to apologise, withholding privileges or met out any specific punishment like removal or suspension from the precincts of Parliament for a specific period or issuing fines that may be prescribed.

This is something that one needs to appreciate. It was not there simply because Members of Parliament are also being scrutinized because of what they do not only within their oversight mandate, but also outside as human beings. This issue shall also be addressed.

Finally, Hon. Temporary Deputy Speaker, what I want to say as an individual, experienced and long serving legislator to the members of the Fourth Estate - and I want this to be quoted - is this:-

It is not the intention of Keyman; it is not the intention of the Parliamentary Service Commission (PSC) to gag members of the Fourth Estate. For me, I am a true believer in the functions and the right to inform members of the public. To an extent, I believe members of the Fourth Estate are one of the emerging arms of Government which we need to appreciate. Therefore, I want to tell them that I will not participate or permit any clause that negates that. That is why I call it a deliberative House. We will debate any sections that offend. They must also allow Members of Parliament to debate. Members of Parliament should not be criticized for debating. This is a deliberative House. Where they have issues, please bring them to the Speaker. They are brought whenever they are there. Where they have issues, they are brought to me. Where they have issues, they can consult any other Member of Parliament. Eventually, every Member will have the right to exercise his or her jurisdiction and vote for what they feel is good for Kenya and the people of Kenya.

Hon. Temporary Deputy Speaker, with those many remarks, I beg to move that this Parliamentary Powers and Privileges Bill be read the Second Time. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Mover. The Question on the Second Reading of the Bill will be put in the next sitting.

Next Order.

Second Reading

THE ENGINEERING TECHNOLOGISTS AND TECHNICIANS BILL

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Mover.

Hon. (Ms.) Ng'etich: Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity.

I beg to move that the Engineering Technologists and Technicians Bill (National Assembly Bill No. 07 of 2015) be moved to the Second Reading.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, just repeat that again.

Hon. (Ms.) Ng'etich: Hon. Temporary Deputy Speaker, I beg to move that the Bill be now read a Second Time.

The Engineering Technologists and Technicians Bill, 2015 is a Bill that seeks for the establishment of a board that will be known as the Engineering Technologists and Technicians Registration Board (ETTRB). This body will be responsible for the coordination and regulation of engineering technologists and technicians. The functions as spelt out in this Bill will, of course be, among others, look at the requisite qualifications for the registration to practice as an engineering technologist or technician. It will further ensure that high standards are maintained as far as the profession of engineering technologists and technicians is concerned.

I want to say that we have several registration boards that cover and register different types of professions in Kenya. For example, we have the Medical Practitioners and Dentists Board, the Pharmacy and Poisons Board and the Engineering Board of Kenya (ERB), among others.

So, this Bill is actually intended to have a board to be among those listed in Kenya to regulate the profession of the engineering technologists and technicians. Currently, there is no registration body that is registering those types of professionals that exists in Kenya. In the 10th Parliament, a similar Bill was introduced in Parliament by Hon. (Dr.) Kones. However, the Parliament's session lapsed. According to Standing Orders, once a Bill lapses along with the parliamentary session, it had to be re-started afresh.

Hon. Temporary Deputy Speaker---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, you will a balance of 27 minutes.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, time being 1.00 p.m., this House stands adjourned until today, Wednesday, 26th August 2015 at 2.30 p.m.

The House rose 1.00 p.m.