

**Republic of the Sudan
Government of Southern Sudan
Southern Sudan Legislative Assembly
Juba**

**Minutes of the Proceedings of the Sitting No. 3 of the
2nd Session of the First Assembly 2007**

Date: 17th September 2007

Time: 10:00 AM

Venue: El Samani Hall-Juba University.

Order of the Day:

- 1. Announcements.***
- 2. Oath Taking.***
- 3. Second Reading of the Code of Civil Procedure Bill, 2007.***
- 4. Constituency Development Fund (CDF).***

Hon. Speaker

Dear Hon. Members of the Southern Sudan Legislative Assembly, good morning. First of all I apologize for the delay because of some administrative issues regarding our agenda for today and we delayed because we wanted to sort out some administrative issues. Indeed there were supposed to be about five items on today's agenda but one of the topics did not take the routine channels through the Assembly Business Committee. We hope that during the lunch time, the Assembly Business Committee will be able to look into this and other issues. We hope that by tomorrow or next tomorrow it will be part of the agenda.

Regarding our quorum, the presents are 81, permissions 12; it means our quorum is 93. It is fit for our today's sitting. Yes, I have resigned from the National Congress Party and I have declared my full Membership to the SPLM. Thank you, I am at the moment still taking this seat because there are some administrative issues, after which things will be apparently clear.

For example, it is said that there was an angry man in the house who was given a dish of "asida" and a dish of sauce (mula). He pushed the dish of asida very hard but that of the sauce slowly because he knew that if the dish of asida overturned, it could still be cleaned but that of sauce could not. Check for the proper translation.

I have not done such a thing but the procedures will soon take place and it will be of course clear because any Member resigning from his membership, it will be very clear and administratively accepted.

The second announcement, our brother James Wani Igga who is our Speaker of the Assembly is for a mission outside the country. And this official mission will take him some days. He has charged me to chair the sittings until he comes.

The second item of our agenda is Oath Taking but we don't have it this morning. So we go immediately to the third item of our agenda which is the second reading of the Code of Civil Procedure Bill, 2007. We would like to ask the Hon. Chairperson of the specialized committee of Legislative and Legal Affairs in the Assembly to come forward to the podium and proceed with the presentation.

Report of Legislative and Legal Affairs Committee on Observations and Recommendations on the Code of Civil Procedure Bill, 2007:

Hon. Speaker, Hon. Members of this august House, allow me present the report of the Committee of Legislation and Legal Affairs (SSLA) on observations and Recommendations on the Code of Civil Procedure Bill, 2007. In the SSLA sitting No. 7/2007, dated 18th June 2007, and in accordance with Article 84 (2) of the ICSS, 2005, read in conjunction with Regulation 69 (2) of the SSLA Conduct of Business Regulations, 2005, the Speaker of this august House referred the Code of Civil Procedure Bill, 2007 to the Legislation and Legal Affairs Committee for consideration and presentation to the House.

Hon. Speaker, Hon. Members, the Committee of Legislation and Legal Affairs in considering the Bills presented to the august House, decided to simultaneously consider the Bills because of cross references of the Bills to one another. It was imperative that the Committee had to spend and still spends some time to review the Bills before reporting back due to make the necessary inputs.

This Bill before the House is rather straight forward because the provisions of the Code of Civil Procedure 2003, has been substantially maintained and which in turn, are based on the Code of Civil Procedure 1974.

In general, the Committee observed that this Bill is in good shape and only few observations in grammar, spelling and construction were made. Therefore, the Committee of Legislation and Legal Affairs humbly requests the august House to consider, pass the recommendations, and ultimately pass the Bill. Here below are the observations and recommendations. We expect you to have the Bill of Code of Civil Procedure before you. I will be reading and then you refer to the Bill; the Civil Procedure.

Chapter I

- 1) Page 2, Section 1, in the title of the section, replace the word '**comment**' with the word '**commencement**.'
In the same page, Section 2, line 2, insert the word '**that**' between the words '**extent**' and '**these**.'
Section 3, line 1, add letter '**s**' to the word '**practice**' to read '**practices**'.
- 2) Page 4, Section 8 (1), on interpretation of the word '**appellant**,' insert the word against between the words '**appeals**' and '**a**'.
On the interpretation of the word '**jionder**', replace the word '**uniting**' with the word '**joining**'. This is just for clarity and more explanation.
- 3) Page 5, on the interpretation of the word 'pleading', replace the word '**defenses**' with '**defences**'. This is just English.
On the interpretation of the word '**respondent**', replace the word '**taken**' with '**made**'. I hope you are following up Hon. Members.

Chapter II

- 4) Page 5, Section 9 line 2, delete the word '**of**' between the words '**outside**' and '**southern**'.
Section 10, line 1, replace the word '**initiated**' with '**instituted**'.
Correct the word '**domicile**' to read '**domiciled**', is an addition of **d**. Also delete the word '**of**' between the words '**outside**' and '**southern**' in the last line of this section.

NB: where the words '**initiate**', '**initiated**' (a case/suit) are used in this code,

replace them with **'institute'/'instituted'**.

- 5) Page 6, section 12 (d), line 1, insert the word **'a'** (a is a letter as well as a word) between the words **'is'** and **'southern'**.
- 6) Page 7, section 18 (2)(b), line 3, delete the phrase; **'this constitution'** and replace it with the phrase, **'the constitution of Southern Sudan'**.
- 7) Page 8, section 23, in the title, insert the word **'a'** between the words **'before'** and **'Payam'**. Payam in capital letter, I mean the P should be in capital.
- 8) Page 9, section 23 (1), line 1 delete the word **'initiated'** and replace it with the phrase **'instituted before a'**.

Section 24, in the title, insert **'A'** in capital before the word **'Court'** and again small **'a'** before the word **'suit'**.

Section 27, (3) (a), replace the last word **'executed'** with **'made'**. We move to chapter 5.

Chapter V

- 9) Page 11, section 34, in the title of the section, correct the word **'plaints'** to read **'plaint'** insert **'a'** before the word **'plaint'**.

In section 34, line 1; replace the first word **'The'** with **'A'** indefinite article.

- 10) Page 13, section 38, in the title, delete the word **'of'**.
- 11) Page 15, section 39 (1), line 3, delete the word **'the'** between the words **'and'** and **'fees'**. Again delete **'to'** between the words **'fees'** and **'be'**.
In section 40 (1), insert **'the'** between **'or'** and **'law'**.
- 12) Page 15, section 46 (2), line 2, insert capital **'S'** and capital **'D'** at the beginning of the words **'secretary'** and **'director'** respectively. Just to replace the **'S'** instead of being in small letter, **'d'** make it capital **D'**.
Section 48, line 2 delete the word **'to'** between the words **'subject'** and **'the'** and replace it with **'of'**.

Chapter VII

- 13) Page 17, section 56 (2) (b) (x), replace the first word **'to'** with the word **'the'**
Replace the last paragraph (xii) with (xi) as this is the eleventh and the twelfth.

Chapter X

- 15) Page 23, section 80, the last word to read **'defence'** and not **'defense'**.

Chapter XI

- 16) In section 84 (3), insert a **comma** after the word **'inspection'**.

In section 87, line 3; correct the word **‘traveling’** to read **‘travelling’** with double **‘l’**

Chapter XV

- 17) Page 29, section 109 (2) line 3, replace the word **‘basis’** with **‘basic’**.
- 18) Page 31, section 117, line 1, delete the word **‘execution’**.
In section 118, line 3 insert **‘a’** between the words **‘as’** and **‘guardian’**.
Again in line 4, correct the word **‘avoidable’** to read **‘voidable’**.

Chapter XII

- 19) Page 33, section 125 (1) (a), line 2, replace the word **‘properly’** with **‘property’**.
- 20) Page 35, section 131, line 1, replace **‘mortgages’** with **‘mortgagees’**.
In section 132 (b), insert **‘a’** between **‘of’** and **‘decree’**.

Chapter XIII

- 21) Page 35, section 135, in the title of the section, insert **‘a’** between **‘where’** and **‘share’**. Again, insert the phrase: **‘of a’** between the words **‘share’** and **‘co-owner’**.

Chapter XIX

- 22) Page 37, section 140 (1), lines 1 and 2, insert the word **‘or’** between the words **‘office’** and **‘dies’** and also between **‘appointment’** and **‘refuses’**.
Again delete **comma** after **‘office’** and **‘appointment’**.
Section 140 (2), line 3, insert **‘a’** between the words **‘such’** and **‘case’**.
- 23) Page 37, section 143 (2), insert the word **‘the’** between the words **‘of’** and **‘arbitrators’**.
- 24) Page 38, section 145 (a), line 1, delete the word **‘a’** between the words **‘or’** and **‘matter’** and add **‘s’** to the word **‘matter’**.
- 25) Page 39, section 151 (1), line 2, insert the word **‘a’** between the words **‘such’** and **‘case’**.
Section 151 (2), line 1, delete the word **‘with’** and replace it with **‘in’**.

Chapter XX

- 26) Page 41, section 156 (1), last line, delete the word **‘to’** between the words **‘provisions’** and **‘section’** and replace it with **‘of’**
- 27) Page 44, section 166, line 3, correct the word **‘junction’** to read: **‘injunction’**.
- 28) Page 44, section 168, line 2, replace the word **‘partly’** with **‘party’**.

Chapter XXI

29) Page 46, section 175 (1), line 2, delete the word **'the'** between the words **'by'** and **'law'**.

Section 176 in the title, add the word **'Time'** after the word **'observe'**.

30) Page 47, section 180 (2), line 1, delete the letter **'shall'** between the words **'order'** and **'on'** and then place it between the words **'objection'** and **'be'**.

Chapter XXII

31) Page 49, section 191 (2), correct the word **'contests'** to read: **'contest'**.

Page 49, section 193 (3), line 2, insert **'a'** between the words **'such'** and **'case'**.

32) Page 49, section 193 (3), line 2, insert **'a'** between the words **'such'** and **'case'**.

33) Page 50, section 197 in the title, insert the word **'Where'** before the word **'the'** at the beginning. Section 197 (1) line 2; replace **'try'** with **'retry'**. Again line 4 of the same subsection above, replace **'trial'** with **'retrial'**.

Section 197 (2), line 1, replace **'trial'** with **'retrial'**. Again in the same subsection, line 3, the last word **'therefore'** be replaced with **'thereof'**.

34) Page 51, section 201. In the title, replace the word **'Appellant'** with the word **'Appellate'**.

Section 201 (d); replace the last word **'trial'** with **'retrial'**

Section 201 (e), insert the word **'the'** between the words **'of'** and **'opinion'**.

35) Page 51, section 202, line 2, rephrase the last phrase; **'County of a Judge of the First Grade'** to read: **'County Court Judge of the First Grade'**.

Chapter XXIII

36) Page 52, section 206. In the title, delete the word **'superior'** and replace it with **'Supreme'**.

Section 206 (2), insert the word **'the'** between the words **'with'** and **'law'**.

Chapter XXVI

38) Page 54, section 215, at the end of line 1, insert **'the'** after **'of'** and before **'supreme'**.

39) Page 55, section 216 (2), line 2, correct **'properly'** to read: **'property'**.

40) Page 58, section 232 (2), line 4, rewrite **'can not'** to read **'cannot'** as one word.

41) Page 59, section 235. In the title, insert the phrase **'of A Judgment debtor'** after the last word **'prison'**.

Chapter XXVII

42) Page 63, section 244, line 2, insert **'or Policewoman'** after **'a Policeman'**.

Section 245 (1), line 2, replace **'the'** between **'by'** and **'section'** with **'this'**.

43) Page 63, section 245 (3), line 1, insert the word **'that'** between the words **'event'** and **'the'**.

44) Page 64, section 24, line 1, insert **'a'** between the words **'is'** and **'movable'**, and in line 2, delete the word **'the'** between the words **'of'** and **'most'**.

Section 247 (1), line 1, delete the word **'the'** between the words **'of'** and **'competent'** and replace it with **'a'**.

Section 250 (1), line 3, insert **'a'** between the words **'such'** and **'case'**.

Chapter XXIX

45) Page 68, section 267, line 2, delete the word **'the'** between the words **'with'** and **'written'** and replace it with **'a'**.

46) Page 70, section 277 (2) (b), line 2, delete the word **'auction'** and replace it with **'sale'**.

Chapter XXX

47) Page 72, section 283 (2), line 3, insert **'a'** before the word **'person'**.

Chapter XXXII

48) Page 74, section 292 (1), line 3; insert the word **'the'** between the words **'of'** and **'opinion'**.

Section 292 (2), line 2, delete **'comma'** after the words **'made'** and **'in respect'**.

49) Page 75, section 295, line 2, delete the **'comma'** after the word **'provided'**.

Chapter XXXV

51) Page 77, section 306, line 3, insert a **'comma'** after the word **'plaint'**.

Chapter XXXVI

52) Page 79, section 318 (1), line 1, insert the phrase **'of the'** after the word **'consisting'**. In line 2, write the word **'deputies'** with capital **'D'**, insert the word **'the'** between the words **'to'** and **'President'**. Also insert the word **'the'** between the words **'of'** and **'Supreme'**. Write the word **'judges'** with capital **'J'**.

In line 4, insert the word **'the'** between the word **'by'** and **'President'**.

53) Section 319 (2), line 1, insert the word **'the'** between the words **'to'** and **'generality'**.

Section 319 (2) (a), line 1, insert **'comma'** after the word **'summons'**.

Again in the same subsection, paragraph (1), insert 2, insert the word **'the'** between the words **'for'** and **'transaction'**.

(END OF SECTIONS) corrections.

The Rules Schedule

Page 83, we go to the rules. For those who have the copies of Civil Procedure go at the back get where the rules schedule is. Page 83,

- (1) Rule 1 (4) (b), line 1, insert the word **‘the’** between **‘comma’** and the word **‘Judge’**.
- (2) Rule 1 (5) (a), line 2, correct the spelling of the word **‘advocate’** to read: **‘Advocate’** with Capital **‘A’**.
- (3) Rule 2 (1) (a) – (d), delete the word **‘to’** before each of the subparagraph (a)-(d). This is a repetition.

Page 85

- (5) Rule 2 (6) (d), line 3, insert the word **‘fit’** at the end of the line.

Page 86

- (6) Rule 4 (4) (a), line 2, delete the word **‘of’** between the words **‘against’** and **‘the’**.

Page 87

- (7) Rule 4 (5). In the title of this subrule, insert the word **‘are’** between the words **‘Bills’** and **‘to’**.
In 4 (5) (b), line 1, insert the word **‘a’** between the words **‘such’** and **‘person’**.
It is now indefinite article.

Page 88

- (8) Rule 5 (3) (d), line 2, insert the word **‘to’** between the words **‘only’** and **‘consider’** and insert the phrase **‘such interrogatories’** between the words **‘consider’** and **necessary’**.

Page 89

- (9) Rule 5 (12), line 2, correct the word **‘producible’** to read: **‘produceable’**

Page 92

- (12) Rule 6 (7), (3), line 1; insert a **‘comma’** after the word **‘execution’**.

Page 93

- (13) Rule 6 (14), line 3, insert letter **‘a’** between **‘as’** and **‘pauper’**.

Page 94

- (14) Rule 6 (21). In the **‘Note’** after this rule, in line 1, insert the letter **‘a’** between the word **‘be’** and **‘percentage’**.

Hon. Members, this is the end of the presentation.

I would like again to appeal to all Members of the House to consider these observations and recommendations and ultimately pass this Bill. Thank you very much.

Hon. Chairperson

Thank you Mr. Speaker sir. The title of this report reads “**Report of Legislation and Legal Affairs Committee on Observations and Recommendations on the Code of Civil Procedure Bill, 2007.**”

Regarding the date of the presentation, please enter today’s date.

Hon. Speaker

Thank you brother Deng Arop. This has been an excellent scientific work. It reminded me of the year 2006 when a delegation from the French Assembly visited us here. They came to my office and gave me the Conduct of Business of their Assembly. I also gave them our Conduct of Business. After working through the Conduct of Business, they asked me who helped you to come up with this Conduct of Business. I told them that this is our local capacities. We are so proud of this despite that our Assembly is still new. There are capacities like these we have now. We would like to thank them all for that.

Now we will open chance for deliberations on these observations that have been presented. I would like to ask Hon. Members to keep time which is 5 minutes so that we will be able to give chances for as much as to cover the number of people present.

We would like to call upon H.E. the Minister.

H.E. Minister of Legal Affairs

Thank you Mr. Speaker sir.

Mr. Speaker sir, and Hon. Members of the august House, I am here to appreciate the work done by the Chairperson and Members of the Legal Affairs Committee.

Legislation is a process and therefore, it is a continuous process that will continue throughout the life time of any state. I quite agree with all the recommendations and the observations made by the Legal Affairs Committee. And I add my voice to that of my colleague, the Chairperson for the Legal Affairs Committee requesting the august House to adopt this Bill in the second reading, with all the recommendations and observations incorporated therein. Thank you.

Hon. Speaker

Thank you Your Excellency the Minister.

Hon. Tong Akeen Ngor, NCP, Northern Bahr el Ghazal State.

Thank you Mr. Speaker sir.

Many thanks go to Members of the Legislative and Legal Affairs Committee in Southern Sudan Legislative Assembly. I would like to commend the committee for the time taken to come up with this work. In fact this is the committee that has worked hard and dedicated a lot of its time to study issues of law in Southern Sudan. Their support to the Ministry of Legal Affairs and Constitutional Development in the Government of

Southern Sudan is really in place because it enables the Ministry to fill up the gap that is needed as far as law is concerned in Southern Sudan.

Always in scientific work like this, there is no much work to be talked about it but only to say to support them and to enable them continue their work. Thanks

Hon. Brig. Dr. Achol Marial Deng, SPLM, Yirol East Constituency, Lakes State

Thank you Mr. Speaker sir. and Members of the august House. I rise to appreciate the work done by the Legal Affairs Committee. The work was a real scientific work and it took them a lot of time to do it. Not everybody who knows English could produce such work. Very few in this House know it and what they did so far was a great job. Hence, I appreciate the work done by Hon. Deng Arop and his committee. Thank you very much.

Hon. Margaret Peter Abudi, NCP, Central Equatoria State

Thank you Mr. Speaker sir. In fact, I would like to thank the committee and I appreciate that given talent. We give thanks to Almighty God because he has empowered us with different talents. As it has been said by the previous speaker that not everybody knows the law, I would like to thank the Ministry of Legal Affairs and Constitutional Development and the Committee entrusted to this work. They have made it easier for us that we cannot discuss much about it.

I add my voice for us to pass this document with all the observations and recommendations made.

Hon. Speaker

To pass the draft, I think people should be careful to see to it that this thing takes sometime.

Hon. Deng Arop Kuol, SPLM, Gogrial East, Warap State

Thank you Mr. Speaker sir. I would like to add my voice and appreciation for the work done by the Committee. There are so many clerical and grammatical mistakes in the Code of Civil Procedure Bill, 2007. And for this reason, I am requesting the Minister of Legal Affairs to hire a proof reader who is fluent in English and well versed in English language. Thank you.

Hon. Dr. David Nailo Mayo, SPLM, Eastern Equatoria State

Thank you Mr. Speaker sir.

Mr. Speaker sir, I would like to appreciate and congratulate the Committee for the timely presentation of second reading of the Civil Procedure. You may recall this was presented to us last year and it got updated this year and I believe that the work put by the Minister and the Committee is a well done work. And as it has been recorded this was adopted in the 1974 Civil Procedure. I believe there is no much departure from that tradition.

Therefore, I would like to agree with the recommendation that we pass this Civil Procedure at second reading with all the recommendations that have been suggested herein. Thank you Mr. Speaker sir.

Hon. Wol Deng Atak, SPLM, Warrap State

I would like to appreciate the tireless work put by the Legal Committee in putting articles, prepositions and conjunctions in order to make this work beautiful the way it is. I would like also to appreciate the Ministry of Legal Affairs for putting this work together.

However, I would like to make some changes on chapter 26, No. 42, section 244, line (2) and it says insert or a policewoman after a policeman. And I would like us to use or suggest the word police officer as accompanying term. For this term combines the two. Thank you.

Hon. Mary Nyaulang Ret, SPLM, Ayot Constituency, Jonglei State

Thank you Mr. Speaker sir. I would like to add my voice to those who have given their appreciation to both Ministry Legal Affairs and Constitutional Development and the Legal Affairs Committee.

I agree with the voices that are suggesting that this one should be passed with the amendments. But before we pass it into a law, I need to make some points here on page 51, section 199 of this Civil Procedure Bill, 2007. It talks about two parties to an appeal shall not be entitled to produce new evidence. And here there is one in 200, the new evidences are allowed to be taken in somehow here. I failed to understand who will be the producer of the new evidence, since the two parties are not allowed to provide new evidence and the code allowing two cases for the new evidence to be produced, who will be responsible here to produce the new evidence. Thank you.

Hon. Col. Paschal Bandidi Ubu, SPLM, Najero County, Western Equatoria State

Thank you Mr. Speaker sir.

Mr. Speaker sir, Hon. House, the information I want to say is about the last speaker but one who talked about the police officer. I think that is not in order because not every police person is an officer. So the policeman and policewoman are in order and therefore should be adopted as was proposed by the committee. Thank you.

Hon. Paulino Apinyi Akol, SPLM, Western Bahr el Ghazal State

Thank you Mr. Speaker sir.

In the first place, I would like to appreciate the work done by the Committee for the legislation. That issue has come clearly without any complication and each and every word has one specified meaning. There is no doubt about it, it has been clear. Therefore, I would like to appreciate that issue because it enables justice in Southern Sudan. That has come following the situation in Southern Sudan which was not clear. It has provided all aspects related to the issue because everybody deserves his rights and to pass an issue based on legal standard regulations and that will enable each and every person who has been convicted to be convinced with what he did against the law. And therefore, I would like to ask the Hon. Members of the Assembly to pass the Bill into law. Thank you very much.

Hon. Mohammed Al-Haj Baballa, NCP, Central Equatoria State

Thank you Mr. Speaker sir.

Mr. Speaker sir, I rise up here because I want to shed light on what we have been discussing and I think that all the discussions were on thanking the Committee and the Minister. That means that now we are all here satisfied with the work of the Ministry and the work of the Committee. As such I am moving a motion that now we close the debate and pass the Bill with all the observations and the recommendations. Thank you very much.

Hon. Speaker

Is there any secondment to this proposal that we close the discussion now and we pass the Bill? For the purpose of recording, we ask sister Abuk to second.

Hon. Abuk Payiti Ayik, SPLM, Malakal County, Upper Nile State

Thank you very much sir. Hon. Members, after everybody heard from the Hon. Members, I seconded it.

Hon. Jimmy Wongo, USAP, Morobo County, Central Equatoria State

Thank you Mr. Speaker sir. My point of privilege is that. Most of us here are actually lay people as far as the law is concerned. But at the end of the day, it is us who will pass this law. But among us are Members of this august House who are not in the Committee of Legislation and Legal Affairs. A good example is that of Hon. Richard Mulla who has stood up several times but was not given the chance to give his view on the law.

So I would like really Hon. Richard to be given the opportunity so that he also sheds light and clarification on this matter.

Hon. Speaker

For me, there was a proposal that we close the discussion. I would like to thank Hon. Jimmy Wongo for having diverted us to the point of information raised by Dr. Richard K. Mulla. Dr. Richard has been standing up several times but he was not given a chance to speak. However, we would like Dr. Richard to give whatever clarification he likes to give.

Point of procedure!

Hon. Tong Akeen Agor, NCP, Northern Bahr El Ghazal

Thank you Mr. Speaker sir, if the motion has been already passed and seconded it is not any more part of procedure again for another member also to come and take off. So now the motion has been presented and seconded. So we have to stick on it.

Hon. Deputy Speaker

The point of procedure is in place but there was a proposal from a member regarding the point of clarification. We were in the process to hear point of clarification before we take

the point of the proposal for the closing of the discussion. After taking the counter motion and its secondment, then we will give the chair person of the committee to respond to the discussions and make some comments. I hope we are now going in a right path.

Hon. Dr. Richard K. Mulla, SPLM, Mundri East County, Western Equatoria State

Thank you Mr. Speaker Sir, I would like to thank the Speaker for giving the House proper time because our task here is to do good jobs and proper work. This is why people have chosen us to this House. Indeed there was hurry when you see this law comes into a bill. And I still believe that when we pass this bill we still have done it in a rush, and however, since the house is rushing to pass the law, I would just like to make one clarification as from the chair person of Legal Affairs committee.

On paper 77, section 36,306,307,308 about the use of words petition and application. Petition will not necessarily be like a plead. There were strictly Legal documents and I have their formats, and I would like the chair person to explain whether we are using a petition or plead in this case because the words are interchangeably used. And thank you.

Hon. Deputy Speaker

Is there any counter motion before we close down the discussion on this matter? Since there is no any counter motion we are now going to close this discussion. But before closing, I would like to ask the Chairperson for Legislation and Legal Affairs to come and make some observations and clarifications. Thank you.

Clarification from Legislation and Legal Affairs Chairperson

Thank you Mr. Speaker sir, In order to make some clarification, as shown by Hon. Nyaulang, the question was who is to be allowed to produce evident? With regards to your question section 199 a ready production of new evident, generally the party who has the appeal is not entitle to produce new evidence but they may count and allow the producing of new evidence in this following cases. This section simply tells us that in case of any appeal being presented then the two parties may be allowed to present new evidence. But there are two exceptions about a situation where evidence can be produce by either party.

One exception is where the court from whose degree of appeal is required has refused to admit evidence which ought to be admitted. The second situation is where the court which has been required any evidence to be produced to enable it pronounces judgment for any other reasonable cases. So there are two exceptions which have been enumerated here and the party can be allowed to give evidence twice in these two situations.

In regards to the question of Dr. Richard Mulla, we thought clarification on 306 page 77; the title reads constitutional remedy Hon. Mulla wants to know because these two words petition and plead are being used interchangeably. And it also reads an application or constitutional remedy shall lay with the Supreme Court and shall be informed of petitions which are included in addition to the general particulars required in the plead following the additional information.

In this wording it is quite obvious that there is a difference between a petition and a plead. This petition is the language that can be understood by every one and is widely used. And that is why we are told in addition and shall be informed of petition in addition to general particulars required in the plead of the following additional information.

These certain pieces of information that are supposed to be included are particularly to be in the plead. To those particulars contained in the plead we have to add this information and actually is called petition because this is when you apply for constitutional remedy. I hope Hon. Dr Richard Mulla is agreeing with me. Thank you Mr. Speaker Sir and I think I have answered the Hon. Members to the best capacity of my understanding.

Hon. Deputy Speaker.

Before us there is a motion to close the discussion of this topic. It has been seconded. And there is no counter motion about it. We shall close the deliberation. Now it has been proposed that we pass the bill on the civil procedure since it has been presented by H.E Minister that this one does not need secondment. But Hon. Mohammed Baballa has repeated to pass the bill and also it has been seconded and there was no counter motion. And therefore we have closed the discussion unanimously and we have passed the Civil Procedure Bill for Southern Sudan, 2007 in the second reading with all the observations and we hope it is going to come up in a better shape in the 3rd reading.

Thank you very much Hon. Members, we would like to say to the Committee of Legislation and Legal Affairs that congratulation in advance. We also like to say congratulation to the Minister of Legal Affairs for the excellent work they have done. We would like to ask H.E the Minister of Legal Affairs to present more Laws for Southern Sudan because the Assembly is going to end its Interim Period soon. It would be an honour to the Assembly which actually establishes the bases for laws in Southern Sudan. This Assembly has been established to give foundation to all institutions and then later on, the parliament is going to be elected. We like H.E. the Minister to maintain the Assembly by passing as many Laws as possible for Southern Sudan.

Dear brothers and sisters, having passed the code of civil procedures for Southern Sudan for the year, 2007 in its second reading, now we can move to the 4th item of our agenda that is the bill of constituency development funds. Hon. Member Prof. Barri A. Wanji, Chairperson of the specialized committee of Economic has really exerted much effort since 2006 until this scheme has reached its present stage. I believe this concerns all the Assembly Members. I would like to ask Hon. Prof Barri Wanji to give us his labour for the passed two years.

Welcome Prof Barri Wanji. I hope each Hon. Member has a copy.

Thank you Mr. Speaker for giving me this privilege. Commarade Speaker, I wish to thank you for the opening remarks you made about the CDF (constituency development fund). In fact, I would like to say that the CDF has been supported by all Leaders. When the concept of the CDF was routed and suggested last year, almost all MPs supported it including our President. Our budget by then was limited in terms of resources and our president told us that the CDF is a good idea but we don't have the resources. And he

kept his promise until the end. Also I would like to mention our Spear who supported the process of this CDF and on behalf of my committee I appreciate that support very much.

Next, we come to the members of this august House as a whole. Most of the Members supported the concept and the implementation of the CDF. Last but not least our deputy Speaker of this house is the first and most supportive of the CDF.

The subject of our bill is constituency development funds, 2007. Mr. Speaker Sir, Members of the august Assembly, our introduction to CDF is introduced. I would like to present it on behalf on the Economy, Development and Finance Committee of the SSLA. The Bill is being presented in the August house for deliberations and consideration of its approval for ultimate enactment.

Background and General Purpose

The Bill was drafted by the Economy, Development and finance committee of the Southern Sudan Legislative Assembly to seek Authorization of Expenditure of the funds allocated for the F/Y 2007 Budget.

Jurisdiction

In an effect to maintain a good health of Southern Sudan Economy, the Bill is based on the conduct of Business Regulations of SSLA, Regulation 12(2) section (a) which delegates the Economy, Development and finance committee to be concerned with the study of main problem affecting the Southern Sudan Economy or related to all drafted financial bill or Economy reports and budget presented to the Assembly.

And in accordance with the provision of the Interim Constitution of the Southern Sudan about the objective of the Government of Southern Sudan Article 40(1), (2)and(3),the bill has been presented to encourage a grass root based development along the line of decentralization and equal sharing of the resource of Southern Sudan by its citizens. It addresses the issue of poverty eradication at the grass root level through the implementation of community based pro-poor projects which have long term effects of pro-poor improving the people's well being.

This is in line with the vision of our Late Chairman Dr. John Garang de Mabior of taking the towns to the people and not the people to the towns. So the vision is so important to us. Today all of us try to take Juba around to the rural areas in Southern Sudan.

THE CONSSTIUANCIES DEVELOPMENT FUND BILL, 2007

ARRANGMENT OF SECTIONS

PART ONE PRELIMINARY

SECTIONS

1. Short title and commencement
2. Interpretation
3. Application

PART TWO

Establishment of the constituencies Development fund and it relevant

Sections are:

1. Establishment of the constituencies, Development fund.
2. Establishment of the Southern management committee.
3. Function of the Southern Sudan Committee.
4. Officer administering the fund.
5. Disbursement from the fund.
6. Funds to be set a side.
7. Funds to be retained in the fund.
8. Emergency reserve.

PART THREE

SUBMISSION OF CONSTITUENCY PROJECT PROPOSALS

1. Members of SSLA to submit proposal
2. Submission dead line.
3. Project description forum.
4. Constituencies fund committee to recommend.
5. Clerk to forward to minister.
6. List to be serialized.
7. Basis for budget ceiling.
8. Criteria for projects.

PART FOUR

TYPES OF PROJECTS

1. Project to be community based.
2. Number of projects.
3. Composition of the constituency, Development committee.
4. Cost estimate to be realistic.
5. Personal awards to be excluded.
6. Counter part funding to be permitted.

PART FIVE

CONSTITUENCIES FUND COMMITTEE.

1. Establishment of the constituencies fund committee
2. Constituencies fund committee to scrutinize proposal.
3. Proposal to be included in the printed estimates.

PART SIX

IMPLEMENTATION OF PROJECTS.

1. Government department to implement.
2. Procurement of service and work.
3. Department to maintain records.

4. Returns to constituencies development fund.
5. Accounts and audit.
6. Community initiative to be eligible.
7. Departmental head to be represented in project committee.
8. On going projects to be evaluated.
9. Community interests to be represented.

PART SEVEN

COUNTY PROJECTS COMMITTEE

1. Establishment of county project committee.
2. Membership.

PART EIGHT

ROLES OF THE COUNTY PROJECTS COMMITTEE

1. members of SSLA to table proposals
2. Duplication of projects to be avoided.
3. County projects committee to approve.

PART NINE

FINANCIAL AND ADMINISTRATION

1. Other offices of the fund.
2. Constituency account.
3. Bank account of the fund.
4. Record of disbursements to be kept.

PART TEN

MISCELLANEOUS PROVISIONS

1. Personal emoluments.
2. Minister to make regulations.
3. Provisions in the Bill are complimentary.
4. Offences and penalties

Mr. Speaker Sir, the Constituencies development fund bill, 2007 is a bill of Southern Sudan Legislative Assembly to be provided for the establishment of the constituencies development fund and for connected purposes.

PART ONE

SHORT TITLE AND COMMENCEMENT

1. This bill may be cited as the constituencies development fund bill 2007 and shall come into operation on such date as the minister, by the notice in the gazette, appoint but not later than thirty days from the date of assent. (Interruption). We have actually reached area stage of presenting the project.

Hon. Deputy Speaker

Hon. Members of Southern Sudan Legislative Assembly. Now the project has been presented in a Legal way before the august House. The constituencies Development fund

Bill, 2007 has been presented officially. I would like to read the title so that it can be delivered legally and later on, we refer it to the specialized committee of the Legislation and Legal Affairs and to the Committee of Economic, Development and Finance.

Now I read the title of the bill “constituencies’ development Fund, 2007. And now we refer it to the Legislation and Legal Affairs and to the Committee of Economy, Development and Finance. Again the two committees will come with another presentation in the 2nd reading.

As our basket this morning is empty, I now declare the sitting closed. Thank you very much.