

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 19<sup>th</sup> August 2015

The House met at 2.30 p.m.

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

### PRAYERS

### PETITION

#### EDUCATION CRISIS IN GARISSA, WAJIR AND MANDERA COUNTIES

**Hon. Speaker:** Hon. Abdikadir Ore, Member for Wajir West.

**Hon. A. O. Ahmed:** Thank you, Hon. Speaker. I, the undersigned, on behalf of seven (7) citizens of the Republic of Kenya, draw the attention of the House to the following: -

- (i) THAT, Article 53 (1) of Constitution of Kenya, Section 7 of the Children's Act and the United Nations Convention on Rights of the Child provides for the Right to free and compulsory basic education for every child.
- (ii) THAT, Article 13 of the International Convention on Economic, Social and Cultural Rights recognizes the rights to education and that education shall be directed to the full development of the every human being and the sense of its dignity, shall strengthen respect for human rights and fundamental freedoms.
- (iii) THAT, the Government is mandated to take legislative and other measures, including affirmative action initiatives and policies, designed at addressing the needs of any disadvantaged persons.
- (iv) THAT, cases of insecurity have adversely affected some parts of Kenya, especially parts of Mandera, Garissa, and Wajir Counties.
- (v) THAT, following the terror attack incidents experienced in Mandera and Garissa, particularly the November 2014 and April 2015 terror attacks, over two thousand teachers have not reported back to their work stations resulting in closure of over ninety five (95) schools in the north eastern region.
- (vi) NOTING, that the national examinations for Class Eight pupils and Form Four students are due in a few months,
- (vi) FURTHER NOTING that those pupils and students are disadvantaged as they have not covered the requisite curriculum,
- (vii) CONCERNED THAT efforts to resolve this matter with the relevant Government agencies have been futile; and
- (viii) THAT, the matter presented in this petition is not pending before any tribunal or court of law.

Therefore, your humble Petitioner prays that the National Assembly, through the Departmental Committee of Education, Research and Technology:-

(a) Considers mechanisms for immediate resolution of the stalemate between the Ministry of Education, Science and Technology, the Teachers Service Commission, and Kenya National Union of Teachers to ensure speedy deployment of teachers to Mandera, Wajir and Garissa counties and ensures that the teachers report to their stations.

(b) Ensures that the Petitioners' plight is addressed; and,

(c) Makes any other order or direction that it deems fit in the circumstances of the Petition.

And your Petitioners will ever pray.

Thank you, Hon. Speaker.

**Hon. Speaker:** I see there are some members who have placed interventions; I do not know whether they want to make some brief comments, limited to two minutes maximum. Hon. Abdikadir.

**Hon. Aden:** Thank you, Hon. Speaker, for this opportunity. I really want to thank my colleague and my name sake Hon. Abdikadir Ore, for bringing in this very important Petition before the House.

The situation in northern Kenya is dire; the children of northern Kenya are seriously disadvantaged with regard to education. For the whole of the last two terms, our children have not gone to school. They are at home, there are no teachers, the schools are closed yet there is very minimal action coming from the Ministry of Education, Science and Technology. I really wish to beg that you direct that this Petition be given the urgency it deserves. Our children are going to do examinations in another two months or so, yet those children have not seen a teacher in front of them for almost the whole of this year, yet, they are expected to compete with the rest of Kenyans when it comes to the marking of examinations. This Petition will give the children of northern Kenya an opportunity for their denied rights to be addressed by this Hon. House; I really beg that the Committee that is going to take up this particular Petition does so with seriousness and also takes an opportunity to go and schools in this region.

I have about 30 schools in my constituency and I can tell you that only two out of those 30 schools have had half of the teachers in classrooms. More than half of the schools have been closed for the last two years, and the situation is the same across the northern region of Kenya. This Petition is urgent; I join the Petitioners in praying that you direct that the Committee takes this issue up urgently and undertakes an immediate fact finding mission to find out the situation and propose adequate measures to be taken.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Opiyo Wandayi.

**Hon. Wandayi:** Hon. Speaker, I also wish to make a few comments with regard to this very important matter.

You will recall that at the beginning of this year, there was an uproar by teachers through their trade unions, that is Kenya National Union of Teachers (KNUT) and Kenya Union of Post Primary Education (KUPPET), that teachers serving in northern eastern Kenya specifically in Garrisa, Wajir and Tana River counties, be allowed to be transferred to other parts of the country where they felt safer.

Hon. Speaker, since then up to now, it is true that no meaningful teaching has taken place in those counties. That is not really the issue that should worry us. The most important thing as

this happens the government operates as if everything is normal. That children of Kenyans in more than three counties should be staying at home for close to a year and the Government behaves as if nothing in the world is really happening is something that should shock all of us. I do not even believe that the Committee is the right avenue to address this matter. This is a grave matter that requires executive action. It requires the President to intervene through the executive powers that he has, so that children of Kenyans do not suffer at the altar of political expediency.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. David Kangogo.

**Hon. Bowen:** Thank you, Hon. Speaker, for giving me a chance to add my voice to this issue. We appreciate that the students in northern Kenya are really suffering because of teachers. I think the right to life is a fundamental human right. There is need to have an alternative, or a permanent solution to the issue in northern Kenya. We cannot force a teacher to go to a very insecure place, given that we lost about 26 teachers last year. As we speak today, we have orphans in our homes. If you remember in northern Kenya there was a father and mother who were killed and both of them were teachers. So, there is need for the Government, if possible, to employ teachers from northern Kenya to go and teach there. We cannot allow our teachers, brothers and sisters from other parts of the country, to go to northern eastern only to bring death certificates at home. The Government has to come up with a policy like taking untrained teachers to northern Kenya; we cannot risk lives of other Kenyans there.

**Hon. Speaker:** Finally, Hon. Members, if you carefully listened to the Petition as it was read out, it is seeking that the Committee of this House investigates the matter and comes up with proposals for action. It is not a matter that we would want to open up for debate at this time before the Committee brings its report. We need to be a bit careful that we have a responsibility as national leaders to hold this country together; that is something that we cannot gainsay.

Finally, Hon. Muthomi Njuki.

**Hon. Njuki:** Thank you, Hon. Speaker, I only sympathize with the situation that our brothers in northern eastern are going through. I think this is not a time when this country can politicize issues of education, because it is not a choice by the people of northern eastern to be going through difficulties at the moment. Northern eastern is part and parcel of this country and we must find an affirmative action to ensure that those children are taught. This is because at the end of the day education is the common denominator that will actually equalize or unify Kenya. If we go that direction of politicizing everything, then we are going to tear this country apart in terms of what should happen where. This is because if we say everybody goes to work where they come from, there will be a problem. Hon. Speaker, However, my issue is on what has been happening in terms of Petitions in this country.

*(Loud consultations)*

Hon. Speaker, there are a lot of consultations going on very loudly. People are shouting across the Floor. Maybe you could save the situation, so that we can transact business.

**Hon. Speaker:** Hon. Abass! I can hear you from where I am sitting, and I can see you gesticulating to a Member on the other side of the aisle. Please, if you need to consult with any Member on the other side, just walk to the door, bow and cross over. Go and whisper to the Member, so that others can participate in the deliberations. It is not in the manner that you are doing it.

Please, Hon. Abass.

**Hon. Njuki:** Thank you Hon. Speaker. Maybe he can even go out and---

**Hon. Speaker:** No! No! Do not add on that. Just continue with your contribution.

*(Laughter)*

**Hon. Njuki:** My issue is on the way we have been treating Petitions in this House. This is because Standing Order Nos. 225 up to No. 229 is very articulate on what is supposed to happen to a Petition. Your administration went a step further and introduced a Petition Tracker, where we are able to see what is happening to a Petition from time to time, up to implementation. However, the biggest problem has been occurring after the Committee has done a great job, it has a positive implementation plan and there is a recommendation on what the Ministry is going to do. After the Petition is registered by the Clerk we can have up to two years and nothing happens.

I will give you a very good example. I have had Petitions in this House; I brought a Petition here that was referred to the Committee on Transport, Public works and Housing. There was a recommendation that bumps should be put in a certain place in Tharaka-Nithi County. It was passed and even the Ministry gave a written notice that it was to be done. Several years down the line, it has not been done.

Hon. Speaker, I would like you to make a ruling on what exactly can be done because the implementation Committee does not have a way of forcing the Ministry to implement a Petition. Otherwise, the Petitions just become a Public Relations (PR) exercise in this House.

Thank you.

**Hon. Speaker:** Hon. Muthomi Njuki, the point you are raising is an important one, but it also goes to address the issue of the purpose and the logic of having the Committee on Implementation. That Committee ought to be extremely busy, given that there have been very many reports that have been adopted by this House. That Committee should be the one making follow ups. They cannot say that their hands are tied, or that they cannot get action from the Executive. If any Member of the Executive is not answering to summons or invitations from committees, that matter should be reported to this very plenary, so that this House deals with the particular member of the Executive, who is not acting in terms of the resolutions of the House. So, it means that our Committee must ensure that there is a way that they receive the various resolutions on a daily basis on the reports that have been adopted by this House, so that there is implementation.

That is why the Committee was set up. I do not see the Chairperson but I believe there are several members of that Committee in here. Do I see Hon. Melly about to say something?

**Hon. Melly:** Thank you, Hon. Speaker. First, the issue of education in north eastern is an issue of national concern. It is not an issue for that region alone. It's a national issue. I want to make it very clear that it is not that we want to cut one part of our country and start removing people to go to other parts. We are one nation. This is an issue that we are facing as one country and one people. As a Committee, we have been in communication with the Cabinet Secretary (CS) in charge of internal security. In fact, we have even told the relevant Government arm that they should restore order and ensure that Kenyans of all walks of life and from different tribes can work in that region. However, the biggest problem that we are facing is having to restore confidence in the local people themselves.

In fact, there was a time when we met the local leadership in north eastern region. We asked them to ensure that they participate in restoring law and order and they accepted to do that. We want them to say the same, that they will support even the locals. When civil servants complained about insecurity---We are saying that security starts with us. We are asking that when the Government makes an effort, local leaders must equally make efforts to make the north eastern region part and parcel of this country. We are going to do that and we will bring that report here.

Thank you.

**Hon. Speaker:** Well, that was good intervention, but, please, the Petition requires that you do certain things. Listen to the petitioners and then give us a report.

Hon. Members before we proceed, I want to recognize students from the following institutions seated in the Speaker's gallery: Pupils from Getune Primary School, Garissa County and those from Kaimosi Friends Primary School in Vihiga County. There are also students from Sony Sugar Primary School in Awendo Constituency, Migori County; Kwale High School and Matuga Girls High School in Kwale County. They are all welcome to observe the proceedings of the House.

Thank you.

#### PAPERS LAID

**Hon. A.B. Duale:** Thank you, Hon. Speaker.

Hon. Speaker, I beg to lay the following papers on the Table of the House, today Wednesday, August 19, 2015.

The Report of the Auditor General on the Financial Statements of South Nyanza Sugar Company limited for the year ended 30<sup>th</sup> June, 2014 and the Certificate therein.

The Report of the Auditor-General on the Financial Statements of Lake Victoria North Water Services for the year ended 30<sup>th</sup> June, 2014 and the Certificate therein.

The Report of the Auditor -General on the Financial Statements of the Kenya National Library Service for the year ended 30<sup>th</sup> June, 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of Kisii University for the year ended 30<sup>th</sup> June, 2014 and the Certificate therein.

The Report of the Auditor -General on the Financial Statements of Tanathi Water Services Board for the year ended 30<sup>th</sup> June, 2014 and the Certificate therein.

The Report of the Auditor -General on the Financial Statements of the Technical University of Kenya for the year ended 30<sup>th</sup> June, 2014 and the Certificate therein

The Report of the Auditor-General on the Financial Statements of the Kenya National Highways Authority for the year ended 30<sup>th</sup> June, 2014 and the Certificate therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund - Embakasi West Constituency - for the year ended 30<sup>th</sup> June, 2014 and the Certificate therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund - Embakasi East Constituency - for the year ended 30<sup>th</sup> June, 2014 and the Certificate therein

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund - Vihiga Constituency - for the year ended 30<sup>th</sup> June, 2014 and the certificate therein.

**Hon. Speaker:** Let us have the Chairperson of the Departmental Committee on Justice and Legal Affairs

**Hon. Chepkong'a:** Hon. Speaker, these are the Papers that I am laying. I am sorry; I was concentrating on the amendments to the Insolvency Bill.

Hon. Speaker, I beg to lay the following Papers on the Table of the House, today Tuesday, August 18, 2015:-

Report of the Departmental Committee on Justice and Legal Affairs on its consideration of---

**Hon. Speaker:** Did you say, Tuesday, 18<sup>th</sup>?

**Hon. Chepkong'a:** I am sorry, Hon. Speaker. I meant Wednesday, 19<sup>th</sup> August, 2015. I may be behind by one day. Those are the effects of missing Parliament last week.

Hon. Speaker, I beg to lay the following Papers on the Table:-  
The Reports of the Departmental Committee on Justice and Legal Affairs on its consideration of:-

- (1) The Business Registration Service Bill, 2015; and,
- (2) The Presidential Memorandum on the Ethics and Anti-Corruption Commission (Amendment) Bill, 2015.

Arising from your ruling, we have taken advantage to ensure that presidential reservations are complied with to the letter, so that we are not required to apply the two-third gender rule. We would be seeking your approval, so that it complies with your ruling.

**Hon. Speaker:** I have already read your Report and I know what you have done as a Committee. It is good.

Let us hear from the Leader of Delegation/Member of the Departmental Committee on Environment and Natural Resources.

**Hon. (Ms.) Emanikor:** Hon. Speaker, I beg to lay the following Paper on the Table:-

The Report of the Departmental Committee on Environment and Natural Resources on the Regional Summit to Stop Wildlife Crime and Advance Wildlife Conservation held from 7<sup>th</sup> to 8<sup>th</sup> November 2014 in Arusha, Tanzania.

**Hon. Speaker:** Chairperson of the Departmental Committee on Finance, Planning and Trade, Hon. Benjamin Langat.

**Hon. Langat:** Hon. Speaker, I beg to lay the following Paper on the Table:-

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

Yesterday, I promised that I would table the Report and I have now done it.

**Hon. Speaker:** I hope that you have produced enough copies for Members to read, so that everybody is informed during the Committee of the whole House.

Hon. Langat.

**Hon. Langat:** Hon. Speaker, I believe that Members are able to access the Report at the Table Office, Room 8.

**Hon. Speaker:** That is because that Bill is scheduled for the Committee of the whole House on Tuesday afternoon.

Next Order.

## PROCEDURAL MOTION

### REDUCTION OF PUBLICATION PERIOD OF BILLS

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

Order Members! Consultations are too loud. Make them a little lower.

Proceed.

**Hon. A.B. Duale:** Hon. Speaker, I beg to move the following Motion:-

THAT, pursuant to the provisions of Standing Order No. 120, this House resolves to reduce the Publication Period of the following Bills from 14 to 8 days:-

(i) The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015);

(ii) The Community Land Bill (National Assembly Bill No. 45 of 2015);

(iii) The Physical Planning Bill (National Assembly Bill No. 46 of 2015);

(iv) The High Court Organization and Administration Bill (National Assembly Bill No.47 of 2015);

(v) The Protection of Traditional Knowledge and Traditional Cultural Expressions Bill (National Assembly Bill No. 48 of 2015);

(vi) The Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015);

(vii) The Small Claims Court Bill (National Assembly Bill No. 51 of 2015); and,

(viii) The Court of Appeal (Organization and Administration) Bill (National Assembly Bill No. 52 of 2015).

Those are among the Bills that have the constitutional deadline of August 27<sup>th</sup>, which is just a few days away. All indications are that we are not going to beat that deadline. Without anticipating debate in Order No.18, it is crucial for Parliament to fast-track those Bills.

The purported Leader of the Minority Party is distracting me. He is saying that we are going to extend. This is a different Motion. This Motion is only allowing the House the opportunity to make sure that those Bills mature when we are on recess. We are going for a long recess of one month. It is my opinion and the opinion of the House Business Committee (HBC), that we reduce the publication period and then if the House agrees with me, we can do the First Reading. From tomorrow, the various Committees can start the public participation and engage the stakeholders, so that when we come back at the end of September, the Committees of the House will have the opportunity to table their reports and then we do the Second Reading. That is what I am asking for. I am not asking for an extension of time on constitutional Bills.

The extension of time on the constitutional Bills is a function of the Legislature. It is not a function of the Executive or the Judiciary. The repercussions are very clear but we will come to it. This is just to make Parliament, more so the National Assembly, very efficient. If, for example, the Bill concerns the Departmental Committee on Defence and Foreign Relations, they can engage stakeholders in public participation and their concerns tomorrow morning.

With those many remarks, if Hon. Abbass and Hon. Rachel Nyamai allow me, I will ask the Chief Whip of the Majority Party to second.

**Hon. Speaker:** Yes, Hon. Katoo.

**Hon. Katoo:** Thank you, Hon. Speaker. I second this Procedural Motion. It is good. I want to plead with the House that we approve this Motion because it is after approving this Motion that we can even have Motions No.10 to No.18 read and come to the Floor of the House. As the Mover has clearly said, the originators of those Bills have delayed in bringing them. The National Assembly is fast-tracking the coming into effect of those Bills.

Now that our calendar is in the public domain, this House will be proceeding for a long recess beginning Friday next week. It will be a one month recess. If we approve this Procedural Motion, Committees will be busy looking into those Bills. That will be the time to open up the window for public participation.

Therefore, with those few remarks, and cognizance of the fact that, that was the position of the HBC, I beg to second.

**Hon. Speaker:** Do those Members who are upstanding intend to remain so? You can take seats there; it is easier.

*(Question proposed)*

**Hon. Members:** Put the Question, Hon. Speaker.

**Hon. Speaker:** Hon. Members, is that the mood of the House?

**Hon. Members:** Yes, Hon. Speaker.

*(Question put and agreed to)*

**Hon. Speaker:** Hon. Wario, member for Bura, kindly pay attention to what is happening.

*(Hon. Wario walked out)*

Hon. Wario, you cannot do that! You must get back. I know Hon. Wario is an experienced Member just as Hon. Nyamweya, who is doing his second term.

## BILL

### *Second Reading*

#### THE FINANCE BILL

Hon. Members, the debate on the Finance Bill was concluded yesterday. Therefore, what remains is for me to put the Question.

*(Question put and agreed to)*

*(The Bill was read a Second Time and Committed to a Committee of the whole House today by leave of the House)*

## BILLS



*First Readings*

THE PETROLEUM (EXPLORATION, DEVELOPMENT  
AND PRODUCTION) BILL

THE COMMUNITY LAND BILL

THE PHYSICAL PLANNING BILL

THE HIGH COURT (ORGANIZATION AND ADMINISTRATION) BILL

THE PROTECTION OF TRADITIONAL KNOWLEDGE AND  
TRADITIONALCULTURAL EXPRESSIONS BILL

THE FOREST CONSERVATION AND MANAGEMENT BILL

THE SMALL CLAIMS COURT BILL

THE COURT OF APPEAL (ORGANIZATION AND ADMINISTRATION) BILL

*(Orders for First Readings read – Read the First Time and ordered to be  
referred to the relevant Departmental Committees)*

**SPECIAL MOTION**

EXTENSION OF PERIOD IN RESPECT OF LEGISLATION WITH  
CONSTITUTIONAL TIMELINE OF 27<sup>TH</sup> AUGUST 2015

**Hon. Baiya:** Hon. Speaker. I beg to move the following Motion:-

THAT, Pursuant to the provisions of Article 261(2) of the Constitution, this House resolves to extend the period prescribed for enactment of legislation necessary to give effect to:-

- (a) Article 11(3)(a) (compensation or royalties for the use of cultures and cultural heritage).
- (b) Article 11(3)(b) (recognition and protection of indigenous seeds and plant varieties. their genetic and diverse characteristics and use by the communities of Kenya).
- (c) Article 63 (community land).
- (d) Article 66 (regulation of land use and property).
- (e) Article 67(2)(e)(investigation and adjudication of claims arising out of historical land injustices).
- (f) Article 68(c)(i) (minimum and maximum land holding acreage).
- (g) Article 71 (agreements relating to sharing of natural resources).
- (h) Article 81(b) (two-thirds gender principle).

- (i) Article 100 (representation of marginalized groups).
- (j) Article 164(1)(b) (organization and administration of the Court of Appeal).
- (k) Article 165(1)(b) (organization and administration of the High Court).
- (l) Article 169(1) (Subordinate Courts).
- (m) Article 173 (5) (regulation of the Judiciary Fund).
- (n) Section 17 of the Sixth Schedule of the Constitution (restructuring of the provincial administration) and,
- (o) any other legislation required under the Constitution to be enacted by Parliament within five years, by a period of twelve (12) months from 27<sup>th</sup> August 2015.

Hon. Speaker, this is a Motion brought under the provisions of the Constitution, providing that where Parliament has not managed to enact legislation required to be enacted within the period specified in the Constitution, the National Parliament may seek extension of period under the Constitution once and for a maximum period of 12 months.

Hon. Speaker, the deadline for relevant legislation that was required to be passed under the fifth year falls on 27<sup>th</sup> August 2015. Some of the Bills which have just gone through the First Reading are among those Bills, and there are others which are going through publication.

The Constitution Implementation Oversight Committee (CIOC) has had occasion to report to this Parliament as recently as 28<sup>th</sup> July 2015 that we had not received all the Bills that had a deadline of 27<sup>th</sup> August 2015. That means that the CIOC has been interacting with all the line Ministries to ensure that they develop this requisite legislation. They are the ones who delayed. The most important thing is that all the Bills that require to be enacted have now been brought before the House. What is needed is for Parliament to have time to observe procedures of publication and scrutiny, public participation and all the way until they are developed into Acts of Parliament.

Unlike the 10<sup>th</sup> Parliament, the 11<sup>th</sup> Parliament is a bicameral Parliament. In the 10<sup>th</sup> Parliament, we used to meet those deadlines rather expeditiously because there was no consultation between two Houses, but some of the Bills which we are going to be considering will certainly require the input of the Senate. Some of them, by the very nature of issues they are dealing with are quite weighty and controversial, I may say that they are not amenable to easy consensus. Bills like the Community Land Bill, Petroleum Exploration Bill, Physical Planning Bill and many others like the ones regarding the minimum and maximum acreage, historical injustices and evictions--- All those are Bills of sensitive nature and they will require consensus not only between us in the National Assembly and the Senate but even with all the other stakeholders and Kenyans, who are going to be affected by this legislation.

So, we are requesting extension of timeline by 12 months. Why are we asking for those 12 months? We do not mean that we will wait until the 12 months are expired. If we are able to develop consensus on the legislation way before the 12 months, I am sure we can conclude those legislations. We can only extend time once. That is why we want to leave it open for Members of Parliament (MPs) to have all the way to August next year, the maximum time possible under the law, so that we can utilize that time to do the necessary public participation.

Hon. Speaker, I am aware that some sentiments have been expressed outside this House. Concerns have been expressed that Parliament or possibly the Executive is not taking its work seriously. The truth of the matter is that the responsibility for enacting legislation squarely falls

on the National Assembly and the Senate. It is not on the Executive. It is only the arrangement and procedure of developing legislation that requires the Executive to do the initial draft legislation and then pass it over to Parliament. I can confirm that the Executive has already developed those Bills and they have been brought to us. They were brought after 28<sup>th</sup> July which was last month.

We are now only asking the National Assembly and the Senate to be given sufficient time to do the necessary processing of those Bills. Now, a question arises: If we do not extend this time, the consequences fall on the National Assembly and the Senate and not on the Executive. Members of Parliament will, therefore, be shooting themselves under the foot if, for whatever reasons, they failed to extend time to give themselves the opportunity to get time to consider those Bills.

We have also seen situations in the past where Parliament rushed through the process of enacting legislation and ended up enacting legislation that had issues in terms of quality, clarity or even in quality or substance of the law. It is really imperative and in the interest of the country that we allow Parliament to have ample time to consider the various legislations, which will be done in the usual manner by the relevant Departmental Committees.

I am very sure the consequences of us not extending time will squarely fall on Members of the National Assembly. Those consequences are quite dire. The Constitution gives Kenyans an opportunity to go to the High Court which can order the dissolution of this Parliament merely on the basis that we have failed to enact legislation to implement this Constitution.

The country had a timeline of five years to enact various legislations. This being the fifth year, we are looking into all the Bills including, as has been pointed out under this application, any other legislation required to be, under the Constitution, enacted by Parliament within five years. So, we are also going to use the window of one year to look at any other legislation which we may have missed. We are already working with the relevant institutions to conduct audit of the implementation to ensure that there is no existing law or provision of the Constitution---

*(Hon. Baiya spoke off record)*

**Hon. Speaker:** Do not beg out of record. Say what you were saying on record.

*(Laughter)*

**Hon. Baiya:** I beg to move this Motion and ask the Deputy Leader of the Majority Party to second this Motion.

**Hon. Speaker:** Hon. Naomi Shaban.

**Hon. (Dr.) Shaban:** Hon. Speaker, I rise to second the Motion by the Chairperson of CIOC on the extension of period in respect of legislation with constitutional timelines of 27<sup>th</sup> August 2015.

It is quite important for all Members to be on board, considering the constitutional timelines which have been put in our Constitution. This is the only Constitution in the whole world where there are timelines in terms of implementing certain Articles, or parts, of the Constitution. An extension of 12 months is not a bad idea.

In the last Parliament, we passed Bills in a hurry, sometimes up to midnight. In the process, people made mistakes and we had to do a lot of amendments considering the time limitations which were there.

Hon. Speaker, as I am seconding this Motion, I want to ask all my colleagues to be on board because Article 261 is very clear on how this is supposed to be done. We need everybody. This is not an issue of Jubilee alone. This is an issue of all Members of Parliament because the mandate of Parliament is to do legislation.

We are a bicameral institution and whatever we do here has to go to the Senate. When it goes to the Senate, we do not have control of whatever the other side will do. We will be required to also give them enough time for them to carry out their legislative mandate.

Hon. Speaker, we do not want to get into a position where Kenyans will be running to courts to ask for dissolution of Parliament.

I beg to second.

*(Question proposed)*

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

**Hon. A.B. Duale:** Thank you, Hon. Speaker. I stand under Standing Order No. 96 and call for adjournment of this debate looking at the numbers on both sides of the House. After consultations with my colleagues and the House leadership, we have agreed that we have a consultative meeting tomorrow morning which I am going to convene to agree on the period between six, nine and 12 months and later on ask you as the Chair of the House Business Committee (HBC) that we defer the matter to the first item tomorrow afternoon in order for the leadership to do consultations and whip our Members because this is a matter for the Legislature. That is what we have agreed.

I move as per Standing Order No. 96 and ask for adjournment of debate. I will ask the Deputy Minority Leader to say the famous words in last Government of “concurrence and consultation”.

**Hon. Speaker:** Hon. Washington Midiwo.

**Hon. Midiwo:** Thank you Hon. Speaker. I rise to support the submission by my colleague, the Leader of the Majority Party. This matter is not one that should really be controversial. It should have been a matter that would never even have arrived here. On our side, we have heavy hearts dealing with this issue because it seems that the process of implementation of the Constitution is not moving forward as envisaged earlier in the Constitution. It is good to tell the nation that the problem is not Parliament’s. The Executive has refused for a very long time to give us the laws to debate and pass. Therefore, the drafters of the Constitution who said it is Parliament that suffers in the event those Bills are not passed at a certain time may not have looked at the whole issue appropriately.

We want to plead with the Ministries, who are the originators of those laws not to make Parliament look bad even when it has not done anything. If those Bills were before us on time and as they should, we would have dealt with them one way or another. I want to absolve Parliament from blame. We in the Opposition have heavy hearts because Kenyans are looking at us and asking why the implementation is not going on.

I agree with Hon. Duale and we need to consult on what is coming out. We have consulted with a Section of the House leadership. However, what is coming up is that sometimes

we try to create controversy where we need to consult. I beg you to let us have a leaders' meeting. Let us agree on the issues and give us time to consult. There is still enough time. Those Members have done a head count. You have less than 160 Members in the House. It is futile to begin this kind of debate.

I support.

*(Applause)*

**Hon. Speaker:** Hon. Members, I needed to get a sense of why there was the foot thumping. I am convinced that there is merit in the Motion under Standing Order No. 96 for the reasons stated by both leaders from both sides of the coalitions. I may need to put the Question to the House.

*(Question put and agreed to)*

Hon. Members, I want to join what has been said by the Leader of the Majority Party and the Deputy Leader of the Minority Party that the two sides consult. However, just as Hon. Washington Jakoyo Midiwo has just said, it is unfortunate that the drafters of the Constitution decided to put the Sword of Damocles on Parliament; it is to hang around Parliament, more specifically the National Assembly, for reasons of inactivity, whether deliberate or not, by others and claim that in the event that Parliament fails to enact legislation either the one--- If you recall, there were some Bills which required to be passed within six, 12 and 18 months or two years. As you remember the history, on various occasions, the House had to extend time.

This being the last set of Bills, it is only fair that both sides of the House meet, as leadership, and decide whether you want us to proceed with the Motion tomorrow in the afternoon. This is a matter that we need to resolve in one way or another. If the leadership agrees that we have this Motion proceed in the afternoon tomorrow, then I would direct that it be put on the Order Paper as business No.1, so that then you can resolve it in one way or another either by agreeing to extend or not to extend. The rest will then follow. The consequences are provided for in Article 261.

I, therefore, would encourage that the Leader of the Majority Party and the Leader of Minority Party, and as many as Members of your coalitions as you deem necessary to attend that meeting. Meet tomorrow then inform me in good time for the preparation of the Order Paper. Even if need be, we can do a Supplementary Order Paper to accommodate your resolution. It is so ordered.

*(Debate on Motion deferred)*

Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

## IN THE COMMITTEE

*[The Temporary Deputy Chairlady (Hon. (Ms.) Shebesh) took the Chair]*

## THE INSOLVENCY BILL

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh: Hon. Members, we are now in the Committee of the Whole House to consider the Insolvency Bill. This is quite a lengthy Bill with 735 clauses.

*(Loud consultations)*

Hon. Members, can we have those leaving do so quietly so that we can start on the Insolvency Bill, which is quite lengthy. It has 735 clauses. So, we are considering the Insolvency Bill, National Assembly Bill No. 15 of 2015.

*(Clauses 3, 4, 5, 6 and 7 agreed to)*

*Clause 8*

**Hon. G.W. Omondi:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 8 of the Bill be amended by inserting the following subsections immediately after subsection (1)—

“(1A) The Official Receiver shall establish a committee of three officers to—

- (a) review applications for authorization to act as insolvency practitioners; and
- (b) recommend to the Official Receiver the grant or refusal of authorization.

(1B)The committee established under subsection (1A) shall keep a record of its meetings and recommendations made to the Official Receiver.”

*(Loud consultations)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, the Member is unable to continue because of loud consultations.

**Hon. G.W. Omondi:** The Bill, as originally brought here, gave the Official Receiver the authority to authorise the insolvency practitioners. I want applications to be looked at by a committee, so that the process is transparent.

*(Question of the amendment proposed)*

**Hon. Wakhungu:** On a point of order, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh: What is the out of order, Hon. Wakhungu.

**Hon. Wakhungu:** There is a precedence in the House that when you bring any amendment, you need to give the gist and the import of it. He has not done that. He must explain and tell us what he is trying to change and convince us so that we know the implication. He has to justify it. He has not done that.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Member, I will come to him, so that he can give a better clarification, although he has explained.

**Hon. Wakhungu:** He has just read.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Member, go ahead. Make it a bit clearer for Members.

**Hon. G.W. Omondi:** I explained. The Bill is giving the Official Receiver the authority to authorise the insolvency practitioners. The amendment I am bringing actually gives a role to the committee within the official receiver's office. So, it becomes more transparent than what is in the Bill. Receivers have been anybody who is picked and goes around destroying peoples' companies. When you give this to a committee, it means that the insolvency practitioner will have been looked at by a committee and not an individual.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I had given the chance to the Chairman of the committee.

**Hon. Chepkong'a:** Thank you, Hon. Temporary Deputy Chairlady. This is the problem of not bringing matters before a Committee. This matter has been pending before the Departmental Committee on Justice and Legal Affairs for a long time. If you go by the way my very good friend is proposing, first, it is inconsistent with Clause 6(7). The Cabinet Secretary has been given the power to declare a professional body, or certain professional bodies as insolvency practitioners.

Secondly, if you say that the Official Receiver shall appoint a committee of three persons from their own office, those will be staff of the Official Receiver. You cannot form a committee of staff. Those are functions of the Official Receiver, irrespective of whoever he wants to appoint to this committee.

Thirdly, what are the qualifications of those persons who are being appointed into a committee? Once you appoint somebody into a committee, you must state their qualifications and what they will be paid. You know you are appointing people to a committee who are members of staff of the Official Receiver. That is inconsistent with the general philosophy of legislation-making.

Fourthly, I do not want to anticipate debate. We have on the Order Paper, Order No.10 - the enactment of business registration institution. This will be the parastatal that will manage both the Companies Act, that we have just passed, and the Insolvency Bill. So when you create a committee on top of the board of directors of a company which is supposed to be created for a parastatal, you are going to cause confusion. Is it a committee of the board? You can only create committees of boards and not a committee of members of staff under legislation.

So, if my friend is persuaded sufficiently by my argument - not that we are opposing him for the sake of it - we are saying that in terms of legislation-making, you will be confusing the entire authority. There is going to be an authority managing the Insolvency Bill and the Companies Bill. I am not opposed to his second proposed amendment, but this one is not good.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Chairlady, I want to do better than the Chairperson of the Committee and ask my good friend, *Mhe.* Omondi, that following what the Hon. Temporary Deputy Chairlady has said, this law is before this House to streamline the whole

business of insolvency. When you make the Receiver Manager to appoint a committee, then you are duplicating his functions. I want to state very clearly that even Receiver Managers are appointed based on expertise; they are not just picked. The Central Bank of Kenya (CBK), or any other statutory organization, will pick them based on expertise. In order for us to move on, I would like to ask my good friend, Hon. Omondi, to withdraw this amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): The Member for Ol Jororok.

**Hon. Waiganjo:** Thank you, Hon. Temporary Deputy Chairlady. I also want to urge the Hon. Omondi to consider withdrawing this amendment, because the appointment of an insolvency practitioner is well elaborated in other clauses of this Bill. Secondly, we do not want to load the Official Receiver with committees and duplication of work. Therefore, what he proposes now will unnecessarily duplicate what has already been dealt with in other clauses of this Bill. So, the right thing to do is to withdraw this amendment and we proceed.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): One more person only. Hon. Makali Mulu.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairlady. While listening to Hon. Omondi, the fear was only in a situation where the Official Receiver appoints without consultation. That is already taken care of in the Bill. So, I agree with my colleagues that he needs to withdraw this amendment, because his fears are already taken care of in the Bill.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Omondi, would you like me to give you an opportunity?

**Hon. G. M. Omondi:** Given that I am one Member against four or five other Members, whatever I wanted to cure has been explained by my good friend, Hon. Chepkong'a. I am convinced.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Please, be clear. Have you withdrawn the amendment?

**Hon. G.W. Omondi:** Yes, I withdraw the amendment.

*(The proposed amendment by Hon. G.W. Omondi to Clause 8 withdrawn)*

*(Clause 8 agreed to)*

*(Clauses 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197,*



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**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, I need to have more responses as I put the Question. So, please be attentive as I put the Question.

(Clauses 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384 and 385 agreed to)

*Clause 386*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 386 of the Bill be amended—

(a) in sub-clause (2) by deleting the words “Division 4 of Part XVI of” appearing immediately after the word “under” in paragraph (a); and,

(b) in sub-clause (3) by deleting the words “in accordance with Section 472(1) to (3) of” appearing immediately after the word “statement” in paragraph (e) and substituting therefor the words “that the company will be able to continue to carry on business as a going concern under”.

Hon. Temporary Deputy Chairlady, the reason is, as you know, we approved the Companies Bill yesterday and it is awaiting presidential assent. In that Bill, we made certain amendments. The references to the Companies Bill have changed as a result of the amendments that we made in it. So, we are seeking to re-align the Insolvency Bill with the Companies Bill that has already been passed by Parliament. We agreed that those three Bills will be passed in a sequential manner. They are the Companies Bill, the Insolvency Bill and the Consequential (Amendments) Bill, which will be coming later on. So, as a result of that, certain Sections of that Bill have changed. Therefore, we are moving those amendments so that they are aligned as contained in the Order Paper of today.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I see Members' requests. I am not sure whether they want to contribute to this amendment. Yes, Hon. Gumbo.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Temporary Deputy Chairlady. I just wish to support this amendment. Even as I support, let me also congratulate the Committee headed by my good friend, Hon. Chepkong'a. On this and the Companies Bill, the Committee did a good job. As you know, those are very voluminous Bills. I can assure you that if it was not for the work that his Committee did, the Committee Stage of this Bill would have taken days, if not weeks.

So, I really support the amendment and thank him.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, the Member for Rabai.

**Hon. Mwamkale:** Thank you, Temporary Deputy Chairlady. I support the amendment. As we all know, those statutes go together. In fact, insolvency comes after some mishaps of the Companies Bill. So, the terms should marry. If there are amendments in the Companies Bill, it follows that there should be amendments in this Bill.

Thank you.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 386 as amended agreed to)*

*(Clauses 387, 388, 389, 390, 391 and 392 agreed to)*

*Clause 393*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 393 of the Bill be amended in Sub-clause (4) by deleting the words "Division 3 of Part III of the Companies Act, 2015 (which deals with resolutions affecting a company's constitution) applies" and substituting therefor the words "The provisions of the Companies Act, 2015 which deal with resolutions affecting a company's constitution apply".

The reasons are the same. As a result of the passing of the Companies Bill yesterday and as a result of the amendments to the Companies Bill, we are seeking to align the Insolvency Bill with the Companies Bill.

*(Question of the amendment proposed)*

**Hon. (Dr.) Shaban:** Hon. Temporary Deputy Chairlady, I agree with this amendment by the Chairman. I also want to take this opportunity to congratulate them for the work they have done in this voluminous piece of legislation. It is a well done job. Earlier on, the first published Bill had too many problems that they worked very hard to make sure that it is going to make it

easy for us to pass this legislation. Since this is consequential to the Companies Bill which was passed, I beg to support.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 393 as amended agreed to)*

*(Clauses 394, 395, 396, 397, 398, 399, 400, 401,  
402,403, 404, 405, 406, 407, 408, 409, 410, 411,  
412, 413, 414, 415, 416, 417, 418, 419, 420, 421,  
422 and 423 agreed to)*

*Clause 424*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 424 of the Bill be amended in sub-clause (1)(b)(i) by deleting the words "Section 761 of the Companies Act, 2015 (requirement as to minimum share capital)" appearing immediately after the word "under" in subparagraph (i) and substituting therefor the words "the Companies Act, 2015".

What we are seeking to do is to remove the reference to a specific clause of the proposed Companies Act that we passed yesterday by re-numbering the clauses and the divisions, so that we can accord with what was contained and amended by the House in the Companies Bill.

*(Question of the amendment proposed)*

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairlady, if you look at the Bill, you will notice that the marginal note talks about the circumstances under which a company may be liquidated by the court. The import of this amendment, which I agree with and support - if you go back to where we started, the Insolvency Bill came before the Companies Bill but--- The Insolvency Bill makes a lot of references to the Companies Bill. That is consequential because a company cannot become insolvent until it is formed. The fact that the Departmental Committee on Justice and Legal Affairs brought the Companies Bill before the Insolvency Bill is a very smart move. This reference allows that even when we have rearrangement of clauses, we will still be sticking references with the Companies Act.

I support.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 424 as amended agreed to)*

*Clause 425*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 425 of the Bill be amended in sub-clause (6) by deleting the words “Part XXX of the Companies Act, 2015 a copy of a report of the investigation, the Attorney General considers that, as a result of the contents of the report, the company should be liquidated because of a circumstance referred to in Section 801(2)(a) or (b) of that Act” appearing immediately after the word “under” and substituting therefor the words “the Companies Act, 2015 a copy of a report of the investigation, the Attorney General considers that, as a result of the contents of the report, the company should be liquidated”.

We are seeking to amend Clause 425(6) of the Bill by deleting the words XXX of the Companies Act 2015 and replacing with the words Companies Act as a result of the amendments that were made. If we made reference to 425, it does not make sense because of the changes that we made in the Companies Act that we passed yesterday.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 425 as amended agreed to)*

*Clause 426*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady. I beg to move:-

THAT, Clause 426 of the Bill be amended in Sub-clause (1)(a) by deleting the words “under Part XXX of the Companies Act, 2015 (which deals with company investigations) or Section 1001 of that Act (which relates to the production and inspection of documents if an offence is suspected)” appearing immediately after the word “obtained” and substituting therefor the words “from investigations carried out or inspection of documents produced under the Companies Act, 2015”.

The import of that is to remove the reference to the numbering and substituting therefore with the content of the clause itself so that we do not make references because the parts changed and the clauses changed as well. This will help not to make reference to a Section and it ends up confusing either the practitioners or the courts when making interpretation.

I thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 426 as amended agreed to)*

*(Clauses 427, 428, 429, 430, 431, 432, 433, 434,  
435, 436, 437, 438, 439, 440, 441, 442, 443, 444,  
445, 446, 447, 448, 449, 450, 451, 452, and  
453 agreed to)*

*(Clauses 454, 455, 456, 457, 458,  
459, 460, 461, 462, 463, 464, 465,  
466, 467, 468, 469, 470, 471, 472  
and 473 agreed to)*

*Clause 474*

**Hon. Chepkong'a'**: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 474 of the Bill be amended in Sub-clause 4(b) by deleting the words "Part XXXIV of the Companies Act, 2015 (which deals with to arrangements and reconstructions)" appearing immediately after the word "under" and substituting therefor the words "the Companies Act, 2015".

We are seeking to remove the reference to a specific part of the Bill that was passed yesterday. The numbering of the clauses and divisions changed as a result of the passage of that Bill when it was amended.

I thank you.

*(Question of the amendment proposed)*

**Hon. (Eng.) Gumbo**: Thank you, Hon. Temporary Deputy Chairlady. Again, I rise to support. The marginal note here is on the share assets to be made available for unsecured creditors where floating charge relates to the company's property. Again, I agree with the Chairman of the Committee that by referring to a particular--- Those of us who went through the amendments in the Companies Bill will know that a number of the clauses were rearranged. So, to refer to a particular clause or a particular Section would amount to misinforming in the sense that, that may not be so in the final Act.

I support.

*(Question, that the words to be left out be left out,*

*put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 474 as amended agreed to)*

*(Clauses 475, 476, 477, 478, 479, 480, 481, 482 and 483 agreed to)*

*Clause 484*

**Hon. Chepkong'a'**: Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 484 of the Bill be amended—

(a) in Sub-clause (1) by deleting the words “under Section 210 of the Companies Act, 2015 (which enables a company to provide for employees or former employees on cessation or transfer of business)” appearing immediately after the words “decided to make” and substituting therefor the words “under the Companies Act, 2015 to employees or former employees on cessation or transfer of business”; and

(b) in Sub-clause (2) in the prefatory statement by deleting the words “as is referred to in Section 210 of” appearing immediately after the word “provision” and substituting therefor the words “to employees or former employees on cessation or transfer of business under”

We are seeking to remove reference to a specific clause in the Companies Bill that was passed yesterday and substituting thereof, with the content of the clause itself so that you do not need to make references because of the changes that were made at the Committee of the whole House when we were passing the Companies Bill.

I thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): I can see Hon. Neto.

**Hon. Oyugi**: Thank you, Hon. Temporary Deputy Chairlady. I would like to support the amendment as proposed by the Chairman for the reasons that he has raised. It is fairly difficult to refer to specific sections of a particular Bill. That is an orderly proposal.

I support. Thank you.

**Hon. (Ms.) Kajuju**: Thank you, Hon. Temporary Deputy Chairlady. I also support the amendment as it were. Having worked on the Companies Bill and now that we are working on the Insolvency Bill, we need to harmonize both laws so that they do not bring any confusion or contradiction when the courts are applying the law or when the practicing advocates are making interpretations of the law.

I support.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted  
in place thereof be inserted, put and agreed to)*

*(Clause 484 as amended agreed to)*

*(Clauses 485, 486, 487, 488, 489, 490, 491, 492,  
493, 494, 495, 496 and 497 agreed to)*

*Clause 498*

**Hon. Chepkong'a'**: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 498 of the Bill be amended by deleting Sub-clause (10).

The Committee is seeking to amend Clause 498 of the Bill by deleting Sub-clause 10. The reason is that the Bill makes reference to Clause 217 of the companies Act of 2015. That particular Section of the Bill was amended. So, it is superfluous to make reference to something that was deleted.

I thank you.

*(Question of the amendment proposed)*

**Hon. (Eng.) Gumbo**: Thank you, Hon. Temporary Deputy Chairlady. Clause 498 is on offences involving commission of fraudulent acts in anticipation of liquidation. As has rightly been put by the Chairman of the Committee, that particular Section that is being referred to was deleted when we did the amendments here on the Companies Bill. To that extent, it is superfluous and it does not make sense.

I support.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 498 as amended agreed to)*

*Clause 499*

**Hon. Chepkong'a'**: Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 499 of the Bill be amended by deleting Sub-clause (6).

Again, the same reason prevails as I stated in Clause 498, that Clause 217 of the Companies Bill that was passed yesterday was deleted. So, it is superfluous to make reference to it.

I thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Member for Rabai.

**Hon. Mwamkale:** Hon. Temporary Deputy Chairlady, mine is to support the Mover. Indeed, this is a necessary amendment. Otherwise, there would be confusion in this Act. It is very necessary because the referred Section in the Companies Bill was deleted and this one should also be deleted.

Thank you.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 499 as amended agreed to)*

*Clause 500*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I wish there was another way of moving these amendments. I wish you could have taken very many amendments and we deal with all of them. However, it appears that we have to move from one amendment to another.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): If your amendment reason is the same because it is related to the Companies Bill, then we can move faster.

**Hon. Chepkong'a:** Yes, if I can, Hon. Temporary Deputy Chairlady.

I beg to move:-

THAT, Clauses 499 and 500---

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): No! We are at Clause 500.

**Hon. Chepkong'a:** The reasons are the same for Clauses 501 and 502.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): No! We cannot move that way, Hon. Chepkong'a. I was saying that you take a shorter time to give the reason because it seems that the reason is flowing. So, you say: "Just as in the Order Paper" if the reason is the same as the Companies Act having been amended.

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 500 of the Bill be amended by deleting Sub-clause (8).

The reason is the same as in Clause 499.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 500 as amended agreed to)*

*Clause 501*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 501 of the Bill be amended by deleting Sub-clause (4).

This is a consequence of the amendment to Clause 217 of the Companies Bill.



*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 501 as amended agreed to)*

*Clause 502*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 502 of the Bill be amended by deleting Sub-clause (6).  
This is again as a consequence of the amendment to Section 217 of the Companies Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 502 as amended agreed to)*

*Clause 503*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 503 of the Bill be amended by deleting Sub-clause (5).  
Again, this is a consequence of the amendment to the Companies Act that was passed yesterday.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 503 as amended agreed to)*

*(Clauses 504, 505, 506, 507 and 508 agreed to)*

*Clause 509*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-  
THAT, Clause 509 of the Bill be amended in Sub-clause 2(b) by deleting the words "Part X of" appearing immediately after the word "under".  
The reason being that when the House passed the Companies Bill that was amended in the Third Reading yesterday, the numbering of clauses, divisions and parts changed. So, we are aligning it with the Companies Bill.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 509 as amended agreed to)*

*Clause 510*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 510 of the Bill be amended in Sub-clause (8) by deleting the words "Part XXX of" appearing immediately after the word "under". This, again, is realignment with the Companies Bill that was passed yesterday.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 510 as amended agreed to)*

*Clause 511*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 511 of the Bill be amended in Sub-clause (1) by deleting the words "Part XXX of" appearing immediately after the word "under".

We are seeking to remove the reference to specific parts of the Companies Bill that was passed yesterday. The change is as a result of the amendments that were made during the Third Reading.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 511 as amended agreed to)*

*(Clauses 512, 513, 514, 515, 516, 517, 518,  
519, 520, 521, 522, 523, 524, 525, 526, 527,  
528, 529, 530, 531, 532, 533, 534, 535, 536,  
537, 538, 539, 540, 541, 542, 543, 544, 545,  
546, 547, 548, 549, 550, 551, 552, 553, 554,  
555, 556, 557, 558, 559, 560, 561, 562,  
563, 564 and 565 agreed to)*

*Clause 566*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 566 of the Bill be amended in Sub-clause (3)(b) by deleting the words "Part XXXIV of the Companies Act, 2015 (which deals with company arrangements and reconstructions)" appearing immediately after the word "under" and substituting therefor the words "the Companies Act, 2015".

Again, we are seeking to remove the specific references of the parts that were contained in the Companies Bill that was amended in the Third Reading. So, this is just purely realignment again.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 566 as amended agreed to)*

*(Clauses 567, 568, 569, 570, 571, 572,  
573, 574, 575, 576, 577, 578, 579, 580,  
581, 582, 583, 584, 585, 586, 587, 588  
and 589 agreed to)*

*Clause 590*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 590 of the Bill be amended in Sub-clause (2)(b) by deleting the words "Part XXXIV of the Companies Act, 2015 (which deals with company arrangements and reconstructions)" appearing immediately after the word "under" and substituting therefor the words "the Companies Act, 2015".

Hon. Temporary Deputy Chairlady, we are seeking to remove specific references to parts of the Companies Bill that was passed yesterday.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 590 as amended agreed to)*

*Clause 591*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 591 of the Bill be amended in Sub-clause 6(b) by deleting the words “Part XXXIV of the Companies Act, 2015 (which deals with company arrangements and reconstructions)” appearing immediately after the word “under” and substituting therefor the words “the Companies Act, 2015”.

Hon. Temporary Deputy Chairperson, this is to remove the reference of the specific part of the Companies Bill that was passed yesterday.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 591 as amended agreed to)*

*(Clauses 592, 593, 594, 595, 596, 597, 598,  
599, 600, 601, 602, 603, 604, 605, 606, 607,  
608, 609, 610, 611, 612, 613, 614, 615, 616,  
617, 618, 619, 620, 621, 622, 623, 624, 625,  
626, 627, 628, 629, 630, 631, 632 and 633  
agreed to)*

*Clause 634*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 634 of the Bill be amended-

(a) in Sub-clause (3) by deleting the words “Part XXX of” appearing immediately after the word “under”.

(b) in sub-clause (4) by deleting the words “Part XXX of” appearing immediately after the word “under”.

Hon. Temporary Deputy Chairperson, we are seeking to delete the parts that are making reference to the Companies Bill that was passed yesterday because it is inconsistent with the Insolvency Bill.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 634 as amended agreed to)*

*(Clauses 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727 and 728 agreed to)*

*Clause 729*

**Hon. Chepkong'a:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 729 of the Bill be amended in Sub-clause (3) by deleting the words "Part XL of the Companies Act, 2015 applies" and substituting therefor the words "The provisions of the Companies Act, 2015 on the service of documents on and by companies apply".

Hon. Temporary Deputy Chairlady, we are seeking to remove the reference that has been made to the Companies Bill that was passed by this House. We made certain amendments and so we are realigning this Bill to the other Bill.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairperson** (Hon. (Ms.) Shebesh): Let us have Hon. (Eng.) Gumbo.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Temporary Deputy Chairlady. This particular clause is on service of documents for purposes of this Act. It has been ably highlighted by the Chairman of the Committee. This is due to the re-arrangements that are consequential upon the passage of the Companies Act. Reference to particular clauses might become superfluous and merely referring to the Companies Act is good enough.

I support.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 729 as amended agreed to)*

*Clause 730*

**Hon. G.W. Omondi:** Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 730 of the Bill be amended in Sub-clause (2) by deleting paragraph (e) and substituting therefor the following paragraph-

“(e) the functions of authorized insolvency practitioners, the manner in which they are required to conduct their practice and a scale of remuneration including expenses chargeable against debtors’ assets.”

The insolvency practitioners, who have also been called “receivers”, have been charging anything they want. They have even been colluding with creditors to pay themselves out of the debtor’s assets. However, placing the Cabinet Secretary as the one responsible of coming up with the scale of remuneration will check the abuse that has been going on.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, Hon. Gumbo.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairlady, I wish to support this amendment and thank my good friend for bringing it. When we engage practitioners, it is important and incumbent upon us, as a House, to ensure that those practitioners that we give powers to do certain things are enabled to do so in a professional manner. This is the object of this amendment, which is very good. That way, you eliminate haphazard undertakings or aspects that appear to be within professional dominion but are otherwise carried out in a manner that is not regulated.

I support the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Timothy Wanyonyi.

**Hon. Wetangula:** Hon. Temporary Deputy Chairlady, I also wish to support this amendment because it will inject professionalism in the manner in which this practice is carried out. If we just leave it to the whims of those people, they will introduce corruption into it.

I support the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Yes, the Chairman of the Committee.

**Hon. Chepkong’ a:** Thank you, Hon. Temporary Deputy Chairlady. I rise to support my good friend, Hon. Omondi. This is a very good provision. I must thank him. He is hawk-eyed in terms of seeing what was missing. I know he has gone through this experience and that is why he does not want anyone else to go through it.

The import of this amendment is to ensure that the insolvency practitioners do not charge anything they want. This will give power to the Cabinet Secretary to ensure that he makes regulations to determine the remuneration that those insolvency practitioners are paid. We have seen in the past where the practitioner or the so-called insolvency practitioners, as they were called before, would charge anything to a company that has been declared insolvent. They would determine whether they charge 30 or 50 per cent. As we speak, there is no scale. This will remove that lacuna that has been in this particular area. I must thank Hon. Omondi for bringing this amendment.

I support the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Makali Mulu.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairlady. I also want to support this amendment. It is a very important amendment. We have seen those practitioners at times taking a lot of resources from the people who are in problems. I want to thank Hon. Omondi for introducing this amendment. If I were the one, I would have introduced the issue of the time-frame so that we also give them the time-frame within which they can do their work. At times, it

takes too long and they keep on drawing salaries and allowances and it becomes very expensive to the people who are in those problems.

I support this amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Lastly, Hon. Chachu.

**Hon. Ganya:** Thank you, Hon. Temporary Deputy Chairlady. I strongly support this amendment. It will bring order to this industry. I want to compliment my colleague for this good amendment.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 730 as amended agreed to)*

*(Clause 731 agreed to)*

#### *Clause 732*

**Hon. Chepkong'a:** Thank you, Hon. Temporary Deputy Chairlady. Since this is the last proposed amendment, I would like to respond to Hon. Makali Mulu who raised the issue as to the length that insolvency practitioners are supposed to take in terms of either resuscitating or winding up the company.

As it stands in the current Bill, they are allowed to be there for one year. Then they must exit so that they do not depreciate the assets of the company that is under receivership. There are very cogent provisions in this Bill that deal with that issue.

Hon. Temporary Deputy Chairlady, I beg to move:-

THAT, Clause 732 of the Bill be amended in Sub-clause (2)(b) by deleting the words "Section 1024(1) of" appearing immediately after the word "under".

We are seeking to remove the specific reference of clauses in the Companies Bill because amendments were already made in the Third Reading stage. Therefore, we want to make it clear that it refers to the Companies Act, 2015.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 732 as amended agreed to)*

*(Clauses 733, 734 and 735 agreed to)*

*(First, Second, Third, Fourth and Fifth Schedules agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Shebesh): Hon. Members, that marks the end of the engagement with that Bill.

I now call upon the Mover to respond.

**Hon. Chepkong'a:** Thank you, Hon. Temporary Deputy Chairlady, for the good work in ensuring that this Bill goes through the Third Reading.

I beg to move that the Committee doth report to the House its consideration of the Insolvency Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT AND THIRD READING

### THE INSOLVENCY BILL

**Hon. (Ms.) Shebesh:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Insolvency Bill and approved the same with amendments.

**Hon. Chepkong'a:** Thank you, Hon. Temporary Deputy Speaker.

I beg to move that the House doth agree with the Committee in the said Report.

I will request Hon. (Eng.) Gumbo to second the Motion for agreement in the Report of the Committee of the whole House.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Chepkong'a:** Hon. Temporary Deputy Speaker, I beg to move that the Insolvency Bill be now read the Third Time.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Speaker, I wish to second that the Insolvency Bill be read the Third Time. This marks a landmark in our country. For a long time, the insolvency practitioners have behaved more like deranged vultures, and the intent of the Insolvency



Bill has been to take us as much as possible from the insolvent companies. The running theme through this Bill focuses more on the recovery.

With this Bill, we need to move - as it were - from dismembering companies that are insolvent, to taking every effort to put them on the path of recovery. My good friend, Hon. George Mulwan has made some of his amendments from experience, which is good. As you know, there is no school, college or university in the world which teaches experiences. Some of the experiences we get in our lives help us assist fellow Kenyans to have safeguards that will help them not to go through the same path. The fact that we have professionalism and limiting charges of insolvency practitioners--- We have had situations where some insolvency practitioners go in merely to win themselves and, by the time they are through, they have taken more of the value of the company they are trying to turn around.

I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I will give a few Hon. Members an opportunity to make comments to the same. We congratulate the Departmental Committee Chairman who did a very good job and the Hon. Members who have been here. The first one for this matter is Hon. Neto, the Member for Ndhiwa.

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Speaker. I know in the Third Reading, I am supposed to be very brief. I would like to congratulate the Chairman of the Departmental Committee on Justice and Legal Affairs for successfully moving the Insolvency Bill and the Companies Bill, at the same time. When we were trying to do this as a Committee, we thought it was pretty dangerous to move two Bills at the same time. This is because there was cross-referencing. I think we have pulled it well. I am happy we have passed the Companies Bill and the Insolvency Bill will now respond to some of the provisions of the Companies Act. I congratulate the Members of the Departmental Committee on Justice and Legal Affairs.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Makali Mulu, the Member for Kitui Central.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Speaker. I would like to join my colleagues to thank the Committee for the work well done. This Bill is important to this country. As a Member of the 11<sup>th</sup> Parliament, I am happy because a few weeks ago, we managed to pass the Companies Bill. We are all aware that once you are born, you must die. I am happy that companies have a legal framework on how they will be formed and dissolved. This is important because we are making the whole process professional. This is going to safeguard Kenyans and those who are interested in investing; being aware that once you invest and want to dissolve their companies, it will be very clear on how they will go about it. It will be done without any problem because the legal framework is there.

I want to appreciate the Departmental Committee on Justice and Legal Affairs, and the Committee of the whole House, for passing this Bill.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Yes, Hon. Omondi, the Member for Alego Usonga.

**Hon. G.W. Omondi:** Thank you, Hon. Temporary Deputy Speaker. The passage of this Bill is a good thing for Kenyan entrepreneurs and risk-takers. What has been happening is that any company that goes under receivership is a dead company. This Bill realized that, that is not the case because it can be revived and run again. Some of us have gone through this experience. I fought the receivers for a company that was declared insolvent. I turned it around after 15 years and it is running again. It will encourage more Kenyans and encourage people to put money in business.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thanks to leadership and priority in speaking in the House, Hon. Duale, you have the Floor.

*(Hon. (Ms.) Odhiambo-Mabona stood up in her place)*

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, Hon. Millie Odhiambo is not the Leader of the Majority Party for now.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): She may be one.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, she leads a very strong majority in her caucus. Watch her space. I want to thank my colleagues who were with us when we passed the Companies Act. This House---

**Hon. Nuh:** On a point of order, Hon. Temporary Deputy Speaker?

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Junet, there is nothing out of order, unless it is a joke! We are ready to listen. What is out of order, Hon. Junet?

**Hon. Nuh:** On a point of order, Hon. Temporary Deputy Speaker. The Leader of the Majority Party has alluded that Hon. Millie is leading a serious caucus. I am seated next to her and I do not want to be associated with a "caucus of moles".

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Junet, if you are not a member of the caucus that the Leader of the Majority party is not aware of, then he has no apologies to make.

**Hon. A.B. Duale:** Hon. Junet represents the lost sheep! So, Hon. Millie must be bringing him to the right caucus. He has been away for some time but she is now bringing him to the mainstream caucus - the only one known by the people of Kenya.

Hon. Temporary Deputy Speaker, this is a very good and important Bill. I want to thank the Chairman and members of the Departmental Committee on Justice and Legal Affairs for, at least, dealing with a very voluminous and important Bill. It is a Bill that will tell us when any entity, whether it is personal, a company or an institution goes under, how that institution, customers and the people who saved in it and the shareholders can be saved and restructured.

We have saw Dubai Bank go under over the weekend. Today, I am told there are many Kenyans who have lost their hard-earned savings. Once this House finishes this Bill and the President assents to it, I am sure we will have a better law in place as a country, which is also related to what is happening in the international arena.

This Bill makes foreign investors and companies come and invest in our country because what entices investors is the legislative framework that any country has. I want to thank the Chairman of the Committee, his team and the Members of the National Assembly.

As I conclude, Hon. Junet, you will have an opportunity. Do not lose the opportunity because you are sitting next to a very serious Member of Parliament. I served in the last Parliament. I am sure you will join her caucus by tonight.

Thank you.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Best wishes to Hon. Millie and her caucus from the Leader of the Majority Party. We are on the Third Reading of the Insolvency Bill (National Assembly Bill, No.15 of 2015). I will give a chance to the Hon. Member for Rarieda. You are next on my request list. Just comment.

**Hon. (Eng.) Gumbo:** I had already seconded.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): This is Third Reading.

**Hon. (Eng.) Gumbo:** Yes, I have already seconded. I did the seconding of the Third Reading.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You seconded it?

**Hon. (Eng.) Gumbo:** Yes, I did.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Then you can remove your card. Then we will go to the Hon. Member for Ndhiwa because one cannot speak to a Bill twice. Hon. Members, let me know those who want to contribute to this so that we do not just fill our names on the request list.

*(Hon. Nuh raised his hands)*

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, have you seen what Hon. Junet is doing? He is raising both hands as if he is in a primary school. He must have a card.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Nuh, the Members, as mentioned by the Member from Garissa Township, have seen you. The Hon. Temporary Deputy Speaker may not have seen you. You may not have caught my eye when you were raising your hands, if you did it. I do not rule that you did it but, from the Leader of the Majority Party---

Anyway, Hon. Members, let us follow the rules of the House. You may have been out of order but we pardon you because the Hon. Temporary Deputy Speaker did not see you raising your hands. There is a procedure to follow if you want to speak. Let me hear what is out of order or what the intervention from Hon. Kamama, the Member for Tiaty, is.

**Hon. Abongotum:** I just wanted to add my voice to this very important Bill, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Is anything out of order?

**Hon. Abongotum:** I wanted to draw your attention. So, just remember me before you conclude.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I will remember you. He accepts that nothing is out of order. There is nothing to intervene but I will remember you. Hon. Member for Limuru, just make a comment. It was a very long Bill.

**Hon. J.K. Chege:** Hon. Temporary Deputy Speaker, I want to join my colleagues in congratulating the Departmental Committee on Justice and Legal Affairs led by the Chairman on this very important Bill. This Bill will certainly help us in this country and particularly business

people by keeping vultures who hang around ailing companies at bay. I believe this is good for the future of business in this country.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Well spoken. The Member for Mbita, Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Speaker. I also want to congratulate the Departmental Committee on Justice and Legal Affairs. In congratulating them though, I would like to urge the Leader of the Majority Party that if you look at the list of Bills that we have and those that we have passed, even though they have enabled us to streamline many pieces of legislation that we have with the Constitution, the hurry with which we pass these Bills is not good. I am, at times, worried as a lawyer. I am hoping he can urge the Office of the Attorney-General to set up a taskforce to look at the correctness of the things that we are passing. In fact, I am a little worried when I see the list of the Bills that we have and are extremely important from tomorrow. I am not sure whether we will do justice especially now that we rushing.

I am also worried - and I hope I can raise the issue tomorrow - that my good friend, the Leader of the Majority Party, as much as he is calling me a mole on the political front, he is also a mole on the gender issue. He is a mole on the gender issue because if you look at the Bills that are up for extension, I have not seen his own Bill. I am only seeing Chepkong'a's Bill over which I have been persuading my good friend and brother, Hon. Chepkong'a, to reconsider. I am more persuaded with the one for Hon. Duale. So, if he really loves calling me a mole, I am willing to be called a mole if he includes women. Finally, I know he has correctly called Hon. Junet a mole because he was removed as the Director of Elections and he is now the Secretary-General of the moles.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): This is a House of rules and procedures and it is a House of debate. On my request list is the Member for Suna East to make a comment on the Third Reading.

**Hon. Nuh:** Thank you, Hon. Temporary Deputy Speaker. First of all, I would like to congratulate the Chairman of the Departmental Committee on Justice and Legal Affairs. He has done a great job in this 11<sup>th</sup> Parliament. He has brought many Bills which are of great importance to our country. They are Bills like the one that has just been passed and the Companies Bill. Those are Bills that are going to make this country prosper. Those are the kind of Bills that are going to attract investors to this country because they will be sure of their businesses. The businesses are going to be born through the Companies Bill and they will die through the Insolvency Bill - if they are supposed to. This is a great job for the country.

Just to clarify, I am not the Secretary-General of moles because he is known and I do not want to call his name.

*(Laughter)*

He is both in the party and out of the party. So, Hon. Temporary Deputy Speaker, for me to be called the Secretary-General of the moles is being "elevated" to a lower position.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Junet Nuh, you are irrelevant to the debate.

**Hon. Nuh:** No! Let me finish the issue on the Bill. This Bill is very important. As much as I contribute as the Member of Parliament for Suna East, you must know that the Leader of the Majority Party is my uncle. My mother comes from their place. So, he loves me very much. He must mention my name every time he is speaking.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Again, we do not want to know your relations. You are irrelevant. Very irrelevant actually and you know your own Standing Orders. You can speak about your positions at your party level. Can I have the Member for Tiaty, Hon. Kamama Asman? I will have just two more Members.

**Hon. Abongotum:** Thank you very much, Hon. Temporary Deputy Speaker. I want to join my colleagues in thanking the Departmental Committee on Justice and Legal Affairs under the able chairmanship of Hon. Chepkong'a for being thoroughly meticulous in coming up with this Bill. I want to say that the Insolvency Bill and even the Companies Bill was very voluminous and will assist in taking this country forward in terms of business matters.

We all know that in the 1990s, apart from Dubai Bank that went under yesterday or two days ago, we used to have the Delphis Bank, Trust Bank, Trade Bank and Daima Bank. Quite a number of them went under and many Kenyans really suffered. Up to today, I know of people who have never recovered in business because of those losses. This Bill will cure most of those challenges and fears.

This is now to send a message to investors - whether local or international - that Kenya is business friendly. This Bill will solve most of those problems. So, I totally support the Bill. We laud this Chairman and his Committee Members. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Before the Chairman speaks, I only want give a chance to two other more Members. It is Hon. Chachu Ganya. Just take a comment.

**Hon. Ganya:** Thank you, Hon. Temporary Deputy Speaker. I want to join my colleagues in commending the Departmental Committee on Justice and Legal Affairs under the able leadership of Hon. Chepkong'a. These two Bills for sure were very lengthy but we managed to complete them.

They will ensure that the business community will now be well regulated, especially under the Companies Bill. It will also boost the confidence of investors in our country. This is what we need for our economy to grow. I commend the Departmental Committee on Justice and Legal Affairs.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Hon. Member for Wajir North, Ibrahim Saney.

**Hon. Saney:** Thank you, Hon. Temporary Deputy Speaker. Briefly, I wish to appreciate the work of the Chair and his members. They have done great work. The passage of this Insolvency Bill provides a comprehensive legal framework in the management of ailing legal businesses for sure. Further, the referencing of this Bill to the Companies Bill indicates that there is that systematic reference to ensure that there is harmonious legislation in the House. That will help us prevent some discordance in legal terms.

With those brief remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I therefore, call upon the Chairperson of the Departmental Committee on Justice and Legal Affairs, Hon. Samuel Chepkong'a.

**Hon. Chepkong'a:** Thank you, Hon. Temporary Deputy Speaker. First of all, I want to thank the Leader of the Majority Party who has walked with us through this process, particularly the four of them that deal with the Companies Act, the Insolvency Bill, Business Registration and the Consequential Amendment Bill. In fact, we had serious problems with the other offices in Government who wanted us to pass the Bill as it was. But the Leader of the Majority Party convinced them that there were serious shortcomings with regard to the Companies Bill and the Insolvency Bill. In the Insolvency Bill, we had over 600 amendments and 900 amendments in the Companies Bill. I really want to thank him for standing with the Departmental Committee on Justice and Legal Affairs Committee. I must also thank the members individually of the Departmental Committee on Justice and Legal Affairs for their un-tiring and relentless efforts of ensuring that we scrutinized those voluminous Bills that went through this Committee. As a matter of information, this Departmental Committee on Justice and Legal Affairs has gone through more Bills than all the Bills combined that the Senate has passed in their House. So, you can see where the problem is. It is not with this House.

Indeed, the passage of the Companies Bill marks a milestone in terms of jurisprudence of insolvency laws in this country. We have seen a paradigm shift in terms of the way companies are going to be managed while under insolvency. The laws are ensuring that those companies that have gone under are resuscitated with a view of resuming business. So, I must thank all the Members who have contributed and have been with us.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Hon. Members. Please, allow me to thank all of you from where I sit presiding over the House for the time given to make laws and to do what you are supposed to do. I thank Hon. Shebesh for doing such a good job. The Bill was too long and we were able to go through it. I thank Members for the knowledge of your work.

I confirm that we have no quorum present in the House for the purpose of making a decision. Therefore, I will not put the Question on the Insolvency Bill, National Assembly Bill, No. 15 of 2015 for the Third Reading. I do order that the Question be put in the next Sitting at the most appropriate time. It is so ordered.

Next Order.

## BILL

### *Second Reading*

#### THE BUSINESS REGISTRATION SERVICE BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, if you allow me, I want to go on record on the HANSARD. Yes, we are related with Hon. Junet, but his mother does not come from my clan. In fact, his aunt comes from my clan.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Duale, you have a lot of information that we do not want you to share with this House.

**Hon. A.B. Duale:** I wanted to clarify because it is in the HANSARD. So, I have made the clarification.

Hon. Temporary Deputy Speaker, I beg to move that the Business Registration Service Bill, 2015, be now read a Second Time.

This small Bill follows the two voluminous Bill that we have just passed. This is part of the reform of the Company Laws in Kenya, which started in 1992. The objective of this Bill is one, to increase the efficiency in the administration of registration of companies and business related registrations which are currently under the Office of the Attorney-General or State Law Office.

The department is being transformed into a state corporation and it would use the revenue it collects to improve on the delivery of service and better ways of doing business in our country. The principle objective of this Bill is to establish business registration service as a state corporation under the supervision of the Attorney-General of Kenya. What does this service do, which is important? The essence of the Company Law and the Insolvency Bill was to make Kenya a hub destination where the ease of doing business is felt? So, that corporation is established to support a competitive economy because we want to turn Kenya into a competitive economy in the region and in Africa. This will support the competitive economy and also ensure a conducive environment for doing business in Kenya. That service will be a key player to both the commercial and the business devolvement of our country. The service that this Bill envisages to establish is expected to focus on:-

One, how to empower and strengthen the policy and the legal framework for all the services that it offers. That will be like a one-stop-centre where Kenyans can go and do registration of businesses, get company details and get returns in line with Article 34 of the Constitution, which gives Kenyans access to information. So, that service will improve the institutional capacity, create more efficient and effective operations within the State Law Office and, more so, within the department. It is supposed to promote customer focus delivery. If you walk today to the Registrar of Companies, what you see is lack of customer focus service. So, this is turned into a corporation where that institution is run like the private sector because it is key to the daily operations of the private sector in our country. We do not want Kenyans to be victims of cumbersome inefficient operations that goes on today at the State Law Office. So, the whole thing is turned into a state corporation to create and promote customer focus, customer delivery and enhance public awareness of the service it provides. That service will implement measures to reduce the time and the cost of starting business in Kenya.

Kenyans take too long at the State Law Office and at the Registrar of Companies to register a company. We want that corporate service organization to make it very easy for Kenyans to register a company online within hours and to start businesses. The cost of starting a business must be made very cheap. That organization must streamline the work flow and the service process to ensure that there is faster registration of businesses. It will reduce the time spent in registering a company or a business. That, in a nutshell, is the principal objective behind the Business Registration Service Bill of 2015.

Hon. Temporary Deputy Speaker, going into the details, Part I of the Bill basically deals with the preliminary matters of any Bill. Part II of the Bill establishes the Business Registration Service. It sets out its functions, which include carrying out all registrations required under this

Bill. It will maintain registers, data and records on registration carried out by the service. It will implement the relevant policies and guidelines and provide, with the approval of the Cabinet Secretary, the necessary information. It will also provide Kenyans and all those who seek that service easy access, more efficient, less time consuming and a cheaper cost of starting a business.

Part III of the Bill mainly talks about the administration service. It talks about the composition of the Board of the Service, their functions and powers of the Board, circumstances under which a vacancy may arise in the Board, how members of the Board are to be appointed and the criteria for the renewal period.

Part IV of the Bill deals with the management and staff of the Business Service Board. More specifically, Clause 18 of the Bill provides for the appointment of the Registrar-General as the Chief Executive Officer of the Service. This has to be done through a very competitive process. The Registrar-General will be the CEO of the organization. He must be recruited through a very competitive process in line with the Constitution. The person to be appointed the Registrar-General must be qualified as an advocate of the High Court. He must have 10 years of proven experience in matters relating to business administration and must meet the requirements of Chapter Six of the Constitution of Kenya.

Part V of the Bill sets out the financial provisions in relation to the Service. It provides for the money that shall constitute the funds of the Service. It also provides for the preparation of the annual estimates of the Service Board.

Part VI mainly contains miscellaneous provisions. It provides for the Service to prepare an annual Report for consideration by the National Assembly. So, this Service will prepare its Report to the National Assembly and not to the Senate. It deals mainly with creation of offenses by prohibiting a person from obstructing or hindering another member of the Service. So, it is mainly the miscellaneous provisions provided for.

Finally, the Schedule in the Bill provides for the manner in which meetings and other affairs of the Board will be conducted.

In a nutshell, this is a very short and straight-forward Bill. It follows in line with the previous two important legislations we have done last week and this afternoon. I urge my colleagues--- I can see that my relative has left unfortunately. Maybe, he is considering seriously the good offer given to him by the gracious lady and the good friend of mine. I hope the Holy Spirit will go into his heart and come back to her and accept to join the coalition of the willing and the winning.

With those many remarks, I ask the Chairman of the Departmental Committee on Justice and Legal Affairs to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Chair of the Departmental Committee on Justice and Legal Affairs, Hon. Chepkong'a, to second.

**Hon. Chepkong'a:** Thank you, Hon. Temporary Deputy Speaker. I rise to second the Business Registration Service Bill of 2015 to be read for the Second Time.

First and foremost, I thank the Leader of the Majority Party. In fact, he is the indomitable Leader of the Majority Party. He is a true one. Forget about the other ones. The others we have been making references to here are *pseudo*. He is a true one because he has moved so many Bills in this House. He has also ensured that the Bills are brought into the House as quickly as they are processed from the Government.

I mainly support this Bill because it creates a parastatal that will now manage the two Bills that this House has passed - the Insolvency Bill and the Companies Bill. Those two Bills



have created a wider mandate than that which was there before for the current officers at the Office of the Attorney-General. It has been expanded tremendously. So, they will not be able to cope with the business that will be coming in because the manner in which the registration of businesses is done, the managing of companies that are under financial stress and those that are expected to be redeemed, if they can be, has increased business in the Government.

One of the things that this Bill is seeking to do is to introduce private business practices into the Government. As it is right now, we are operating in a very lethargic manner in registering and managing companies that are going through financial strains. That has now changed with the coming into place of the two legislations. This requires persons with vibrant backgrounds in qualifications and outlook of doing business, so that we do not become a hindrance. The current position is that it has been very difficult to do business. I like what the former President of the United States of America, F.N. Roosevelt said. He said:-

“It is common sense to take a method and try it. If it fails, admit it frankly and try another. But, above all, try something”.

We are seeking to try something else other than that which has been done in the past. We cannot only expect to do things in the same manner and expect different results. So, the passage of the laws that have gone through this House has, in fact, changed the manner in which businesses are going to be managed in this country. In particular, when we pass the Business Registration Service Bill, it is going to create new dynamism in the market place.

I second this Bill. Thank you.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I have seven requests. I am sure every Member wants to contribute to this Bill. The first one on my request list is the Member for Ndhiwa, Hon. Agostino Neto.

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Speaker. First I congratulate the House Business Committee for sequencing those Bills in this manner. We have sufficiently dealt with the Companies Bill, the Insolvency Bill and now coming closely is the Business Registration Service Bill. That was good sequencing.

The objects of this Bill are very profound. The Bill speaks to the administration of the laws relating to incorporation, registration, operation and management of companies, partnerships and for other connected purposes. The Bill has very good provisions. One such example is Clause 3(3) which says the headquarters of the Service will be in the capital city, but the Service may establish branches all over the country. For purposes of incorporating companies' registration, it is important to have as many branches as possible. What the Bill fails to do is to give specific references in terms of where the branches ought to be. This is something we can achieve through an amendment to say there will be branches in the counties or, better still, in the sub-counties. That will make it very specific instead of leaving it to the discretion of the Service. We need to know where branches ought to be for purposes of registration of businesses.

Clause 4(c) speaks of the implementation of relevant policies and guidelines to provide the Cabinet Secretary (CS) with the necessary information. It is important to have policies that the CS will be constantly informed about. That is a very good provision. What I do not understand in the Bill is Clause 4(d). It sounds very good to talk about carrying out research and

disseminating research findings in the fields covered by the relevant laws. However, if the purpose of the Service is to incorporate and register companies and their management, I do not understand what level of research we will be engaging in. Whereas it is good to talk about research, I do not understand how that component fits within the general provisions of what the Service is going to do.

Another interesting provision is Clause 5(f) which speaks to four other members being part of the Board. It is very dangerous to have this provision because the only qualification of the four persons to be incorporated is that they should have knowledge and proven experience in matters relating to this Act. That is a dangerous provision because it does not create any qualification. So, if I have done business or company management or I am in business, then I can say I qualify for appointment as a member of the Board. Whereas there is a caveat in terms of what four co-opted members can do, it is dangerous that they cannot vote. However, they might as well be the ones creating the tenor on which the Board is to vote. That is a dangerous provision. If you want to have four other persons incorporated in the Board, they ought to have specific qualifications. The organizations from which they come also need to be specified.

The other thing is the manner in which the appointment of the chairperson of the Board is anticipated. That appointment ought to be distinct and one that is fairly thought through. It should not be made through an omnibus process in the manner that is suggested in the Bill.

The other thing that raises a lot of questions is the provision of Clause 9(3) of this Bill. It speaks to the Board co-opting any person to attend any meetings, but that person shall not vote at such a meeting. There ought to be reasons why persons ought to be co-opted. You cannot just leave it open that the Board would be co-opting people. There ought to be some rationale for purposes for which the Board might co-opt persons. There might be specific needs. In fact, it says co-opted people should not vote. However, like I said before, what if the people who have been co-opted are the ones who have set the tenor on how the Board votes? That is fairly very risky.

Clause 14 is one such other clause that raises issues. It says that the Board may, on the advice of the Registrar-General, engage the services of experts and consultants in respect of any of the functions of the Service. Consultancy is not the core business of the Business Registration Service. To have an express provision like this is fairly to create jobs for people who are not expressly covered within the Bill. You want to constantly have experts co-opted and advising the Service on many other things. That is fairly very dangerous.

Clause 17 speaks about the CS appointing the Registrar-General on the recommendation of the Board and on the terms and conditions specified in the instrument of appointment. The Leader of the Majority Party has said that the Registrar-General will be appointed in accordance with the Constitution. You can clearly see from the provisions of this Bill that, that is not the truth. There ought to be specifications of what needs to be contained in the instrument of appointment. We should not have an omnibus provision that a Registrar-General will be appointed, especially if the Registrar-General is going to be a powerful office like is anticipated by this Bill. The specific qualifications ought to be contained in the instrument of appointment.

Clause 18(2) says that the Board, through an open, transparent and competitive process, will appoint a suitably qualified person to the position of Registrar-General. I would like to see this provision also saying that the Board shall take into consideration such factors as marginalization, gender and regional representation. The aspirations of Article 10 of the Constitution also ought to be taken into consideration. The Board should not only conduct the

appointment in a process that is sufficiently transparent, but it also ought to take into account other considerations like marginalized communities, the one-third gender rule provisions and women issues. Such qualifications will make this legislation have the face of Kenya.

Clause 19 is very dangerous. It says that the Registrar-General may be removed from office by the Board. When it comes to the registration of businesses, especially if you see the composition of this Board, which has several co-opted members whose qualification is only knowledge in issues of business, to have the Registrar-General who is the engine of the Service to be so easily removed will be very dangerous. I will be making proposals for amendment so that the removal of the Registrar-General ought not to be done with the approval of the CS or through other processes. This will ensure that we do not have a tussle between the Registrar-General and members of the Board.

With those comments and the amendments that I am hoping to propose, I support this Bill because it is good.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Nicholas Gumbo.

**Hon. (Eng.) Gumbo:** Thank you Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to the Business Registration Service Bill (National Assembly Bill No. 13 of 2015).

It is true we need to inject efficiency in the way we register businesses. It is also good we have an entity which is capable of suing and being sued for the role of registering businesses in Kenya. However, one of the key policies of the Jubilee administration is to reduce the number of State corporations. If you look at what the establishment of the Business Registration Service does, the Registrar of Business Registration is taking up what was before the role of the Registrar of Companies. That *per se* is a good thing, but I wonder if it does not go against the current policy to limit the number of State corporations.

By and large, the aim of this Bill is good. We have just passed the Companies Bill and the Insolvency Bill. If we pass the Companies Bill, the mode by which companies should be run and how companies should be registered - and we do not make the process of registering companies efficient - will be a futile exercise - *abinitio*. We are trying to bring more efficiency into the laws and other matters relating to the registration of companies, partnerships, firms, individuals and corporations carrying business under business name, bankruptcy societies, hire purchase, trade unions, chattel transfers, adoptions, coat of arms, books and newspapers, the national symbols, emblems and names. This is a good Bill. It is in tandem with the fact that we are now a devolved society.

Clause 3 (3) says that the headquarters of the service shall be in the capital city, but the service can establish branches in other parts of Kenya to ensure reasonable access to its services. I think we should be more emphatic here.

One of the problems we have had is that people who want to get into entrepreneurship have had to come to Nairobi to get their businesses registered. In consonance with the fact that we are now a devolved system of government, we should very boldly say that the registration of business service should actually have offices in the counties so that those people who want to register their businesses in the counties can do so.

I am concerned with the administration of this Service. If you look at the Board of Directors of the Service, it is top heavy in terms of the input of civil servants. You have the Attorney-General, the Principal Secretary (PS) in the ministry responsible for matters relating to

trade, the PS in the State Department relating to Devolved Government and the PS of the National Treasury. It is generally agreed that, as much as possible, let us remove Government from the business of businesses as it were. In my view, if we have almost half of the Board being Government, we are going to end up with a very pliant Board that can easily be micro-managed from elsewhere and whose decisions might not be independent and may be as a result of something that has been decided before-hand. The method of the qualification and nomination of those four other members is, in my view, very vague. As we go the Third Reading, one of the things that we will necessarily have to do is to clearly identify who those other four members are. We know that if the aspirations of our national growth and development are to be met, we need to inject more vibrancy and relevancy in the private sector. We have come to a point where, if we want businesses to grow, we need to identify parts of the private sector that are driving this country forward and be specific in this Bill that those four nominees have to come from the private sector and the method of appointing them to sit in the Board be left to those private sector bodies. This is something that we will come up with in the amendments.

Clause 5 (2) says:-

“The Chairperson and members of the Board shall be appointed by the Cabinet Secretary (CS).”

It brings in another problem. If you look at the general theme and the way this Bill is framed, we are giving too many powers to the CS. The CS should do this and that. We are going to end up with a service which basically exists at the beck and call of the CS. I do not think that is what we intend to do. We have known that part of the problem we have had as a country, which has dragged us back, is sometimes the lethargy and the bureaucracy that goes with the inertia of Government. We must move away from hind-running into another headwind which, of necessity, has to come when we let decisions remain in the hands of CSs. Sometimes, CSs make decisions which are collective and binding upon other members of the Cabinet. Whereas the intention is to make the environment of business registration efficient, we are actually throwing a process that is supposed to inject efficiency, urgency and quality into the manner of doing things into the inertia of Government, which may take us back.

Hon. Temporary Deputy Speaker, I agree with my good friend, Hon. Neto Oyugi on the provisions of Clause 9 (3). When you say that the Board may co-opt any person to attend any of its meetings, this is a blanket cheque. What are the qualifications and under what circumstances? You already have a Board. Clearly, as a House, we will be failing very dismally if we have established a Board, but we still enact a law that, in itself, portrays the fact that we have no confidence in the Board to the point that the Board, as it deems fit, may co-opt any person to attend any of its meetings, but that person shall not vote at such a meeting.

For example, if that person is somebody who is bringing special expertise on a matter, let it be stated in the Bill. Why would we need such a person when we already have the Board which is, in essence, the supreme organ of the Service?

As I agree with him on Clause 9 (3), I tend to disagree with him on Clause 14 (1), where it says that the Board may, on the advice of the Registrar-General, engage the service of experts and the consultants in respect to any functions of the Service. The issue of consultants and specialised service is a reality in our country. I see nothing wrong with incorporating consultants, provided it is done procedurally in accordance with the law that exists in the country.

As we talk about the appointment of the Registrar and even the staff of the Board, let us please not get into the problems that have bedevilled our country. Let us be alive to the

provisions of Article 232 of our Constitution so that inclusivity becomes a way of life in this country.

Hon. Temporary Deputy Speaker, I support but I will bring some amendments. I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Your amendments are very welcome. Next on my list is the Member for Kitui Central, Hon. Makali Mulu.

**Hon. Mulu:** Thank you, hon. Temporary Deputy Speaker for giving me the chance to also give my contribution to this important Bill. The Business Registration Service Bill is very important. It has come at the right time, just immediately after passing the Companies Bill and the Insolvency Bill.

This Bill is going to help this country come up with a very clear legal framework in terms of how to register companies. This has been an issue in this country. Those of us who have tried to register companies and visited the Attorney-General's Chambers must have realised that there are a lot of problems there. Because of those challenges which are faced by potential investors and businessmen, this has created opportunities for rent-seeking. So, when I see a Bill like this where we are talking about having a one-stop-shop or centre for those who want to register companies, to me, it is very encouraging. This will go a long way in ensuring that we have what we call a competitive and conducive environment for doing business in this country.

If you look at what is happening in the East African region, Rwanda has been rated very well in terms of international business rating on how easy it is to establish and do business. In our region, Rwanda is leading. If you look at some of the reasons why those countries are doing very well, it is basically what this Bill is trying to do; to make sure that people who want to register businesses are facilitated to an extent that they can do their businesses with minimal road blocks. That is why if this Bill comes to law, it is going to help this country and ensure that more people are encouraged to do business.

The other important thing when you look at this Bill is the issue of shifting the focus to the customer in terms of customer service delivery. We want the customer who ought to be served by this particular service, which we are calling Semi-Autonomous Government Agency (SAGA), to feel like they are being treated as very important people for this country. In that case, then the service which will be delivered to them will be delivered in an efficient and effective manner. This will be very important in this country, especially in such a country where we have so many challenges to do with unemployment. The more business we are able to create in terms of legislation, the more opportunities we are able to create for our youth, who are suffering with no employment. This Bill is going to be very important to us.

The other thing is the issue of reducing the time and cost of registration of business in Kenya. The cost normally becomes very important when people ask for bribes or facilitation fee to register businesses. In a situation where we make it very easy to register business, some of those indirect costs will just die a natural death and the cost will be reduced and because it is a one stop shop, the time of registration will also be good for business people.

The other important thing in this Bill is that when you look at the proposed SAGA which is going to be headed by a Chief Executive Officer (CEO), you will realize that the person who is going to be appointed by a CEO of this SAGA, the issue of professionalism and competence is given a lot of focus. This is very important especially in this country. Many people have gone to universities to study different disciplines. Since we have competent and qualified people, it is important that we make sure that some of those important positions in some of those institutions

are occupied by people who meet the requirements in terms of academic qualifications and experience. When I look at this Bill and the person expected to be a CEO, I can see a deliberate attempt to make sure that the person who is going to head this institution is going to be a very competent person. If we get competence at the highest level then, automatically, those who will be under that person will be given the right directions and will be making the process good for the country.

But there are two areas that as we think about this Bill, hon. Members need to think through. I do not know how it will be done but it might call for amendments. There is a very good proposal where we are saying that these SAGAs which are expected to keep registers of all companies are going to be registered. There will be a proper filing of who has registered a company and where. This is very good but, you know we have this currently. We have seen situations where anytime a company is adversely mentioned and there is need to establish who the directors are, two things will happen; either the company's file will disappear or the directors will be changed overnight and by the time you check the next day, it will be a different company. So, as we make this law, we will need to tighten that particular clause to make sure that, in future in Kenya, there will be no situation where a company will disappear and we cannot know who the directors of registered companies are; or there will be no opportunity at all where people can change the directors overnight without realizing that directors have been changed. Those are some of the areas where we need to change the law.

The other area we need to focus on is this: We are foreseeing that if we register a parastatal or a SAGA to coordinate all those important exercises--- This is not the first time we are registering SAGAs in this country. Most of those Ministries have SAGAs which are attached to them. Those SAGAs have been drawing from the Exchequer in terms of financing their operational cost and at times the finance and development cost.

When the Leader of the Majority Party was moving this Motion, he mentioned that we expect that the money that will be generated from registration will be adequate to run these SAGAs. It means that it is going to be a self-financed SAGA but, when you look at the last clause, it says that establishment of this SAGA will require that the Exchequer supports it. It means that we, as Kenyans, are likely to support through our taxes the operations of this SAGA. With the new kind of policy where we are saying let us reduce the number of SAGAs so that we are able to save on operational cost, this is another opportunity you have been provided to increase the number. There is a bit of conflict in terms of policy here. It is important that even as we move forward, we should think through it because currently this is being managed by a department under the Attorney-General's Chambers. We are now saying that we want a semi-autonomous organization like a parastatal to do this. We cannot close our minds to the fact that by establishing this, we are increasing the number of SAGAs and we will also be saying that the Exchequer or the Consolidated Fund should fund some of those operations. This is another area that as Members of Parliament, we need to think through so that we do not come up with a situation where we are saying on one hand, let us restrict the number of SAGAs then on the other hand we are creating more SAGAs. It is a matter of doing comparisons and seeing what this SAGA is expected to do. We need to see what is being done by another body within the AG's Chambers without creating additional bodies but, at the same time realizing the same level of efficiency. If we can achieve the same level of efficiency and avoid the issue of coming with a totally new body, that is the direction I would want to pursue.

Due to the issue of time and I can see the light giving me a warning, I want to support this Bill and urge hon. Members to support it so that once it becomes law, then we have a very clear legal framework to move registration companies forward in the most efficient and effective manner.

With those remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You support the Bill. Member for Tiaty, Hon. Asman Kamama.

**Hon. Abongotum:** Thank you, Hon. Temporary Deputy Speaker.

I want to confirm that this is the best Bill that has ever been debated to promote the interest of people in the business world. It is a paradigm shift. I agree with my friend, Hon. Makali, that Rwanda is ahead in the pack. When it comes to registering companies, it is the most efficient country at the moment. That country was facilitated by one MP from this House, Dr. Ochuodho, and one civil servant called the late Dr. Oketch. They are the ones who revolutionized the IT system. We have always been craving and wanting a one stop shop where once you present the name of the company, the Memorandum and Articles of Association, the search must be done within one day. Then the owner of the company should be able to take the certificate the following day. I want to propose that we have software so that, at least, when we pass this Bill and when this organization is brought on board--- They should have software where once you present your papers, you should be able to get your company's certificate within two days.

In practical terms, most Kenyan youth go through the hard way to get a company registered. If you go to the State Law Office at the moment, you will see long queues of people basking in the sun from morning to evening.

That is why we are recommending that it must be registered within the shortest time possible. It must also be cheap. To register a company at the moment takes between Kshs30,000 to Kshs40,000. A youth who has just come up with an innovative idea from the university can never raise this amount of money. So, we must make it as cheap as possible. In fact, I want to propose that the youth can just pay Kshs2,000 or Kshs1,000.

Hon. Temporary Deputy Speaker, in terms of comparing with what is happening, I want to thank the current Cabinet Secretary in charge of devolution for coming up with Huduma Centres. Those Huduma Centres have served the youth in a very special way. In fact, that is the most popular policy that has ever been formulated by the great digital Government of Jubilee. We really support this Bill. As I said, it must be customer focused. Not the traditional way of just waiting to register companies and then it goes like that.

There is the issue of corruption. In fact, when those companies are being registered, we normally have cartels and brokers in between. We should be able to remove brokers and cartels in this board. Those cartels are the ones which have made life impossible for businesspeople. In fact, those days, there is a group of businesspeople called the "tenderpreneurs". They just sit down, make deals and get the money without selling a specific product. In establishing those offices, we want a devolved way of managing this office. We should have offices in all the counties. They should have one clerk or somebody to handle this at the county level or we can start with the former provincial headquarters so that young people from Eldoret or my corner where my good friend Hon. Chachu comes from, should be able to access this and get the certificate of the company and do business with Kenyans, Ethiopians and other countries.

We have always said that doing things the same way all the time will not transform this country. We must be people who promote change. When you look at Kenya, this country has very serious professionals who can transform this economy and take it forward. I just want to propose that the Registrar of Company's Office must do business the way we do in the private sector. In fact, I suggest that those offices should be located in the most central places and business should be done the way we do it in the private sector. So, this Bill must be supported by this House because we want our young people to go into business. We want those people with better business ideas to go into business. We want our women to go into business because business is the one that runs the world.

If you read the American politics at the moment you will realize that there is a multi-billionaire called Donald Trump who started the business of real estate. Most skyscrapers in New York belong to that fellow. So, let us promote this by clearing the first hurdle. Any serious youth or person should be able to get over that first hurdle by making sure that it is cheaper to get this certificate.

In the last Parliament, I was in the Ministry of Higher Education, Science Technology. I want to confirm to the House that we have many young men with innovative ideas and inventions, but most of them do not have the financial muscle to get their companies registered. In fact, in exceptional circumstances where you have young people who have come up with better ideas patented, they should even be given for free. Why should they pay when they can come up with ideas that can transform the world?

In this context, I want to remind the House that there is one young man who came up with the *Mpesa* business concept. A young man called Nyagaka Ouko from Kisii invented that software. You can see what *Mpesa* has done in this country. Though I am not sure whether the young man really benefitted a lot, *Mpesa* is the best money transfer service in the world. We are even beating Japan. So, people with such ideas or other ideas should actually be given their certificates, they should not even pay.

In general, I want to say that I support this Bill and urge hon. Members to support it, come up with best amendments to make it the best Business Registration Service Bill in this country.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You support. Hon. Chachu Ganya.

**Hon. Ganya:** Thank you, Hon. Temporary Deputy Speaker. I stand to support this Bill: Business Registration Service Bill of 2015. I support this Bill because it is a good Bill that will spur economic growth in our nation. It delinks the Department of Auditor-General in the State Law Office and in effect, it will establish a State Corporation, a SAGA that will undertake that responsibility. This Bill will bring efficiency in how we register companies and businesses in Kenya. This efficiency will save investors both time and cost.

Many Kenyans who have tried to register businesses here in Kenya or even investors from overseas have had very difficult times in trying to register a company here in Kenya. This is a result of a taskforce that was established by the Attorney-General. This task force actually felt that laws relating to investment and companies in this country need to be reviewed. This Bill is a result of the work of that task force. There was a participation of Kenyans when this Bill was drafted. Many people who were involved in business in Kenya were a part of this as well as the



Government. Because of this, it is a good concept and it is a good Bill that we should support as Kenyans.

In a nutshell, it will promote ease of doing business in Kenya and make us competitive when we compare ourselves with other countries. If we want to grow our economy by double digits as we desire, then these enabling laws must be in place for us to spur our economic growth. It also promotes private sector development in our nation. This will also result in socio-economic development in the entire country. It will achieve this by having this State Corporation and it will be resourced by revenues that we will collect during registration of businesses and companies in our country. I hope it will be sustainable and it will be able to resource itself instead of depending on the Exchequer every year to run its operations.

This State Corporation will provide the necessary institutional capacity that will improve efficiency and effectiveness in operations of our Government especially when it comes to registering of companies in our nation. I have a problem with the board of directors in terms of the tenure of office. In most State corporations in Kenya, members have tenure of about three years, but this Bill proposes five years. There is no rationale given why this is exceptional. I had a chance to serve as a director once in this country and most of our terms were for three years. I served as a director for the National Cereals and Produce Board of Kenya (NCPB) when Kibaki came to power many years ago.

Hon. Temporary Deputy Speaker, again, I hope that the Directors will be sourced so that we get very competent Kenyans who can enable us to realize the objectives of this Bill. In the spirit of devolution, I hope that those State corporations will be decentralized so that all the 47 counties will have some branches or an office whereby people can go and register their companies or businesses. If we are to grow, we must grow holistically whereby all parts of Kenya are resourced and provided with facilities to ensure that we realize the objectives of this Bill.

This Bill will make us competitive in the region. It is a good Bill. I hope that we benchmarked with some of the best practices in the world, for example in the United States of America (USA), Japan and other countries so that we are able to achieve our objectives. Generally, the Members of this House have problems when we set up new State corporations which are SAGAS. There is nothing wrong with setting up new ones if we need to have those corporations to realize our development objectives as a nation. Some may not be relevant at this time and age in our country. They should go. If we want to grow this economy by double digits like what is happening in Ethiopia and other countries and be competitive, then we need enabling laws to realize that. For us to achieve those objectives, then we may have an institution of some kind. That is why those State corporations are essential.

With those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Millie Odhiambo, Member for Mbita. She is the next one on my request list, Members.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Speaker. I stand to support the Bill. I hope that this Bill along with the rest that we are getting have gone through public participation which is constitutional. Otherwise, we might have some constitutional challenges. They may be challenged after they are passed. I am hoping that by passing this Bill, we will be providing a synchrony especially in different registration regimes.

I am also hoping that by passing this Bill, we will be enhancing implementation because in Kenya, the challenge is usually not in passing law. In this Parliament, we have passed so many

laws. Today, we are likely to pass even more than one but the issue is implementation. If we are able to implement the laws that we are passing, it will ensure that we make business attractive in the country through shorter time and especially on the issue of reduction of corruption. One of the things that is killing this country, and we have spoken on it time and again is the issue of corruption. I want to challenge the President that he came here and we gave a standing ovation on the issue of corruption. However, after that he has gone asleep. I hope that he can take the bull by the horns and give us back our country.

I want to load this Bill on the issue of creating awareness and especially in light of the 30 per cent rule for women, youth and people living with disabilities. I am hoping that it goes beyond just creating awareness but capacity building and assisting women, youth and people living with disabilities so that they are able to register businesses. It is one thing to say that women can access 30 per cent of Government contracts but it is another to build their capacities to register. Just this morning, I was talking to some young people who are trying to do businesses. When I was engaging in a discussion with *boda boda* guys especially from Nyanza area, I realized that half of them have no business licences and identification cards (IDs). So, it is one thing to pass laws and then it is another to make sure that they are making sense in the lives of Kenyans.

I have a problem and a challenge with the appointment of the four members. My brother Hon. Agostinho Neto has spoken to it. It should be through an open and competitive process. We are giving the Cabinet Secretary (CS) very serious powers. Anybody who is given too much power is subject to abuse. So, I am hoping that we can amend Clause 5.

Hon. Temporary Deputy Speaker, another issue that I have concern over is that increasingly we have been taking a zebra approach in legislation. Where you have a chairperson as a man, the vice-chairperson is a woman and where the woman is the chairperson, the man is a vice chairperson. I am also hoping that we can do an amendment to make sure that we retain this zebra approach. I would also want us to provide for strong language on gender inclusion not only for the staff but also for the board.

If you look at several of the pieces of the legislation that have come before this House--- I am hoping that the drafts people in the office of the Attorney-General will take this more seriously because we keep deleting them and they keep on bringing them back. This issue of co-option of people into boards is a very wrong approach and a wrong way of dealing with things. I want to challenge the Leader of the Majority Party that: Please I know that you would probably be representing the Government interests but sometimes it is good to bring the technocrats here so that they do not take us through the same process over and over again. There is a clause that we keep deleting and they keep bringing it back. It is the issue of co-option. You do not co-opt. You hire consultants. Otherwise, you are bringing a board through the back door whether it is in subcommittees or the main board. They can shorten our process by not bringing us things that we have to automatically delete.

Since my brother, Hon. Agostinho Neto has proposed that he is doing the amendments he can change the wording for establishing of the offices from “may” to “shall”. This will ensure that we pick up the devolved structures so that we do not give it an optional thing. If we want to deliver services under Article 2 of the Constitution that there shall be devolved services as much as possible, then we need to make it mandatory that they are devolved.

There is also another issue that I would want to speak to. Earlier on, when we were speaking to Hon. Kaluma’s constitutional amendment, I remember several Members were

concerned that we are trying to insulate Members of Parliament from actions that they do as Government. We are one arm of the Government. If you look at Clause 15, this is almost a standard thing that is contained in every Bill. If you do your work as a Government employee in goodwill or by good faith, then you cannot be held accountable. So, it is a good provision.

Finally, because I know my brother has persuaded me to speak less so that he can hopefully get an opportunity to speak, I want to challenge us as a country. I know that my colleague has mentioned the issue of Rwanda. Dr. Ochuodho who comes from my county and Mr. Oketch have revolutionized the Information Technology (IT) sector in Rwanda and done many strides. I want to challenge us as a country because we keep exporting experts. Why can we not do that at home? I am not blaming Hon. Ochuodho. It basically means that as a country, we do not recognize our own experts. Over and above that, it is the culture of impunity that we think that we can get away with, doing all manner of things in this country. We hope that the presidency can take this issue seriously because change starts with very small steps. I support the Bill with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Millie Odhiambo, your amendments are very welcome in the next stage. The next one is Hon. Aloise. Where are you, Hon. Member? Hon. Aloise Lentoimaga, Member for Samburu North.

**Hon. Lentoimaga:** Thank you so much Hon. Temporary Deputy Speaker. I rise to support this Bill. It is a very important Bill. Going by the Memorandum of Objects and Reasons, I can cite that the first paragraph has the objective of this Bill which is to establish business registration, serve as a State corporation under the general supervision of the Attorney- General in order to improve efficiency. I want to underline the words "efficiency" and "effectiveness."

The problem in the registration of companies and those other organizations in the AG's office has been bureaucracy and corruption. Bureaucracy gives birth to corruption. Over the years we have realized that there are so many brokers who are stationed in every side of this city. They are all directed at the AG's office in terms of registration of companies. I hope this Bill will go a long way to curtail this kind of bureaucracy and even corruption. At the same time, image is a very important asset in Government offices. For most of the offices in the Government sometimes when you go to look for a service, you are asked, "What is your problem?" However, in the business sector you are asked "What can I do for you?" That statement "What is your problem" discourages clients. It makes you feel that you are not wanted there. So, I hope this Bill will go a long way to stop that kind of behavior among civil servants and ensure that registration is faster, efficient and goes along to assist in building the image of Government.

I want to underscore the issue of the Huduma Centres which are being established all over the country and they are meant to provide a one-stop-shop. This Bill will go a long way to assist us to decentralize this service so that we can get registration at the county level. After devolution, we realized that even registration of schools has been decentralized to counties. This has gone a long way to help many parents and teachers to register schools faster than they were done before. So, the office should be decentralized to the counties so that our young people at the county level and any other persons are able to register their businesses. Business is thriving all over this country. After the promulgation of the Constitution a lot of business has come up. However, many of our people have been unable to start businesses because of registration. In our counties, especially where I come from, Samburu, we get an influx of people coming from outside the county to do business in our place. Just because our people have no idea of where to

register a company; or rather the distance between Nairobi and Samburu is very far to the extent that they are unable to come and register business here--- It is becoming costly and people are neglecting the idea of doing business.

I will recommend and also urge the supporters of the Bill to ensure that the area of research is carried out effectively. This is so that we can borrow best practices from our neighbours in terms of registration.

With those few remarks, I support this Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I want to lock in the two Members that I have in my request list, before I call upon the Mover to reply. By the powers that have been conferred to me in Standing Order No. 1, I will extend the sitting time of the House by 10 minutes to ensure that the Mover replies.

Let us have Hon. Ibrahim Saney, Member for Wajir North.

**Hon. Saney:** Thank you, Hon. Temporary Deputy Speaker. The intention of the Bill is good and in consonance with our Constitution. The creation of the envisaged business registration services, whose objects include registration, keeping an inventory of businesses, doing research, offering policy advice and collaborating with other state actors is well-thought.

On registration, the Bill intends to streamline operations and bring in efficiency so that people can easily register businesses. This will undoubtedly motivate starters who are willing to do business. This will remove registration hurdles, bottlenecks, corruption, eliminate hatred and other unnecessary bureaucracies that have hindered the rural folk and poor Kenyans. The development of a one-point business registration centre akin to our already operational Huduma Centres is also welcome. We have had serious challenges in the ownership of businesses in Kenya. Unscrupulous entrepreneurs have always formed companies, dropped them easily and changed the directors leading to the development of mysterious entities doing business in this country. I am sure with the development of this State corporation, we will streamline ownership of businesses and we will know who the real owners of each business entity registered in this country are.

On the devolution of business registration, I agree with the previous speakers that with the onset of e-procurement, which appears to be centralized, there is the likelihood that should the business registration services be headquartered in Nairobi alone without further devolving the services to other parts of the country, we will impede the coming into business of many pastoralists, special groups and marginalized communities, who may not have the opportunity or access to Government services of registering business. If I may recall what is happening with e-procurement right now, most rural folks and pastoralist communities do not have the capacity to participate in e-procurement. I have fears that if we do not devolve the registration of businesses we may also block the rural communities and special groups who may not participate in the registration of businesses.

On research, I have some issues on the object of this business registration services doing research. I would be more comfortable if there will be a requirement in law which tasks this corporation to keep an inventory of all foreign agencies doing businesses. If we allow that, we will avoid cases like Anglo-Leasing, mysterious institutions that win big awards in our country and whose identity is not known.

I want to appreciate that there are so many informal businesses in the rural community, especially pastoral communities. Businesses that have been making a profit, tested over the years and have already developed a niche for themselves. Those are informal businesses. It would be

wise if the business registration services will be given a bigger mandate to build the capacity of rural communities, who are managing informal businesses, so that they can acquire the capacity to register businesses.

Finally, we always complain of a wage burden in this country. Every piece of legislation and policy thrives in recommending the creation of a structure which will further burden taxpayers. It would have been better if we would have established a secretariat within the related ministry and given them the same tasks rather than establishing new boards and more structures that will be expensive to taxpayers.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, given that there are no other requests, I call upon the Mover to reply.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, if you will allow me I will give the Chair of the Departmental Committee on Education, Science and Technology, two minutes of my time to make one or two comments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): That is quite in order. Hon. (Ms.) Chege, you can receive philanthropic offer by the Leader of the Majority Party.

**Hon. (Ms.) S.W. Chege:** Thank you, Hon. Temporary Deputy Speaker. I want to thank the Leader of the Majority Party for donating some time for me. I support this Bill. As I was listening to the Hon. Members making their contribution, I was almost worried that we are having another structure coming up that is going to be a burden to the taxpayers. I looked at the merits of the Bill and, we actually need this Board to harmonize what is happening in our business industry. We have had companies transacting business with the Government but when you later try to trace the ownership, you find that the owners are anonymous or not even known. I am bit concerned where we have investors who come and do business in Kenya. You find that they export and come with their own people. Sometimes they do business with us and when they leave, we do not have any expertise left behind. I hope this Board is going to harmonize that. We know our friends who are doing a lot of business and construction in Kenya. There must be some certain percentage of people who will be either shareholders or trained manpower so that when they leave, we will have our own people. As I support, I have seen one of the objectives is proper maintaining of registers, data and records and implementation of relevant policies. We hope this Board is not going to be just another board. We hope it is not going to just sit in Nairobi but that it is devolved to the counties. A good example is what the Huduma Centre has done. I hope this board is going to complement what Huduma Centre is doing.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Your two minutes are over. Leader of the Majority Party.

**Hon. A.B. Duale:** Thank you, Hon. Temporary Deputy Speaker. I would like to thank all my colleagues for the valuable contribution they have made. In a nutshell, this Bill creates a business service entity, to make Kenyans and foreigners' lives easier and more efficient in doing business. If you walk to the State Law Office and the Office of the Registrar General to get the particulars of a company, it will take you months. We want the State Law Office and the Director-General of the Registrar's Office to be run like a private sector so that Kenyans can walk in, and in five minutes they can register companies. The good laws we have passed in this House, the Companies Law and the Insolvency Bill, can guide and create a platform for a better customer service for more efficiency.

With those remarks, I beg to move.

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, this is a House of rules and procedures and the time being 6.38 p.m., this House stands adjourned until tomorrow, Thursday, 20<sup>th</sup> August 2015, at 9.30. a.m.

The House rose at 6.38 p.m.