

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 25th August 2015

The House met at 2.30 p.m.

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

PRAYERS

PETITION

AMENDMENT OF THE CONSTITUTION OF KENYA

Hon. Speaker: Hon. Members, Standing Order No.225 (2) (b) requires that the Speaker reports to the House any petition other than those presented through a Member. I, therefore, wish to convey to the House that my office is in receipt of a petition signed by Mr. Gibson Machanga Mareko praying for introduction in the National Assembly of a Bill to amend the Constitution in accordance with Article 256 (1) of the Constitution.

The petitioner prays that the Constitution be amended in various Articles as follows:-

(i) Article 81 be amended to provide that no person shall hold the same elective office for more than two terms, including Members of Parliament;

(ii) Article 138(4)(a) be amended to provide that a candidate shall only be declared elected as President if the candidate receives more than 70 per cent of all the valid votes cast in the election; and,

(iii) Article 148(9) be amended to provide that a person shall not be eligible for election as the President if he has served as Vice-President for two terms.

Hon. Members, you will agree with me that the prayer sought by the petitioner requires thoughtful consideration as they propose to alter the architecture of our Constitution. Therefore, this petition stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is requested to consider the petition and report its findings to the petitioner and the House, in accordance with Standing Order No.227 (2).

I must hasten to add that the Committee should also undertake to hear the petitioner with a view to hearing the business of his unique prayers.

Thank you.

Hon. A.B. Duale: Hon. Speaker, hon. Members are not aware that there is a Supplementary Order Paper. I have seen people with the original Order Paper. So, it is important for them to know that there is a Supplementary Order Paper.

Hon. Speaker: I will make the necessary communication.

Hon. A.B. Duale: Thank you.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

The Alupe University College Order 2015 No.153 and the Explanatory Memoranda therein, pursuant to Section 20 of the Universities Act of 2012

Sessional Paper No.6 of 2014 on the National Children Policy from the Ministry of Labour, Social Security and Services

The National Treasury Quarterly Economic and Budgetary Review for Financial Year 2014/2015 (Fourth Quarter) period ending 30th June 2015

The Report of the Auditor-General on the Financial Statements of Athi Water Services Board for the year ended 30th June 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of Kenya Broadcasting Corporation for the year ended 30th June 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of Kenya Veterinary Vaccines Production Institute for the year ended 30th June 2014 and the certificate therein

The Report of the Auditor-General on the Financial Statements of Rongo University for the year ended 30th June 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of Kenya Accountants and Secretaries National Examinations Board for the year ended 30th June 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of Communication Authority of Kenya for the year ended 30th June 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of Western Kenya Rice Mills Limited for the year ended 30th June 2014 and the certificate therein.

(Loud consultations)

Hon. Speaker: Order, Hon. Members! There should also be merit in numbers. It cannot be that we cannot transact business when we are so many.

Proceed, Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, finally, I beg to lay the following Paper on the Table of the House:-

The Report of the Auditor-General on the Financial Statements of Mwea Rice Mills Limited for the year ended 30th June 2014 and the certificate therein.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Shakeel Shabbir, do you not have a microphone?

(Hon. S. S. Ahmed moved to the Dispatch Box)

Hon. S. S. Ahmed: Hon. Speaker, I beg to lay the following Paper on the Table of the House:-

The Report of the Parliamentary Delegation to the 2015 Biannual Meeting of the African Parliamentarians Network Against Corruption held on 24th to 26th April 2015 in N'Djamena, Chad.

Hon. Speaker: Hon. Sabina Chege!

Hon. (Ms.) S. W. Chege: Hon. Speaker, I beg to lay the following Paper on the Table of the House:-

The Report of the Departmental Committee on Education, Research and Technology on its consideration of the Basic Education (Amendment) Bill 2014.

Hon. Speaker: Hon. Members, let us be able to hear one another. Can we have the Chairperson of the Departmental Committee on Justice and Legal Affairs?

Hon. Chepkong'a: Hon. Speaker, the consultations are very loud because my good friend, the Member for Eldama Ravine, is under siege. We agreed with him that the Constituencies Development Fund Bill that was presented at today's *Kamukunji* is purely a draft. We agreed that the Departmental Committee on Justice and Legal Affairs and his Committee would sit down and iron it out to ensure that Members of Parliament play some role, in accordance with the Constitution. I hope that the level of the consultations will go down because that matter will be resolved.

Hon. Speaker: Order, Hon. Members! I am sure that most of you may are hearing. If you look at the Bill, you will appreciate that Hon. Chepkong'a is saying that some role may be given to the Member of Parliament. That is if you strictly stick to the proposed Clause 24 of the Bill. Those of you who have read it know the areas that require to be dealt with. It is the proposed Clause 24 of the Bill.

Hon. Chepkong'a: Hon. Speaker, indeed, I confirm that the loud discussion which has been going on here is with regard to Clause 24. So, it will be sorted out. We have agreed.

Hon. Speaker, having said so, I beg to lay the Report of the Departmental Committee on Justice and Legal Affairs on its consideration of two Bills from the Senate: The Political Parties (Amendment) Bill (Senate Bill No. 3 of 2014), and the Statute Law (Miscellaneous Amendments) Bill (Senate Bill No. 6 of 2014).

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Jamleck Kamau, the Chairman of the Departmental Committee on Energy, Communication and Information.

Hon. Kamau: Hon. Speaker, I would like to bring to the attention of the House the fact that the Kenya Power and Lighting Company (KPLC) is in the process of implementing the Last Mile Connectivity Project, a programme which was commissioned by the President on 27th May 2015. The project is aimed at stimulating economic growth and accelerate job creation to improve the economic wellbeing of Kenyans, in line with the Vision 2030 Strategic Plan. The Departmental Committee on Energy, Communication and Information notes that the projects will be spread across all the constituencies. Thus all constituencies will be affected by the project, which involves maximising the existing selected distribution transformers totalling 5,320 through the extension of low voltage network to reach households located within 600 metres radius from the transformers. The

transformers have been distributed to each constituency using the Constituencies Development Fund allocation criteria.

I, therefore, wish to inform the House that the KPLC has formally written to all Members of Parliament, indicating the transformers that will benefit their areas and the areas where they are. The letters can be picked from the main reception. Members are kindly requested to verify the accuracy of the location of the transformers. In case there are some transformers which are not in your constituency, you may write to the KPLC and forward the letter to our Committee Clerk, Mr. Amos Changwe, on or before Thursday, 27th August 2015 for onward transmission to the KPLC. Mr. Changwe's office is located in Protection House, Third Floor.

Hon. Speaker: Hon. Kamau, it is fair that you table a copy of the letter, so that it becomes a formal matter and Members can have an opportunity to see its contents. It is also important that copies of the letter are made available to every Member, so that they can have a look at it.

(Hon. Kamau laid the document on the Table)

Hon. Speaker: Hon. David Kangongo, are you on a point of order?

Hon. Bowen: Yes, Hon. Speaker. I am asking the Chairman of the Departmental Committee on Energy, Communication and Information given that some of the transformers are in schools---

Hon. Speaker: Hon. Kangongo, there is no debate. I know that you are new in this House, but three years is long enough for you to know that you cannot say that you asking the Chairman of the Departmental Committee on Energy, Communication and Information. It is not possible that you can ask.

Hon. Bowen: Hon. Speaker, it is just a clarification. In some places, the transformers are within compounds of secondary schools which are as far as a kilometre away.

Hon. Speaker: Nothing will happen, Hon. Kangongo. Please, we have very serious business. That is why I said that the letter should be tabled, so that every Member can get a copy. Whatever other issues you want to deal with, you can deal with them later.

Hon. Wambugu, do you also have an intervention?

Hon. Wambugu: On a point of intervention, Hon. Speaker. This is in the interest of public participation. There should have been public participation in the formulation of the list which is going to be distributed to the Members. The members of the public and their leaders should identify the transformers that are going to benefit them other than the Kenya Power Company just coming up with a list, which might not benefit the Members.

Hon. Speaker: Really, again, I cannot respond. Why can we not wait? Is there another intervention? No, no. Hon. Mutambu, what is your intervention?

Hon. Mutambu: On a point of order, Hon. Speaker. I wish to bring to the attention of the Members that this is an intervention which we had. I sit in the Departmental Committee on Energy, Communication and Information, and we requested the Ministry to support the Members and let them know about this last project. The Ministry promised to do that. The Members never asked. We tried to do the best to make

sure that Members of Parliament get to know what is happening in their constituencies. The Chairman has just alluded that whatever is in that letter is what is on the ground. Members should read the contents of the letter and they will understand the information. They are free to get in touch in our Clerk.

Hon. Speaker: That is not a point of order. You are trying to encourage Members to look at the letter. Nevertheless, you have taken advantage of the good mood in the House today.

Next Order!

BILL

Second Reading

THE EXCISE DUTY BILL

(Hon. A.B. Duale on 20.8.2015)

(Resumption of Debate interrupted on 20.8.2015)

Hon. Speaker: Order, Hon. Members, including Lati Lelelit! Debate on this Bill was concluded and what is remaining is for me to put the Question, which I proceed to do.

(Question put and agreed to)

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

MOTION

EXTENSION OF PERIOD IN RESPECT OF LEGISLATION WITH CONSTITUTIONAL TIMELINE OF AUGUST 27, 2015

(Hon. Baiya on 19.8.2015)

*(Resumption of debate interrupted on
19.8.2015 – Afternoon Sitting)*

Hon. Speaker: You know there are certain issues. The Motion had been moved and seconded.

(Loud consultation)

Hon. Leader of the Majority Party, what is your comment?

Hon. A.B. Duale: On a point of order, Hon. Speaker. This Motion was moved and seconded. Will I be in order under the Standing Order No.94(4) to request that the Mover be called upon to reply?

Hon. Speaker: What is your point of order, Hon. Linturi?

Hon. Linturi: On a point of order. Hon. Speaker. With all humility, I wish to make a request to this House. It is very important that even when we all agree to extend timelines for such important Bills, some of us are allowed to say one or two things. I am saying this because---

(Loud consultations)

I need to be heard. I have to be heard!

Hon. Speaker: Order, Members!

Hon. Linturi: Hon. Speaker, I should be heard.

(Loud consultations)

Hon. Speaker: Order, Hon. Members! Order! Hon. Linturi, take your seat!

Hon. Linturi: I have to be heard! Nonsense!

Hon. Speaker: Hon. Members, it is not part of our way of doing business not to allow a Member to say what he has to say however unpalatable it maybe to some of you. Allow Hon. Linturi to say his bit and you can decide on what he is going to say immediately.

Hon. Linturi, you have one minute to finish.

Hon. Members: No! No!

(Loud consultations)

Hon. Linturi: Hon. Speaker, I have to be heard. I have to be listened to. I am an elected Member of this House. I have to be protected!

(Loud consultations)

Hon. Speaker, I require your protection. We cannot turn this House into---

Hon. Speaker: Order, Members! What surprises me is that even people who are doing their third terms do not appear to be very conversant with the House rules. Hon. Members, Hon. Linturi has also heard you clearly.

Hon. Linturi, you see, there is no point of trying to extract blood from a stone. Take your seat. Hon. Linturi, at the end of the day, the House has to express itself one way or another with regard to your proposal. If the House is already saying that it is not interested in hearing your proposal, what do you expect the House to do? So, Hon. Linturi, I will give you the last chance. If the House is not interested, we proceed.

(Loud consultations)

Hon. Linturi: I will call a Press conference. You had better listen.

Hon. Speaker: Order, Hon. Members! Hon. Linturi, the mood in the House is such as not to listen to your submission. We cannot force the House to listen to your submission if the entire House is not willing. Whatever it is, if I heard you correctly--- Hon. Members, allow me to state the case properly to Hon. Linturi. His proposal is whether the entire House is in agreement with the Motion that some of you be allowed an opportunity to express yourselves one way or another. The only way available for me to decide whether what Hon. Linturi wants is what the House wants is to put the Question, which is that Hon. Linturi be allowed to say something about this Motion.

Hon. Members: No! No.

(Loud consultations)

Hon. Speaker: Order, Member! Hon. Aburi, you will go out of the Chamber now.

(Question, that Hon. Linturi be allowed to speak to the Motion, put and negatived)

So, Hon. Linturi you will not be heard.

(Loud consultations)

Order, Hon. Members! In order for us to progress with this matter, a point has been raised and a proposal put by the Leader of the Majority Party, which is that the Mover be called upon to reply. But Hon. Members, even as we do that, we need to know that we need to have a certain threshold in the House. Nevertheless, the Question as to whether the Mover be called upon to reply can be put at whatever stage.

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

Mover, proceed.

Loud consultations)

Hon. Baiya: Thank you, Hon. Speaker. I want to take this opportunity to thank the Members for the unanimity with which they have shown their support for these Motions, whose significance and importance is clearly evident to everybody.

With those remarks, I want to register my appreciation for the performance of the Kenyan athletes in Beijing. Their performance has shown quite clearly that this country can move to higher heights even in terms of generating this kind of consensus.

With those remarks, I beg to reply.

Hon. Speaker: Order, Members!

(Several Hon. Members stood along the gangway)

(Hon. Ichung'wah ran into the Chamber)

Hon. Kimani Ichung'wah, you do not run here. You just walk.

The Member is running around in the Chamber. Hon. Members, for purpose of ascertaining that we have the requisite quorum, I will direct that before I put the Question, the Division Bell be rung for three minutes. Ring the Bell for three minutes.

(The Division Bell was rung)

Hon. Speaker: Order, Members! Resume your seats. Hon. Rege and Hon. Keynan, please take your seats. Member for Gichugu, take your seat.

Hon. Members, I need to remind you that we need to be sure that we have the requisite numbers before I put the Question. Can the Clerk confirm whether we have the requisite numbers for purposes of putting the Question?

I direct that the Bar be drawn and the doors be closed. I hope there are no Members in the backrooms except those who desire to be absent.

Those who had inserted their cards can remove them. Hon. Members, I need to put the Question. I shall not expect an acclamation. You will wait for this process to commence.

(Question put and House divided)

Hon. Members, you have 60 seconds within which to log in.

(Loud consultations)

This is not a Question on which you vote by acclamation but electronically. Are there any Members without cards?

Hon. Members: Yes.

Hon. Speaker: Do they belong to this National Assembly? Let me see those Members without cards.

(Hon. Barua walked into the Chamber)

The Member for Gichugu is an extremely difficult person. The Speaker is on his feet and you are busy crisscrossing the Floor.

Hon. Members, those without cards should come to the front. It looks like there are Members who have a habit of never coming with their cards. Those without cards please come to the front, so that we can proceed. The restless Member for Gichugu, what is your problem? The Member is extremely restless.

Hon. Members, I can see names already popping up on my console when they should not be popping up. You must have removed your cards. Hon. Rose Mitaru, you are still logged in.

Hon. Members, you already know the Question. It is a vote for extension of the constitutional deadline for passage of certain Bills by 12 months from the 27th August 2015 to 27th August 2016. You have 60 seconds within which to log in.

Hon. Members: We have logged in.

Hon. Speaker: Sorry; it is because we were disrupted by this team of Members without cards.

Hon. Members, I can see the names of Hon. Mary Mbugua, Hon. Ken Okoth, Hon. Daniel Maanzo and Hon. Keynan. I do not know why your names are popping up.

Hon. Members, vote now.

(Loud consultations)

Hon. Speaker: Order, hon. Members! Order, hon. Members! Order, hon. Members! Take your seats. Can you not take a seat? Are there none? Hon. Members, the Members who voted electronically were 246. The Ayes were 236 electronically and manually they were 24. Total votes for Ayes were 260.

(Applause)

The Nays who voted electronically are 10 and only one voted manually. The total is 11. There were no abstentions. The result is the Ayes have it.

DIVISION

(Question carried by 260 votes to 11)

AYES: Mr. Baiya, Ms. Mwendwa, Messrs. J.O. Omondi, P.E.O. Anyanga, Oyoo, S.A. Ali, Ms. Tuya, Messrs. Abass, Abdinoor, Aden, A.O. Ahmed, Farah, Dr. Simiyu, Messrs. A.B. Duale, Elmi, Mwiru, Alfred Keter, Sambu, Dido, Wario, Lentoimaga, Mwadime, A.T. Anyanga, Ms. Gathecha, Messrs. Midiwo, Odera, Shill, Ms. B.N. Nyaga, Messrs. Momanyi, Shinali, Washiali, Andayi, Langat, Mulu, Mbai, Kitungi, B.K. Bett, Bishop R. Mutua, Ms. Ngetich, Ms. Mbarire, Messrs. Njagagua, C.M. Nyamai, Gimose, Geni, Wakhungu, Nakuleu, Ms. Ombaka, Messrs. Omulele, Wambugu, Serem, Kubai Iringo, Anyango, Muzee, Maanzo, Nanok, Sitati, Gikaria, Bowen, Karithi, Kiaraho, Ochieng, Losiakou, Were, Mwamkale, Ms. Kedogo, Messrs. Moindi, Busienei, Wangwe, Ngare, Eric Keter, F.K. Wanyonyi, Ms. F.M. Mutua, Messrs. Kilonzo, Nyenze, Francis Waititu, Outa, Ogalo, G.W. Omondi, Waititu Ferdinand, Kariuki, Irea, Konchella, Mungaro, Ogolla, Ms. Nyasuna, Mr. Rai, Ms. Kipchoim, Ms. Kiptui, Messrs. Kombe, Mwanyoha, Osman, Ms. Chepkwony, Prof. Sambili, Messrs. Saney, Sane, Mustafa, Kiptanui, Rop, Macharia, Mukwe, Eng. Rege, Messrs. Ekomwa, Ondicho, J.K. Bett, Murgor, Prof. Nyikal, Mr. Kamau, Ms. Teiya, Ms. Mbalu, Messrs. Angwenyi, Olum, Mutambu, Kipyegon, Kihagi, Serut, Nakara, J.M. Nyaga, Naicca, Mlolwa, Memusi, Gitari, J.K. Ng'ang'a, Limo, Lomwa, M'uthari, Manje, Ndiege, Ms. Emanikor, Dr. Laboso, Messrs. Melly, Kariuki Ndegwa, Kemei, Kabando wa Kabando, Abongotum, Mbiuki, Murungi, Mirenga, Katoo, Keynan, Mwashetani, Ichung'wah, H.K. Njuguna,

Bitok, ole Lemein, Ms. Korere, Ms. Fathia, Messrs. Nyamweya Muluvi, Lomunokol, Ms. Keraa, Ms. Mbugua, Ms. Seneta, Ms. Munene, Messrs. Robi, Maweu, K.K. Kinyanjui, Kisoi, Ms. Odhiambo-Mabona, Ms. Khamisi, Messrs. Huka, Shidiye, Eng. Mahamud, Messrs. ole Sakuda, Cheboi, Injendi, Lessonet, Aburi, Mati, Musyimi, Chea, Dr. Shaban, Eng. Gumbo, Dr. Oginga, Messrs. Aluoch, Musimba, Lati, ole Ntutu, Wangamati, Ms. Tobiko, Messrs. Mwangi, Shehe, Rotino, Akujah, Ms. R.K. Nyamai, Ms. Amolo, Messrs. Letimalo, Otaalo, Bedzimba, Ms. Muia, Ms. Changorok, Ms. R.N. Wanyonyi, Messrs. Makenga, Duba, Mbui, Dr. Pukose, Mr. Tonui, Ms. Mumo, Ms. Nyamunga, Ms. S.W. Chege, Messrs. Bunyasi, Mwaita, Chepkong'a, Gichigi, Ndiritu, Arama, Chumel, Isaack, S. S. Ahmed, Ms. Gure, Messrs. Tiren, Onyango, Anami, Ogari, Karani, ole Kenta, Manoti, Ramadhani, Ms. Sunjeev, Ms. Chebet, Ms. Musyoka, Messrs. Mwadeghu, Gethenji, Ngahu, Dr. Munyaka, Messrs. Musau, Wamunyinyi, Ms. Muhia, Dr. Ottichilo, Messrs. Cheptumo, Kisang, Chanzu, Abdi, Ms. Chidzuga, Messrs. Cheruiyot, Opopre, Ms. Kering, Messrs. Abass, M. D. Duale, Gaicuhie, Ganya, Ms. Juma, Messrs. Kobado, Lekuton, Mwaura, Ngikor, Sang, Wekesa, Masadia, Ms. Wanyama, Ms. Leshoomo, Ms. Otucho, Messrs. Barua, Barchilei, Nooru, Ms. Wahome, Messrs. Kang'ata, Ms. Machira, Eng. Manga, Messrs. Waiganjo and Koinange.

NOES: Messrs. Wandayi, Nassir, Oyugi, Simba, Mohamed Diriye, Okoth, Ng'ongo, King'ola, Mule, Bosire and Ms. Ibren.

Hon. Speaker: Hon. Members, I have used Standing Order No. 1 to rearrange business, so that we proceed on with the business at numbers 12 and 13. I proceed to read the question. The Bill is the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 01 of 2015) by Hon. David Ochieng.

DIVISION

Hon. Speaker: Hon. John Mbadi, Hon. Karani and Hon. Noor, please just vote whichever way you want to vote. It does not matter. Since we have already known that we have a quorum, before I put the Question, I request that you log out. Order, Hon. Ken Obura.

Hon. Members, I do not want a Member to say that they did not know that we are now supposed to log in. Again, there is that group without cards. Please come forward quickly.

Hon. Speaker: Hon. Members, take your seats. Hon. Kangata, take your seat please.

Hon. Members, Order! Leader of the Majority Party, just walk to your seat. Hon. Members, you have 60 seconds, log in now.

(Question put and the House divided)

Hon. Members. vote now

Hon. Speaker: Hon. Members, these are the results. Electronically, the Ayes are 200, and manually, 16. The total is 216.

Electronically, the Nays are 23; manually, they are 5. The total is 28.

Abstentions are 4.

(Question negatived by 216 votes to 28)

Therefore, it means that the Bill, having not reached the required threshold of 233 Members in favour, is lost.

AYES: Mr. A.T. Anyanga; Ms. Gathecha; Messrs. Katoo, Odera; Ms. B.N. Nyaga; Messrs. Momanyi, Shinali, K.K Kinyanjui, Andayi, Lang'at, Mbai, Kitungi, B.K Bett, Bishop R. Mutua; Ms. Mbarire; Messrs. Ganya, Njagagua, C.M. Nyamai, Gimose, Geni, Nakuleu, Lati, Omulele, Wambugu, Serem, Kubai Iringo, Anyango, Muzee, Maanzo, Nanok, Sitati, Gikaria, Bowen, Kiaraho, Ochieng, Losiakou, Wekesa, Were, Mohamed Diriye, ole Kenta, Moindi, Busienei, Wangwe, Ngare, Eric Keter, F.K. Wanyonyi, Ferdinand Waititu, Kilonzo, Gethenji, Francis Waititu, Baiya, Ogalo, G.W. Omondi, Irea, Mungaro, Ogolla; Ms. Mwendwa; Mr. Rai; Ms. Kipchoim, Ms. Kiptui; Messrs. Chea, Kombe, Mwanyoha, Osman; Ms. Chepkwony, Prof. Sambili; Messrs. Sane, Mustafa, Kiptanui, Rop, Macharia, Mukwe, Eng. Rege, Ekomwa, Ondicho, Kimaru, Murgor, J.O. Omondi; Ms. Teiya, Ms. Mbalu; Messrs. Angwenyi, Olum, Mutambu, Kipyegon, Kihagi, Serut, Nakara, J.M Nyaga, Naicca, Mlolwa, Gitari, J.K Ng'ang'a, Limo, Lomwa, M'eruaki, Manje, Ndiege; Ms. Emanikor, Dr. Laboso; Messrs. Kariuki Ndegwa, Kemei, Kabando wa Kabando, Abongotum, Mbiuki, Murungi, Mirenga, Oyoo, Dr. Simiyu, Mwashetani, Ichung'wah, H.K Njuguna, Bitok, ole Lemein; Ms. Korere; Mr. Sang; Ms. Fathia; Mr. Mulu; Ms. Tuya; Mr. Lomunokol; Ms. Keraa, Ms. Mbugua, Ms. Seneta; Messrs. Robi, Maweu, Memusi, Kisoi; Ms. Odhiambo-Mabona; Messrs. Mohamed Abass, Huka, Shidiye, Eng. Mahamud, ole Sakuda, Cheboi, Injendi, Lessonet, Aburi, Mati, Aden, Elmi, S.A. Ali, Barua, Aluoch, Dr. Musimba, King'ola, ole Ntutu, Wangamati; Ms. Tobiko; Messrs. Shehe, Rotino, Akujah; Ms. R.K Nyamai, Ms. Amolo; Messrs. Otaalo, Bedzimba; Ms. Muia, Ms. Changorok, Ms. R.N. Wanyonyi; Messrs. Makenga, Duba, Mwiru, Dr. Pukose, Tonui; Ms. Mumo, Ms. S.W. Chege; Messrs. Bunyasi, Mwaita, Chepkong'a, Gichigi, Ndiritu, Alfred Keter, Chumel, Isaack, S.S. Ahmed; Ms. Gure; Messrs. Tiren, Onyango, Anami, Ogari, Karani, Mule, Steven Kariuki, Ramadhani, Kasuti; Ms. Sunjeev, Ms. Chebet; Messrs. Mwamkale, Sambu, Dido, Ngahu, Wario, Wamunyinyi; Ms. Muhia; Messrs. Dr. Ottichilo, Cheptumo, Kisang, Chanzu, Mwadime; Ms. Chidzuga; Mr. Opoire; Ms. Kering and Mr. Karithi, Eng. Manga, Nooru; Ms. Leshoomo, Ms. Wahome, Ms. Otucho, Ms. Wanyama, Ms. Machira; Messrs. Waiganjo, Koinange, Barchilei, Mwaura, Abass, Ngikor; Ms. Ibren; Messrs. Lekuton and Mr. Kanini Kega.

NOES: Messrs. Midiwo, Wandayi, Nassir, A.B. Duale, Simba Washiali; Ms. Ombaka, Ms. Kedogo; Messrs. Nyenze, Outa; Ms. Nyasuna; Messrs. Kamau, Okoth, Keynan, Muluvi; Ms. Khamisi; Mr. Musyimi; Ms. (Dr.) Shaban; Messrs. Arama, Mwadeghu, Bosire, Musau, Abdi, Juma, Kobado and M.D. Duale.

ABSTENTIONS: Messrs. Eng. Gumbo, Mbui, Masadia and Ms. Musyoka.

Hon. Speaker: Hon. Members, it is fair for people to understand that the threshold of 233 is required to vote in the affirmative not only before we put the Question, but also even for purposes of voting in order to move the Bill forward. So, 216 is short of the required threshold. Therefore, the Bill is defeated at the Second Reading.

Hon. Members, to avoid a situation where Members will come to say that their cards are not working, those either without cards or with faulty ones, please come forward now. The rest of you, log out.

BILL

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) (NO. 2) BILL

Hon. Speaker: I will proceed very quickly with business appearing as No. 13, which is the Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No. 02 of 2015), the Bill by Hon. Peter George Kaluma. My assumption is that all of us were present when this Bill was proposed. It is the Bill that proposes to amend Article 165 of the Constitution on the Judiciary. Those of you who have been keen to follow know what that Bill is all about. Those who do not know will express themselves one way or the other. It is unlikely that I can, on my feet, begin to explain.

Hon. Members, as we still quorate, to avoid a situation where Members will come to say that their cards were not working, those either without cards or have faulty ones, please, come forward now. The rest of you, log out.

Hon. Members, in a nutshell, this Bill proposes to amend Article 165(3), so that matters which are reserved for Houses of Parliament or their Committees are removed from the jurisdiction of courts until Committees of Parliament have finalised them. That is the net effect of this amendment.

DIVISION

Hon Suleiman Murunga and Farah, please, log out.

The Question is: THAT, the Bill be now read a Second Time. Log in now.

(Question put and the House divided)

You have 60 seconds to log in.

(Question carried by 247 votes to 16)

(Loud consultations)

Hon. Speaker: Order Members! Hon. Members, this is the result of the vote. Electronically, the Ayes are 231 and manually they are 16. The total is 247. Electronically, the Nays are 11, abstentions 1 and manually 5. The total is 16 and 1 abstention. It, therefore, means that the ayes have it. The result is that the Constitution of Kenya (Amendment) Bill by Hon. George Kaluma may now be read a Second Time.

AYES: Messrs.P.E.O. Anyanga, S.A. Ali, Ms. Tuya, Messrs. Mohammed Abbas, A. O. Ahmed, Abdinoor, Aden, Farah, Nassir, A.B. Duale, Midiwo, Mwiru, Alfred Keter,

Masadia, Sambu, Dido, Wario, Lentoimaga, Mwadime, A.T. Anyanga; Ms. Gathecha, Messrs. Simba, Odera, Shill, Ms. B.N. Nyaga, Messrs. Momanyi, Shinali, Washiali, Andayi, Langat, Mulu, Kitungi, B.K. Bett, Bishop R. Mutua, Ms. Ngetich, Ms. Mbarire, Messrs. Ganya, Njagagua C.M. Nyamai, Gimose, Geni, Nakuleu, Ms. Ombaka, Messrs. Omulele, Wambugu, Serem, Kubai Iringo, Anyango, Muzee, Maanzo, Nanok, Sitati, Gikaria, Bowen, Karithi, Kiaraho, Mwamkale, Losiakou, Were, Mohamed Diriye, Moindi, Busienei, Wangwe, Ngare, Eric Keter, F.K. Wanyonyi, Ms. F.M. Mutua, Messrs. Kilonzo, Nyenze, Francis Waititu, Outa, Ogalo, G.W. Omondi, Waititu Ferdinand, Kariuki, Katoo, Konchella, Mungaro, Ogolla, Ms. Nyasuna, Mr. Rai, Ms. Kipchoim, Ms. Kiptui, Messrs. Kombe, Mwanyoha, Osman, Ms. Chepkwony, Prof. Sambili, Messrs. Saney, Sane, Mustafa, Kiptanui, Rop, Macharia, Mukwe, Eng. Rege, Ekomwa, Ondicho, J.K. Bett, Murgor, Prof. Nyikal, Kamau, Ms. Teiya, Messrs. K.K. Kinyanjui, Angwenyi, Olum, Mutambu, Kipyegon, Kihagi, Serut, Nakara, J.M. Nyaga, Naicca, Mlolwa, Memusi, Gitari, J.K. Ng'ang'a, Limo, Lomwa, M'uthari, Manje, Ndiege, Ms. Emanikor, Dr. Laboso, Messrs. Melly, Kariuki Ndegwa, Kemei, Kabando wa Kabando, Abongotum, Kanini Kega, Mbiuki, Murungi, Mirenga, Lati, Keynan, Mwashetani, Ichung'wah, H.K. Njuguna, Bitok, ole Lemein, Ms. Korere, Mr. Sang, Ms. Fathia, Muluvi, Mr. Lomunokol, Ms. Keraa, Ms. Mbugua, Ms. Seneta, Ms. Munene, Messrs. Robi, Maweu, Kisoi, Ms. Odhiambo-Mabona, Ms. Khamisi, Messrs. Huka, Shidiye, Eng. Mahamud, ole Sakuda, Cheboi, Injendi, Lessonet, Aburi, Mati, Musyimi, Chea, Dr. Shaban, Messrs. Eng. Gumbo, Barua, ole Kenta, Aluoch, Musimba, King'ola, ole Ntutu, Wangamati, Ms. Tobiko, Messrs. Mwangi, Shehe, Rotino, Akujah, Ms. R.K. Nyamai, Ms. Amolo, Messrs. Otaalo, Bedzimba, Ms. Muia, Ms. Changorok, Ms. R.N. Wanyonyi, Messrs. Makenga, Duba, Mbui, Dr. Pukose, Tonui, Ms. Mumo, Ms. Nyamunga, Ms. S.W. Chege, Bunyasi, Mwaita, Chepkong'a, Gichigi, Ndiritu, Arama, Chumel, Isaack, Ms. Gure, Messrs. Tiren, Onyango, Anami, Ogari, Karani, Gethenji, Manoti, Ramadhani, Kasuti, Ms. Sunjeev, Ms. Chebet, Ms. Musyoka, Messrs. Mwadeghu, Baiya, Ngahu, Dr. Munyaka, Musau, Wamunyinyi, Ms. Muhia, Messrs. Dr. Ottichilo, Cheptumo, Kisang, Chanzu, J.O. Omondi, Ms. Chidzuga, Messrs. Cheruiyot, Opore and Ms. Kering, Ms. Wanyama, Ms. Leshoomo, Ms. Otucho, Messrs. Barchilei, Nooru, Ms. Wahome, Mr. Kang'ata, Ms. Machira, and Messrs. Eng. Manga, Waiganjo and Koinange, Ms. Juma, Messrs. Kobado, Ng'ongo and M.D. Duale

NOES: Dr. Simiyu, Messrs. Elmi, Wandayi, Oyugi, Ochieng, Irea, Ms. Mbalu, Messrs. Okoth, Messrs. Dr. Oginga, Mule, Bosire, Ms. Juma, Kobado, Duale Dahir, Ng'ongo and Nyamweya.

ABSTENTION: Mr. Abdi.

Hon. Speaker: Hon. Members, the next business as I had directed is business appearing as Order No.10 followed by Order Nos.11 and 14 in that order. It is important that I draw your attention to the fact that the requirements of the Constitution are at Orders listed as Nos.10 and 11. They also require in both stages the threshold of 233.

Hon. Members, for avoidance of doubt, this is one of the oldest Bills that has been pending before the House. The Bill was brought by Hon. Lati Lelelit. It seeks to give effect to the Equalisation Fund. Hon. Members, whereas it is now open for me to declare that the Bars and the doors may be opened but it---

Hon. Members: Why?

(Loud consultations)

Hon. Speaker: Hon. Members, if it is the desire of the House to proceed because this business will take less than two minutes I, therefore, order that the Bars will remain drawn and the doors closed. The door will be opened for the Speaker to exit. That, you may not deny. Therefore, Hon. Members, I call on the Clerk to read out the next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

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

IN THE COMMITTEE

[The Chairlady (Hon. (Dr.) Laboso) took the Chair]

THE CONSTITUTION OF KENYA (AMENDMENT) (No.2) BILL

(Loud consultations)

Hon. Chairlady: Order Members! Where is the Mover of this Bill? You should be where we can see you Hon. Lelelit. Hon. Members, we are now in the Committee of the whole House. Can Members settle down? Hon. Ochanda and team, settle down. Can you please settle down?

We are now in the Committee of the whole House to consider the Constitution of Kenya (Amendment) Bill, No.2 of 2013. The Second Reading had already been completed. It was only left with the Committee of the whole House and the Third Reading. Hon. Members, we will now proceed.

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

Hon. Chairlady: Hon. Members, where is the Mover?

(Loud consultations)

Order Members! Can we allow the Mover to reply?

Hon. Lati: Hon. Chairlady, I beg to move that the Committee doth report to the House its consideration of the Constitution of Kenya (Amendment) (No.2) Bill of 2013 and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT AND THIRD READING

THE CONSTITUTION OF KENYA (AMENDMENT) (No.2) BILL

Hon. Speaker: Hon. Members, let there be order. Yes, Hon. Chairperson.

Hon. (Dr.) Laboso: Hon. Speaker, I beg to report that a Committee of the whole House has considered the Constitution of Kenya (Amendment) (No.2) Bill, 2013 and approved the same without amendment.

Hon. Speaker: Mover.

Hon. Lati: Hon. Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I also request Hon. Mahamud to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. (Eng.) Mahamud seconded.

Hon. Speaker: Hon. Members, allow me to propose the Question. Take your seats.

(Question proposed)

(Question put and agreed to)

Hon. Members, at this stage, I want to guide the House that during the Committee of the whole House and up to this point, the threshold of two-thirds majority, that is 233 Members, was not required. However, the next stage will require that threshold to be met. I will now give the Mover a chance.

Hon. Lati: Hon. Speaker, I beg to move that the Constitution of Kenya (Amendment) (No.2) Bill be now read the Third Time.

I request Hon. Chachu to second.

Hon. Ganya: Hon. Speaker, I beg to second.

(Several Hon. Members stood up in their places)

Hon. Speaker: Hon. Members, what is the problem? Many of you are restless. Please take your seats. Let me guide you. Those of you who are speaking will not know how to deal with this matter. At this point, I am merely required to propose the Question. I will allow a few of you to make comments.

Hon. Members: No! No!

Hon. Speaker: Hon. Members, just listen. That is the requirement. I must explain it to you because many of you are still in darkness with regard to this procedure. I will propose the Question. If it is the desire of the House not to debate or allow anybody to make comments, then I will proceed to give directions relating to the next procedure which is voting.

(Question proposed)

(Laughter)

Hon. Members, I will merely read these aspects. As I do so, those of you without cards can come to the front. This is a constitutional amendment Bill. We cannot take it lightly. Those without cards will come to the front and vote. Hon. Abass, where are you? Listen first. From time to time, I will be mixing Kiswahili and English for clarity. I will merely read this out. I do not expect you to vote by acclamation.

I will resume my seat. Those of you without cards or with faulty cards, please come forward before we can even talk about those who are logging in and out. I will give you two minutes to do that.

(Loud consultations)

Hon. Members, those of you without cards, please come over. There is no voting yet. Hon. Members, those of you standing are likely not to vote. This one is still trotting around here! What were you waiting for all this time? Hon. Members, I can still see some names here on the screen.

Hon. Members, log in now and vote.

DIVISION

(Question put and the House divided)

(Question negatived by 225 to 22 votes)

AYES: Messrs. Farah, Nassir, A. B. Duale, Mwiru, Masadia, Sambu, Dido, Wario, Mwadime, Elmi, Simba, Odera, Shill, Momanyi, Shinali, Washiali, Andayi, Langat, Mulu, Mbai, Kitungi, B.K. Bett, Mwamkale, Ms. Ngetich, Ms. Mbarire, Mr. Ganya, Ms. C.M. Nyamai, Messrs. Gimose, Geni, Wakhungu, ole Katoo, Eng. Wambugu, Messrs. K.K. Kinyanjui, Anyango, Muzee, Maanzo, Nanok, Sitati, Gikaria, Bowen, Karithi, Kiaraho, Lati, Losiakou, Were, Mohamed Diriye, Moindi, Busienei, Wangwe, Keter, Wanyonyi, ole Kenta, Francis Waititu, Gethenji, Baiya, Omondi, Fernidand Waititu, Kariuki, Irea, Konchella, Mungaro, Ms. Mwendwa, Ms. Nyasuna, Mr. Rai, Ms. Kipchoim, Ms. Kiptui, Messrs. Kombe, Mwanyoha, Osman, Ms. Chepkwony, Ms. Sambili, Messrs. Saney, Sane, Mustafa, Kiptanui, Rop, Macharia, Mukwe, Eng. Rege, Messrs. Ekomwa, Ondicho, Kimaru, Murgor, J.O. Omondi, Wanyama, Ms. Teiya,

Anyanga, Messrs. Angwenyi, Olum, Mutambu, Kipyegon, Kihagi, Oyoo, Nakara, Nyaga, Naicca, Mlolwa, Kanchorry, Wandayi, Limo, Lomwa, M'eruaki, Manje, Obiero, Akai, Ms. Dr. Laboso, Messrs Melly, Ndegwa, Kemei, Kabando wa Kabando, Abongotum, Kanini Kega, Murungi, Ali, Okoth, Keynan, Mwashetani, Ichung'wah, Njuguna, Bitok, ole Lemein, Ms. Korere, Sang, Ms. Fathia, Messrs. Muluvi, Lomunokol, Ms. Seneta, Ms. Wambui, Messrs. Robi, Maweu, Kisoi, Ms. Odhiambo-Mabona, Ms. Hamisi, Messrs. Huka, Shidiye, Eng. Mahamud, ole Sakuda, Cheboi, Lessonet, Mohamed Abass, Munuve, Musyimi, Gunga, Ms. Dr. Shaban, Eng. Gumbo, Barua, Dr. Oginga, Messrs. Aluoch, Musimba, Makau, ole Ntutu, Ms. Tobiko, Messrs. Mwangi, Shehe, Rotino, Akujah, Ms. R. K. Nyamai, Ms. Amolo, Messrs Letimalo, AbdiNoor, Bedzimba, Ms. Muia, Ms. Changorok, Ms. Wanyonyi, Messrs. Makenga, Duba, Mbui, Dr. Pukose, Tonui, Ms. Mumo, Mr. Aden, Ms. S. W. Chege, Messrs. Bunyasi, Mwaita, Chepkong'a, Gichigi, Ndiritu, Arama, Chumel, Isaack, S. S. Ahmed, Ms. Gure, Messrs Onyango, Ogari, Karani, Mule, Manoti, Ramadhani, Ms. Sunjeev, Ms. Chebet, Ms. Musyoka, Messrs. Mwadeghu, Bosire, Ngahu, Munyaka, Musau, Wamunyinyi, A. O. Ahmed, Dr. Ottichilo, Messrs. Cheptumo, Kipkemoi, Chanzu, Hassan, Ms. Chidzuga, Messrs. Cheruiyot, Opore, Gaichuhie, Kobado, Abass, Ng'ongo, M. D. Duale, Kajwang', Nyenze, Midiwo, Ms. Ibren, Ms. Lay, Messrs. Ngikor, Nooru, Nakuleu, Ms. Leshoomo, Messrs. Barchilei, Lekuton, Ms. Mitaru, Messrs. Wachira, Koinange and Mange.

NOES: Dr. Simiyu, Ms. Tuya, Messrs A. T. Anyanga, Bishop R. Mutua, Omulele, Serem, Ochieng, Kilonzo, Outa, Ogalo, Onchanda, Prof. Nyikal, Ms. Mbalu, Serut, J.K. Ng'ang'a, Mirenga, Apuri, Otaalo, (Ms.) Nyamunga, Messrs Mwaura, Waiganjo and Ms. Juma.

ABSENTION: Ms. Muhia and Mr. Nyamweya.

Hon. Speaker: Hon. Members, therefore, the final result is that the Constitution of Kenya (Amendment) Bill (No.2) of 2013 is lost at the Third Reading.

(Several Hon. Members stood up in their places)

Hon. Members, resume your seats. Hon. Makali Mulu and the other Hon. Members to my right- that includes Hon. Shaban and Hon. Alice Wahome - please, take your seats.

Hon. Members, this is a unique Bill because this is a unique situation. It is governed by the provisions of Standing Order No.62, headlined "Instances where the Constitution requires a fixed Majority". It reads:-

"(1) In every instance where the Constitution lays down that a fixed number of members is necessary to support the moving of, or to decide any question on a motion, any amendment motion to such motion shall not be passed unless supported by the fixed number of members required to pass the original motion.

(2) Notwithstanding paragraph (1), whenever a Bill or a special Motion the passage of which requires a special majority in the Assembly fails to obtain the required majority and the vote results in a majority of the "Ayes" but the "Noes" have not numbered at least one-third of all the

Members of the Assembly, the Speaker may direct that a further vote be taken on the particular question,---”

Hon. Members: Yes!

Hon. Speaker: Just listen, Hon. Members! It continues to say that:-

“---the Speaker may direct that a further vote be taken on the particular question, and that the further vote shall be taken within five sitting days from the day the first vote was taken.”

Hon. Members, paragraph (3) of the same Standing Order provides as follows:-

“(3) If the Speaker does not so direct any further vote, or if on such further vote the fixed majority is not obtained, the Speaker shall declare that the Motion is negatived.”

Therefore, I direct that a further vote on this Motion---

(Loud consultation)

Hon. Members, just like we say that the courts do not act in vain, the reason why the Standing Orders provide for that period is to enable Members to also reflect. That may include cooling heads or even making them hotter. Yes, it is either way. So, I direct that a further vote on this---

Hon. Members: Now!

Hon. Speaker: It cannot be now! To call for another vote is to call for a vote against a vote. That is why the period of five days is given. But it must be within five days. I am aware that the House is going on recess on 27th August, 2015. So, if it is the view of the House that this vote is taken tomorrow---

Hon. Members: Put the Question right now!

Hon. Speaker: No, it cannot be now! It can be within five sitting days from today. Today was a sitting day. There cannot be another vote on this Question. Look at the wording of the Standing Order. It says, “within five sitting days from the day the vote was taken”.

It is fair that you listen Hon. Members. If you do not listen, you tend to get agitated over nothing. It is within five days from the day the first vote was taken.

Hon. Aden: It can be now!

Hon. Speaker: This is one sitting. What is wrong? Hon. Abdikadir, do you understand what a sitting is? Not unless you declare another sitting. You have not declared another sitting.

(Loud consultation)

An Hon. Member: We now declare another sitting!

Hon. Speaker: There is no Motion moved to declare another sitting. The way to go about it, again, is provided for under the Standing Orders. It is not by way of you standing in your place and claiming: “Now! Now!” That is not the way to go about it. This is the essence of procedure. More particularly, that is why I wanted to get the views of the Mover, Hon. Lelelit. This is one sitting because it has not been adjourned to another sitting. “Within five sitting days” could mean “tomorrow or Thursday”. Even the

first three days after we resume from recess fall within the five sitting days provided under the Standing Orders. So, I need to get concurrence or suggestion from Hon. Lati Lelelit.

Hon. Lati: Yes, Hon. Speaker.

(Loud consultation)

Hon. Speaker: Order! Order, Hon. Members! Let me hear Hon. Lati.

Hon. Lati: Hon. Speaker, let me, first and quickly, thank the Members who voted for this Bill either way. I want to suggest that we---

(Loud consultation)

Hon. Speaker, with your help, I suggest that we do it in the first week after recess.

An Hon. Member: On a point of order!

Hon. Speaker: You cannot inform me now. Who is out of order? Hon. Members, because of the special appeal that has been made earlier today by not just Hon. Lati Lelelit but by several Members, it is for that reason that I have chosen the route of consulting with Hon. Lati so that we get a sense. It is not fair to ambush him to say this or the other, given the very important nature of the Motion. Hon. Lati Lelelit has proposed that the next vote be taken within five days from today, but soon after the House resumes from recess. It is so ordered!

You may now open the doors.

(The doors were opened)

(Loud consultations)

Order, Members! The House is still in session.

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

(Hon. Speaker (Hon. Muturi) left the Chair)

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Hon. Kajwang') took the Chair]*

THE BUSINESS REGISTRATION SERVICE BILL

The Temporary Deputy Chairman (Hon. Kajwang’): Order! The Members who are extricating from the Chamber, please, do it immediately, so that we can proceed with the Order before the House. Those of us who are continuing, please, resume your seats. Could the Serjeant-At-Arms request the Members politely to either leave or sit down? Hon. Members, this is Committee of the whole House constituted to consider the Business Registration Service Bill, National Assembly Bill No.13 of 2015.

We can begin. Let the Mover move the amendment to Clause 3.

I can see several proposed amendments. Are they on the Supplementary Order Paper? Hon. Makali, the Member for Kitui Central, are you in the Chamber? Can I hear from the Member for Gem?

Hon. Midiwo: Hon. Temporary Deputy Chairman, I realise that many Members have been here and concentration has gone down. Can you just go to the next amendment as I call the Member to come to the House?

The Temporary Deputy Chairman (Hon. Kajwang’): The Member for Gem, I have called you because you are the leadership of that side. I also know that many Members have been excited lately. I am trying to find out how to do substantive justice. Yes, the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, we have been here since 2.30 p.m. and we remain because we have some business. If the Member is not around, let us follow the procedure. We should move on because he has not moved his amendment.

The Temporary Deputy Chairman (Hon. Kajwang’): The Member for Gem, had the Member given you a written consent, you could have prosecuted it on his behalf. Do you have authority to prosecute this amendment?

Hon. Midiwo: Yes, Hon. Temporary Deputy Chairman. I do as the Deputy Minority Leader literally.

The Temporary Deputy Chairman (Hon. Kajwang’): Proceed right away. Hon. Chairman, just hold on. Nothing will be done out of order.

Clause 3

Hon. Midiwo: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 3 of the Bill be amended in subclause (3) by deleting the words “but the Service may establish branches in any other place” appearing immediately after the words “capital city” and substituting therefor the words “but the Service shall establish branches in every County”.

The Temporary Deputy Chairman (Hon. Kajwang’): I can now entertain the discussions because there is something before us to entertain. Can I start with the Member for Ainabkoi?

Hon. Chepkong’a: On a point of order, Hon. Temporary Deputy Chairman. Although you want to be very magnanimous to my very good friend, Hon. Makali Mulu, unfortunately, there is no Standing Order in which my very good friend, Hon. Jakoyo Midiwo, can take over the amendment. I am sympathetic to the amendment, but in light of the very clear provisions of the Standing Orders, unless Hon. Jakoyo Midiwo has

given you written authority from Hon. Makali Mulu, if Hon. Makali Mulu is not in, that amendment is dropped. It is not that the amendment has a problem. The problem is that it is in breach of the procedure. So, this is in breach of procedure.

The Temporary Deputy Chairman (Hon. Kajwang’): Which Standing Order are you referring to?

Hon. Chepkong’a: The clear Standing Orders that state that if a person chooses not to be present, he can authorise another Member of Parliament in writing to move the amendment. It is just purely on matters of procedure. I am concerned. Otherwise, if we go the way we are going, it will be in breach of procedure. I respect Hon. Jakoyo Midiwo and that he knows, but he cannot break the rules of this House. Otherwise, we will be in tatters.

The Temporary Deputy Chairman (Hon. Kajwang’): I hear you. Yes, the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, in fact, we have no problem with these amendments completely, but we should always uphold the practices and the procedure of the House. If a Member is not here, then the amendment is dropped. If he asks another Member to execute the amendment on his behalf, as you said earlier on, that Member must provide official proof, which my good friend, Hon. Jakoyo does not have. He is doing it out of sympathy.

The Temporary Deputy Chairman (Hon. Kajwang’): I hear you. I have checked the Standing Orders – the Member for Gem, the Deputy Leader of the Minority Party - and they suggest that if a Member is not in the Chamber, he may delegate with his consent that authority to another Member in writing. So, what do you say, the Member for Gem?

Hon. Midiwo: Hon. Temporary Deputy Chairman, to save us the several arguments, I have brought in the Member. So, let the amendment stand as proposed and then he can prosecute it. He is here. In any case, he gave me a letter. I did not think my colleagues would doubt my integrity. But as usual, I am always a man of integrity. I was going to argue it out. He is here.

The Temporary Deputy Chairman (Hon. Kajwang’): That is how Jerusalem was built with consensus. The Member for Kitui Central, proceed. We are on Clause 3 of the Bill.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairman. I am sorry. You know at times, the Order Paper confuses us. I did not know the Bill was coming immediately.

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

THAT, Clause 3 of the Bill be amended in subclause (3) by deleting the words “but the Service may establish branches in any other place” appearing immediately after the words “capital city” and substituting therefor the words “but the Service shall establish branches in every county”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Shall I put the Question?

An Hon. Member: Can I explain?

The Temporary Deputy Chairman (Hon. Kajwang'): On procedure or you want to contribute? Yes, the Member for Rarieda.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Chairman. This is a very good amendment. Even in my contribution, I had suggested that I would be bringing my amendment. The only thing that I am concerned with is that the amendments to this Bill have been rather rushed. We did this Bill last week and some of us had not been notified that the amendments were being taken.

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 3 as amended agreed to)

(Clause 4 agreed to)

The Temporary Deputy Chairman (Hon. Kajwang'): Who is the Chair? Hon. Samuel Chepkong'a of Ainabkoi, you are the Chair. Have you moved the amendment to Clause 5?

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Chairman. I think we are confused. There are too many things that have been happening. We have lost view.

The Temporary Deputy Chairman (Hon. Kajwang'): We will catch up.

Clause 5

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

THAT, Clause 5 of the Bill be amended in sub-clause (1) by

- a) deleting the words "Attorney-General" in paragraph (b) and substituting therefor the words "Solicitor-General";
- b) deleting paragraph (d);
- c) inserting the words "and secretary to the Board" immediately after the word "member" in paragraph (g).

We are seeking to delete the Attorney-General as one of the members of the Board and to replace thereof the Solicitor-General. The reason is that all the other members are all Principal Secretaries. So, the Attorney-General cannot be sitting in a Board in which he is more senior than the rest.

Secondly, the other four members of the Board are appointed by the Attorney-General. So, he cannot be sitting with his own appointees. He plays a supervisory role as the Attorney-General.

The other part we are seeking to amend is to appoint the Registrar-General as the Secretary to the Board because there was no Secretary that was provided for the Board. It is a requirement that there must be a Secretary to the Board.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Yes, the Member for Rarieda.

Hon. (Eng.) Gumbo: The explanations he has given look okay. But, I just want to understand why the Committee is proposing the deletion of paragraph (d) which says "the Principal Secretary in the State department for the time being responsible for the matter relating to devolved government." I do not understand the rationale for that. In your explanation when the Question was proposed you did not explain why. Could you kindly be on the HANSARD as to why you think that amendment is necessary?

The Temporary Deputy Chairman (Hon. Kajwang'): Yes, Hon. Chairman.

Hon. Chepkong'a: I am sorry, Hon. Temporary Deputy Speaker. I did some omnibus explanation. I assumed that Hon. Gumbo, who is my good friend, was present in our Committee. The Committee Members considered the membership of the Board and the relevance of every person who is there. The Principal Secretary in charge of Devolution was proposed to be a member of the Board. This is not a devolved function. There is nothing devolution about this matter. This is a national matter. So, we did not see any relevance with the Principal Secretary in charge of Devolution. She does not fall anywhere. These are legal matters. These are companies that are registered in Nairobi and in other areas that we have proposed as Hon. Makali Mulu suggested. The fact that the offices are situated in the counties does not make it a devolved function.

Thank you, Hon. Temporary Deputy Chairman.

*(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 5 as amended agreed to)

Clause 6

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

THAT, Clause 6 of the Bill be amended in sub-clause (1)—

- a) in the prefatory statement by deleting the expression "5 (1) (f)" appearing immediately after the word "section" and substituting therefor the expression "5 (1) (f)";
- b) by deleting the word "five" appearing immediately after the words "term of" in paragraph (a) and substituting therefor the word "three".

We are seeking to correct a typographical error in the cross-referencing and to limit the term of other members of the Board to three years.

Thank you, Hon. Temporary Deputy Chairman.

(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 6 as amended agreed to)

(Clauses 7, 8 and 9 agreed to)

Clause 10

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

THAT, Clause 10 of the Bill be amended by deleting the words "Board may, with the approval of the Cabinet Secretary" appearing immediately after the words "allowances as the" and substituting therefor the words "Cabinet Secretary may, in consultation with the Salaries and Remuneration Commission".

The reason being that we are seeking to align the determination of the remuneration of the Board with Article 230(4)(b) of the Constitution which is a requirement that all State officers' salaries must be determined by the Salaries and Remuneration Commission and that the Commission should be consulted by the Cabinet Secretary when he fixes the remuneration and terms and condition of service of the Board members of the Authority.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Yes, the Member for Kitui Central.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairman. I want to support this amendment. It is important because we need to harmonise the allowances earned by some of these Board members. It is important that the Salaries and Remuneration Commission is consulted for purposes of harmonizing the allowances.

Thank you, Hon. Temporary Deputy Chairman.

*(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 10 as amended agreed to)

(Clauses 11, 12, 13, 14, 15, 16 and 17 agreed to)

Clause 18

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

THAT, Clause 18 of the Bill be amended—

- a) in sub-clause (1) by deleting paragraph (b) and substituting therefor the following paragraph “(b) has at least ten years’ experience in public affairs and management”.
- b) In sub-clause (3) by deleting the word “five” appearing after the words “term of” and substituting therefor the word “four”.

The reason why we are saying this is that what is contained in the Bill is too limiting. We are saying that person must be experienced in matters of registration. What you are doing is that you are just ensuring that it must be a person who must have worked in the Attorney-General’s Office who can only be appointed as a Registrar-General.

Therefore, we are tailor-making a position for a particular person who has worked in the Attorney-General’s office. We are expanding this requirement so that the person should have experience in public affairs and management. The other thing we are seeking to do is to reduce the limitation of the term from five to four years to ensure that there is efficiency in management so that people do not overstay in office. Five years is too long considering that there is an opportunity for a further five-year non-renewable term.

I thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, I do not have a problem with the proposal by the Committee, but I have a problem with this requirement for 10 years’ experience. Why do we require 10 years’ experience for this office? I wish I could persuade the Chairperson of the Committee to reduce it to five years. Some of us happen to have started our businesses when we were young. I had only come out of the university three to four years and the person who registered my company had left the university the same year as me. The company is still running up to date. So, why is there the requirement of 10 years experience? Are we not just shutting out the youth? I would plead with the Chairperson of the Committee to reduce this to five years so that we also allow young Kenyans to qualify for this position. What is so intricate about registering businesses for which we require 10 years’ experience?

The Temporary Deputy Chairman (Hon. Kajwang’): Yes, the Chairperson of the Committee.

Hon. Chepkong’a: I thank you, Hon. Temporary Deputy Chairman. Ordinarily, this is a very complex job. As Hon. Gumbo can remember, when we passed this Bills he

admitted that the Insolvency Bill and the Companies Bill were too bulky. You cannot give somebody who has just come out of university a job which requires experience. When you come out of university, you are more theoretical as opposed to being practical. You need someone who has had hands-on experience in terms of registration. So, I would like to persuade him that this is good. We thought 10 years' experience was less because we wanted 15 years' experience. From your plea, 10 years' experience is good.

Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang'): From the mien of the Member for Rarieda, he has been sufficiently persuaded.

*(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 18 as amended agreed to)

Clause 19

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Chairman.

I beg to move:-

THAT, Clause 19 of the Bill be amended in sub-clause (1) by—

- (a) deleting the words "or misbehaviour" appearing in paragraph (b);
- (b) deleting paragraph (e).

One of the grounds on which the Registrar-General can be removed is misconduct and misbehaviour. The term 'misbehaviour' has never been conclusively determined by courts of law. What has been conclusively determined is 'misconduct'. To say somebody has misbehaved is vague. Talking to you badly is misbehaviour. It is vague to have somebody removed from office for talking to you badly. So, we agreed that the word 'misbehaviour' be removed and the word 'misconduct' be retained as being adequate enough to deal with issues of integrity.

I thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang'): Handle sub-clause (4) together with that. That is, part (b) of your amendment. Can you speak to part (b) or which clause is this? Oh, I was ahead of you. Part (b) of your amendment is a deletion of paragraph (e). I beg your pardon.

(Question of the amendment proposed)

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

(Clause 19 as amended agreed to)

(Clauses 20, 21, 22, 23, 24, 25, 26 and 27 agreed to)

Clause 28

Hon. Chepkong'a: I thank you, Hon. Temporary Deputy Chairman.

I beg to move:-

THAT, Clause 28 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “to be prepared” appearing immediately after the word “report”;
- (b) in sub-clause (4) by deleting the word “publicized” appearing immediately after the words “and shall” and substituting thereof the word “publicize”.

We are seeking to correct typographical errors in the clause. I thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

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

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

(Clause 28 as amended agreed to)

(Clauses 29 and 30 agreed to)

Clause 31

Hon. Chepkong'a: I thank you, Hon. Temporary Deputy Chairman.

I beg to move:-

THAT, Clause 31 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “Until the Board is constituted and has competitively recruited staff in accordance with this Act, and substituting thereof the word “The”;
- (b) by deleting sub-clause (2).

We want to ensure that public servants who are currently working at the Office of the Attorney-General are retained as the members of staff of the Service as opposed to terminating their services. Issues of employment have become very difficult in this country. These people have experience. We do not want people who have been working for some time to be removed from service. We will only require new employees, if the old ones retire from the service through attrition.

I thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

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

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

(Clause 31 as amended agreed to)

(Clauses 32 and 33 agreed to)

(Schedule agreed to)

Clause 2

Hon. Chepkong'a: I thank you, Hon. Temporary Deputy Chairman.

I beg to move:-

THAT, Clause 2 of the Bill be amended in the definition of "Cabinet Secretary" by deleting the words "Cabinet Secretary for the time being responsible for matters relating to business registration" and substituting thereof the words "Attorney-General".

We are seeking to ensure that the Cabinet Secretary as defined in the Interpretation Section is the Attorney-General. This is because the Memorandum of Objects and Reasons of the Bill clearly states that this is a parastatal under the Attorney-General's Office. Therefore, we are aligning that definition with the Memorandum of Objects and Reasons as contained in the Bill.

I thank you, Hon. Temporary Deputy Chairman.

(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 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Kajwang'): The Leader of the Majority Party, do I hear you on an intervention? Are you intervening? I can see you

have pressed the intervention button. Who is the Mover of this Bill? I can see he is intervening and I am pleading with him to be responsible.

Hon. A. B. Duale: I remember I am the Mover. My good friend, Hon. Birdi, should look for her Bill.

Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Business Registration Service Bill (National Assembly Bill No.13 of 2015) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Kajwang'): That is it for the Business Registration Service Bill. We now convene for purposes of considering the Special Economic Zones Bill (National Assembly Bill No.6 of 2015).

THE SPECIAL ECONOMIC ZONES BILL

(Clause 3 agreed to)

The Temporary Deputy Chairman (Hon. Kajwang'): I understand that the Leader of the Majority Party is the Mover of this Bill. For purposes of the HANSARD so that you do not come to it again, would you just speak on the microphone that you are standing in for the Committee Chair?

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I represent Hon. Benjamin Langat, the Chair of the Departmental Committee on Finance, Planning and Trade in moving these amendments.

Clause 4

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

THAT, Clause 4 be amended—

(a) by deleting subsection (1) and replacing therefor the following new subsection (1)—

“(1) The Cabinet Secretary shall, on the recommendation of the Authority, and in consultation with the Cabinet Secretary responsible for matters relating to finance declare, by notice in the Gazette, any area as a Special Economic Zone as set out in the First Schedule.”

(b) in subsection (3) by deleting the word “recommended” and substituting therefor the word “recommendation”.

The Temporary Deputy Chairman (Hon. Kajwang'): The Member for Mbita, you rarely interrupt when someone is contributing. This must be a very serious one. Can you just let the Leader of the Majority Party finish what he is about to say then I will come back to you at the appropriate moment?

Hon. A.B. Duale: Basically, the import of that amendment is that the Cabinet Secretary is given recommendation by the Authority on matters relating to taxation. This is because the Excise Duty and the Value Added Tax (VAT) are in different Acts. Every time a matter on taxation comes up, the advice of the CS for Finance will be sought to declare that notice in the gazette that these goods and this place is a special economic zone. This Bill belongs to the Ministry of Industrialisation.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Let me start with the Member for Mbita.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Chairman. My concern is basically on the way the Leader of the Majority Party is moving the amendments. Given that we have a lot of business to deal with before the House, I was just wondering if he could move them the way we normally do, which is: "That, I move that the Clause is amended as per the Order Paper" and then he can give an explanatory note. That way, we will end up saving a lot of time.

The Temporary Deputy Chairman (Hon. Kajwang'): Thank you. Yes, the Member for Rarieda.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, I support this amendment. Even as I support it, I think the Committees and the leadership of the House are being unfair to Members. This is because some of us were actually on the process of preparing amendments to this Bill. It will be important if we are notified. We did the Second Reading of this Bill only last week. This Bill and the Business Registration Service Bill were done last week. Sometimes, if you do not know the timelines, then you really could not give your priorities. Even as we give powers to the Cabinet Secretary, please let us take steps to make sure that problems such as the one we had in Owino Uhuru slums in Mombasa are not repeated. Sometimes people come with intentions of declaring special economic zones only to end up harming our people. I really think that we, as a country, must be alive to these problems. For instance, in Owino Uhuru slums, over 3,000 people were affected merely because someone, under the guise that he was establishing an export processing zone, did not take into account the environmental impact assessment and even the lives of the people living in the neighborhood.

Otherwise, I support.

The Temporary Deputy Chairman (Hon. Kajwang'): The Leader of the Majority Party, is it possible to undertake that every Thursday, as you give the status of business appearing the following week, you will ask Members who have various amendments to propose them within some time so that Members are not ambushed as the Member for Rarieda seems to be.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I confirm that last Thursday, in my address to the House on the House Business Committee statement, I said that this Bill was coming today for the Committee of the whole House. Now, we have to make this, through the Speaker, that the House Business Committee statement on Thursdays is very critical. This is because Members do not listen.

*(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)*

The Temporary Deputy Chairman (Hon. Kajwang'): Before we move, how did it pass you, the Leader of the Majority Party, that you had your own amendments to Clause 4? Page 300 of the Order Paper escaped your attention. We have not gone very far so you can still canvass it if you wish.

Hon. A. B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 4 be further amended by inserting the following new sub-clause immediately after sub-clause (5)

“(6) An area declared as a special economic zone under this section may be designated as a single sector or multiple sector economic zone, and may include, but not be limited to---

- (a) free trade zones;
- (b) industrial parks;
- (c) free ports;
- (d) information communication technology parks;
- (e) science and technology parks;
- (f) agricultural zones;
- (g) tourist and recreational parks;
- (h) business service parks;
- (i) livestock zones.”

Basically, I agree with Hon. Millie. I am only bringing in the livestock zones, which were left out.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Rarieda.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, it is not even a question of semantics but could the Leader of the Majority Party explain to us what he means by “livestock zones”? I know he is a pastoralist and probably, more of his heart than his head is with livestock. Can he tell us what he means?

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, agricultural zones are included. I will do that in Clause 2 because, within the special economic zones, you might have feeding or fattening centres, you might build an abattoir or refrigeration and deboning. A factory can be set up within the special economic zone. It happens in other countries. I will explain that in Clause 2, which I will come to later on.

Within the special economic zone, a livestock investor can decide to do just meat deboning for export. He can also do value addition. For example, Farmers Choice can decide to have a place where they can do meat deboning and value addition. Another investor can even do a small abattoir or refrigeration. All these can happen. The Ministry left it out because they only put it as agricultural zone.

Again, being the Member for Garissa Township, it is my business to take care of that sector in legislation.

(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 4 as amended agreed to)

Clause 5

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 5 of the Bill be amended in paragraph (k) by deleting the words “by the Authority” and substituting therefor the words “in the Regulations”.

It is about bringing in regulations. Removing authority and saying that the Cabinet Secretary must bring in regulations.

(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 5 as amended agreed to)

Clause 6

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 6 of the Bill be amended by deleting the words “unless otherwise provided under this Act or any other written law”;

Again, this is about bringing the element of any other written law taking into consideration the taxation laws which are not captured in this.

(Question of the amendment proposed)

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, I do not understand because if you delete what this amendment is proposing to delete, what becomes of that Clause. You will have a clause with sub- clauses that has no introduction at all. Is that a

good way to make laws? Just consider the import of deleting the words “unless otherwise provided for in this Article or any other written law”. So, we are going to have Clause 6(a) which will have no subtitle. It does not make sense. I believe that the Leader of the Majority Party has to make this amendment to make sure that it has meaning because with the deletion, it completely terminates to have meaning.

Hon. Temporary Deputy Chairman (Hon. Kajwang’): I think that is a good interjection by the Member for Rarieda. Leader of the Majority Party, perhaps, you need to do something at the end of (b). You can go to (b), and read it down. You can just read it in the law that goods which are taken out of the country *bla bla* and goods which are brought out of a special *bla bla*. Then say what you intend these goods to be here at the end of the clause. That is just a suggestion. What is it they were intending to do?

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I totally agree. I had a problem yesterday with this amendment because it is deleting the subtitle of this Section. I saw it yesterday. I withdraw that amendment. It is not a very good drafting. I withdraw.

Hon. Temporary Deputy Chairman (Hon. Kajwang’): Just look at it keenly. What should be done here is renumbering, which the Legal Department will do. If you read it properly, you can number it in Roman or in alphabetical and make it a full sentence. Clause 6 (1) will read something like this: “Goods which are taken out from any part of the customs territory and brought into the special economic zones or services provided from part of the customs territory to a special economic zone shall be deemed to have been exported from Kenya”.

So, it makes a full sense that way if it is paragraph 1. Then the second one becomes paragraph 2.

Hon. A.B. Duale: My problem was that this amendment is dealing with the subtitle, not with the other sections. To be on the safe side, let me withdraw that amendment with your indulgence.

(The proposed amendment by Hon. A.B. Duale to Clause 6 withdrawn)

(Clause 6 agreed to)

Clause 7

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 7 of the Bill be amended by inserting the words “and subject to any conditions as may be imposed” in subparagraph (iii).

We are basically amending by inserting words subject to any other condition as may be imposed in sub paragraph. It is just rearranging the same Clause 7.

(Question of the amendment proposed)

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

(Clause 7 as amended agreed to)

Clause 8

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 8 of the Bill be amended—

(a) in Sub-clause (1) by inserting the words “of the East African Community” immediately after the words “applicable customs laws”;

(b) in Sub-clause (2) by inserting the words “and the Customs laws of the Community” immediately after the words “Subject to this Act”;

This is basically taking care of protocols that you have signed within the East African Community.

(Question of the amendment proposed)

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

(Clause 8 as amended agreed to)

(Clauses 9 and 10 agreed to)

Clause 11

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 11 of the Bill be amended by inserting a new paragraph immediately after paragraph (p)—

“(q) any other functions as may be directed by the Board”

This again, is about dealing with the functions of the board.

(Question of the amendment proposed)

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, I do not have a problem per se, but I am just wondering on the question of infiniteness of latitude. If we are talking of any other function as maybe directed by the board, are you not also including an element of infinity? Would there be a neater way to make it finite because this is infinite.

Hon. Temporary Deputy Chairman (Hon. Kajwang’): Member for Rarieda, which one are you speaking to?

Hon. (Eng.) Gumbo: I am speaking to Clause 11.

Hon. Temporary Deputy Chairman (Hon. Kajwang’): But there is a, b and c. He has prosecuted all of them in one.

Hon. (Eng.) Gumbo: Yes, he has proposed an amendment to add Sub-clause 11 (q) which is any other functions as per---

Hon. Temporary Deputy Chairman (Hon. Kajwang’): So, you are speaking to the first section of it. Leader of the Majority Party.

Hon. A.B. Duale: Basically, I think other functions can mean, in case of an emergency. This is a Special Economic Zone. The board has certain functions but, anything can emerge, for instance a directive from the National Security Council, that within that economic zone, there might be a threat. So, any other advice they get from any other agency within the country, in the board, can have an extra leeway to get out of their mandated functions.

Hon. Temporary Deputy Chairman (Hon. Kajwang’): Including what had been provided in that building.

Hon. A.B. Duale: Yes.

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

(Clause 11 as amended agreed to)

Clause 12

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 12 be amended by deleting paragraph (f) and replacing therefor the following new paragraph (f) —

“(f) four other directors appointed by the Cabinet Secretary, from the private sector or any other public institution being persons who have distinguished service, relevant experience, and expertise.”

Basically, the Committee has reduced the number of the directors and has given directions that they must come from the private sector, other public institutions and persons who have distinguished service. It is a type of board members the Cabinet Secretary is to appoint from the private sector.

(Question of the amendment proposed)

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, this amendment is okay. Maybe, this happens in engineering which is my background. However, when you talk of the directors being appointed from any other public institution as persons who have distinguished service, how do you measure whether somebody has distinguished service? This is the problem. I agree with relevant experience, but not distinguished service. Is that something that is measurable? How do you measure it?

Hon. A.B. Duale: One, I want to confirm that among the fields to be nominated, engineering is one of them. So, you have been taken into consideration. What does distinguished service mean? At the end of this Parliament, I can be given an award for my distinguished service as the Leader of the Majority Party by an international institution. You might be given an award as the Chairman of the Public Accounts Committee (PAC) if you do better than the previous Chairman. We might give you an award. That is what is called distinguished service. I hope you will do very well. At least, for me, I know I can do well.

*(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 12 as amended agreed to)

Clause 13

Hon. A.B Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 13 be amended by deleting the words “the Schedule” and substituting therefor the words “Second Schedule”.

(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 13 as amended agreed to)

(Clauses 14 and 15 agreed to)

Clause 16

Hon. A.B Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 16 (1) of the Bill be amended by deleting the words “on such terms and conditions of service as may be specified in the instrument of appointment”.

It is about the hiring of the CEO, the terms and the conditions. They say this must be specified in the instrument. Before, that was not very clear.

(Question of the amendment proposed)

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

(Clause 16 as amended agreed to)

(Clauses 17, 18, 19, 20, 21, 22, 23 and 24 agreed to)

Clause 25

Hon. A.B Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 25 of the Bill be amended by deleting the words “Board may invest the funds of the Authority in securities” and substituting therefor with the words “Authority may invest its funds in Government securities.”

This is about where the board needs to invest the excess funds. Not in any securities but, more specifically, invest in Government securities because it is a Government body.

(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 25 as amended agreed to)

(Clause 26 agreed to)

Clause 27

Hon. A.B Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 27 be amended-

(a) in Sub-clause (4) by deleting the words “a reasonable period of time” and substituting therefor the words “one month”.

(b) by inserting the following new sub clause immediately after sub clause (6)—

(7) The Cabinet Secretary shall—

(a) publish in the Kenya Gazette all approved applications to establish a special economic zone; and

(b) within hundred and eighty (180) days of the coming into force of this Act, publish regulations on the application, issuance, suspension, revocation and appeal process on licensing of special economic zones.

The first one, (a), is to give a limited time of one month. The second one, (b), is where the Cabinet Secretary is allowed to bring regulations to the House within 180 days. The third one is about gazetting all the approved public publications for public scrutiny.

(Question of the amendment proposed)

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, the proposed amendment in Sub-clause 4 is very good because when you talk of reasonable period of time, it is not definite. I have a problem with the proposed amendment in the new Sub-clause 4. If you look at the objects and purpose of this Act, number one is development of integrated infrastructure. More importantly, under Sub-clause 3(a)(2) is the creation of incentives. Sub-clause 3(a)(3) is even more important. It is on removal of impediments. If you are removing impediments to creating special economic zones, yet you are giving the Cabinet Secretary six months, then how are you removing impediments when you are aiming to do the regulations? That is the import of the new clause 7(b) which provides for 180 days, that is, six months. I would plead with the Leader of the Majority Party that if we are keen to stick to the object and purpose of this Act - which is in Part 3(a)(3) - and which is to remove impediments to economic and business activities, then six months is too long a period.

Hon. Temporary Deputy Chairman (Hon. Kajwang’): Member for Ainabkoi.

Hon. Chepkong’a: Thank you, Hon. Temporary Deputy Chairman. Of course, I support what the Mover has just said in terms of removing reasonable period and making it certain. That is, clarifying that it should be one month because reasonable period could also be six months. The other one that the Cabinet Secretary should publish in the *Kenya Gazette* all approved applications is very good. People should not hide things. We do not want people to issue authorization without letting Kenyans know. With regard to the other one of within 180 days of coming into force of this Act, it is important that it takes time to come up with regulation. As you know, all regulations emanate with the Cabinet Secretary and I sympathize with what you are saying. It is just unfortunate that we have the Constitution requiring that all regulations which the Cabinet Secretary makes must be brought to this House. So, if he makes shoddy regulations within one month, we will strike them down here. So, it is important that we give them reasonable time. It is six months to come up with regulations, consult stakeholders, and have consultations back and forth. It takes time. So, six months in my view, would be reasonable.

The Temporary Deputy Chairman (Hon. Kajwang’): This amendment is one-off; it is when the Act comes into effect. By the time this body is formulated and everybody is appointed and there are able to move and be in a position to propose legislation for regulations and so on, it will take 180 days. Member for Rarieda is that not reasonable?

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, the reason I am a bit opposed to this very lengthy period of providing regulations is that, sometimes, it is not good. We have been in this House and you have heard me complaining about the regulations governing the Engineers Act which have been pending now for almost four years. Of course, I know then we did not include definite time limit. Yes, he has explained it. I know it is back and forth because subsidiary legislation requires participation of the public. Honestly, if we are to conform to the object and purpose of the Act, then personally, I would be persuaded that six months looks a bit too long.

The Temporary Deputy Chairman (Hon. Kajwang’): It is a one-off; it is something that is one-off. Yes, Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, as Hon. Chepkong’a has explained, it is 180 days from the enactment of this Act. The new board and the staff

must also participate in regulation-making. It is not a matter for only the Cabinet Secretary to sit in his office and send a regulation to Parliament. Then after that, we expect Parliament to take two months. My colleagues know that. By law, it is supposed to be 14 days. If for 14 days, Parliament has not considered the regulations, they become approved. However, I am sure that we are giving him a timeline.

The Temporary Deputy Chairman (Hon. Kajwang'): The converse is that if you do not provide at all, they will take five years. I know of a body which I will not mention - but the HANSARD has it - which took two years to make regulations. When they made them, they knew that we were going to revoke them. So, right now, that industry is not regulated because there are no regulations. Even the High Court made a decision that there are no regulations. We are back and forth. Anyway, I put the Question.

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

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

(Clause 27 as amended agreed to)

Clause 28

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 28 of the Bill be amended in Sub-clause (c) by inserting the words “to be enacted within a hundred and eighty (180) days of the coming into force of this Act.

If you look at that Clause 28 (c), it talks about land use regulations. So, we are still pegging our hand on 180 days for the Cabinet Secretary to bring it.

(Question of the amendment proposed)

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

(Clause 28 as amended agreed to)

(Clauses 29 and 30 agreed to)

Clause 31

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 31 of the Bill be amended-

(a) in Sub-clause 1 by inserting the words, “subject to Section 5”, immediately after the words “Authority shall”.

(b) in the marginal notes by deleting the words “Authority to give notice to the Kenya Revenue Authority” and substituting therefor the words “Activities permitted within a Special Economic Zone”.

This is the same thing.

(Question of the amendment proposed)

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

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

(Clause 31 as amended agreed to)

(Clause 32 agreed to)

Clause 33

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 33 of the Bill be amended by renumbering the clause appearing immediately after Clause 33 as “34”.

It is about numbering.

(Question of the amendment proposed)

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

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

(Clause 33 as amended agreed to)

(Clause 34 agreed to)

Clause 35

The Temporary Deputy Chairman (Hon. Kajwang'): Leader of the Majority Party, just a minute. You are on Clause 35. Shall I just get it on the Order Paper? What I am trying to deliver here is the order of priority. I do not want you to take advantage of the absence of your colleague. I have now understood where I am. So, can you start with your own amendment first on paragraph one? That is because if that amendment is carried, then the Committee amendment in (a) will fail. So, start with it and then we go to (b) and (c).

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 35 be amended by deleting subclause (1) and substituting therefor the following new subclause—

“(1) All licensed special economic zones enterprises, developers and operators shall be granted exemption from all taxes and duties payable under the Excise Duty Act, the Income Tax, the East African Community Customs Management Act and the Value Added Tax, on all special economic zones transactions”.

The essence of these economic special zones law which is the first one in the history of Kenya is for an investor, for example in Singapore, to know by reading this law, the incentives and benefits that are there. We had a big issue with the Cabinet Secretary for the National Treasury. We are saying that economic zones enterprise, developers and operators shall be granted exemption from all taxes and duties payable under this. However, that is now just a statement. Then that investor can go to the relevant laws which are Income Tax and VAT law. He can ask his experts to go to those laws but the moment we do not have these, then, basically, the law does not have any meaning to an investor out there. So, that is why I felt and I have discussed with even the National Treasury that the moment the investor reads this law, he can ask his experts to go to the relevant finance and taxation related specific laws. However, if these are not there, then what incentives make an investor in Singapore come and invest in these economic special zones? This happens to our neighbours in Tanzania.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): All right. I will split it in several sections. We will start first with the deletion because when we deal with it, we will not go to the Committee amendment in (a).

*(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)*

The Temporary Deputy Chairman (Hon. Kajwang'): Leader of the Majority Party, now you can handle Sub-clauses (b) and (c) of the Committee amendment. You will find it on page 799 of the Order Paper.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, with my amendment sailing through, then I withdraw this amendment. It does not have a point.

The Temporary Deputy Chairman (Hon. Kajwang'): Is that the case?

Hon. A.B. Duale: Yes. I am saying for Sub-clause (a).

The Temporary Deputy Chairman (Hon. Kajwang'): So, can you now prosecute the amendment on Sub-clauses (b) and (c).

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 35 of the Bill be amended –

(b) in the marginal note by inserting the words “developers and operators” immediately after the word “enterprises”; and,
(c) in Sub-section(2) by deleting paragraphs (g), (h) and (i). I also withdraw Sub-clause (a).

*(The proposed amendment by Hon. Langat to
Sub-Clause (a) in Clause 35 withdrawn)*

(Question of the further amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Well, you do not even have to withdraw it. It has fallen by the sword. Member for Rarieda.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, I have serious difficulty understanding why we should delete (g), (h) and (i). It does not make sense to me. Why are we proposing the deletion? It has not been explained anywhere. I understand the extension in the marginal note. However, why are we deleting Sub-clauses (g), (h) and (i)?

The Temporary Deputy Chairman (Hon. Kajwang'): The sub-clauses talk about licence for a factory under the sisal industry and licence under motor vehicle. Member for Ainabkoi, can you, please, put in your intervention?

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, it is clear that those legislations contained in (g), (h) and (i) have already been amended and removed from statute books. So, they no longer exist. So, to make reference to laws that have been amended and removed from statute books does not make any sense because they are no longer laws in our country. So, you do not make reference to something that does not exist. Thank you.

The Temporary Deputy Chairman (Hon. Kajwang'): With that explanation, I will put the Question.

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

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

(Clause 35 as amended agreed to)

(Clause 36 agreed to)

Clause 37

Hon. A.B. Duale: Hon. Temporary Deputy Chairman. I beg to move:-
THAT, Clause 37 of the Bill be amended by inserting the words
“within thirty days” immediately after the word “settlement”.

We are talking about efficiency. So, we have pegged it on 30 days. Any dispute within the economic zones must be settled within one month.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 37 as amended agreed to)

(Clause 38 agreed to)

Clause 39

Hon. A.B. Duale: Hon. Temporary Deputy Chairman. I beg to move:-

THAT, Clause 39 of the Bill be amended in Sub-clause (2) by inserting the following new paragraph immediately after paragraph (h)—

(i) determine the fees to be levied under this Act.

This gives powers to the Cabinet Secretary to decide on the fees to be levied under this Act.

(Question of the amendment proposed)

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, this is a very good amendment. Left as it is without specifying the fees and levies to be levied under this Bill, then it remains free for all, which might not be good for the purpose and intent of the Bill.

I support.

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 39 as amended agreed to)

New Clause

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 39—

^{Transition} 40. A corporate body shall be deemed to be a special economic zone developer on the commencement of this Act if it has-

(a) been approved by the Cabinet Secretary to engage in the development or management of integrated infrastructure facilities on public, private partnership basis; and,

(b) undertaken significant steps to commence development or

management of the integrated infrastructure facilities.

In any Bill, you must have a transition clause. This is the only Bill that had no transition clause. We know that there has been an attempt to list the bodies that have been authorized by the Cabinet Secretary, but that will not be the neater way of doing it. Therefore, I am seeking to have a transitional clause that provides that any corporate institutions or bodies that have been authorized by the Cabinet Secretary shall be deemed to have been authorized by the Cabinet Secretary under this Act until otherwise considered by the Authority when it comes into place.

In (b), they must have taken significant steps to commence development or management of integrated infrastructural facilities, so that it is not just somebody who has a letter; who is just walking around with letters, who should be allowed to continue in that process. It must be somebody who has taken significant steps in developing that area.

(Question of the New Clause proposed)

(New Clause read the First Time)

*(Question, that the New Clause be read
a Second Time, proposed)*

(The New Clause was read a Second Time)

*(Question, that the New Clause be added
to the Bill, put and agreed to)*

(New Clause agreed to)

(Schedule agreed to)

New Schedule

Hon. A.B Duale: Thank you, Hon. Temporary Deputy Chairman. I beg to move:-
THAT, the following new Schedule be inserted immediately after Clause
39-

FIRST SCHEDULE

(S.4(1))

TYPES OF SPECIAL ECONOMIC ZONES

1. The Authority shall permit multiple sector or single sector Special Economic Zones including but not limited to the following—

- (a) Free Trade Zones (FTZ)
- (b) Industrial Parks

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- (c) Free Ports
- (d) Information Communication and Technology Parks (ICT Parks)
- (e) Science and Technology Parks
- (f) Agricultural Zones
- (g) Tourist and Recreational Zones
- (h) Business Service Parks

(Question of the New Schedule proposed)

(New Schedule read the First Time)

*(Question, that the New Schedule be read a
Second Time, proposed)*

*(Question, that the New Schedule be read
a Second Time, put and agreed to)*

(The New Schedule was read a Second Time)

*(Question, that the New Schedule be added to
the Bill, put and agreed to)*

(The New Schedule agreed to)

Clause 2

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, which amendment should come first, the Chairman's or mine?

Hon. Temporary Deputy Chairman (Hon. Kajwang'): Okay, let us see how that works. Where is the Chairman's amendment? Let us start with the Chairman.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 2 be amended—

- (a) by inserting the following new definitions in proper alphabetical sequence—

“Agricultural Zones” means a Special Economic Zone declared as such under Section 5 to facilitate the agricultural sector, its services and associated activities;

- (b) by deleting the definition of the term “customs territory” and replacing therefor the following new definition—

“Customs Territory” means the geographical area of the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania and any other country granted membership of the Community under Article 3 of the Treaty for the Establishment of the East African Community but does not include a Special Economic Zone;

- (c) by deleting the definition of the term “duty and substituting therefor the following new definition—
 “duty” means duty as defined under the East Africa Community Customs Management Act;
- (d) in the definition of “import” by inserting the words “customs territory or a”;

(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)

The Temporary Deputy Chairman (Hon. Kajwang’): Leader of the Majority on a further amendment.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman. I beg to move:-

THAT, Clause 2 be further amended by inserting the following new definition in its proper alphabetical sequence—

“livestock zone” means a special economic zone declared as such under Section 5, in which the following activities are carried out: livestock marshalling and inspection; livestock feeding or fattening, abattoir and refrigeration; deboning; value addition; manufacture of veterinary products, and other related activities”.

This again brings on board a new definition in proper alphabetical sequence.

(Question of the further amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Kajwang’): Leader of the Majority Party, are you on an intervention?

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Special Economic Zones Bill (National Assembly Bill No.6 of 2015) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Kajwang'): Members, we proceed with the Supplementary Order Paper. Leader of the Majority Party, I understand that you have an intervention on reporting? Do you want to report progress?

(The House resumed)

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

REPORTS AND THIRD READINGS

THE BUSINESS REGISTRATION SERVICE BILL

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Chairperson to report to the House.

Hon. Kajwang': Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Business Registration Service Bill (National Assembly Bill No.13 of 2015) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Mover to move the agreement with the Report.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Chepkong'a to second the Motion for agreement with the Report of the Committee of the whole House.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chepkong'a.

Hon. Chepkong'a: Hon. Temporary Deputy Speaker, I beg to second.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Can we have the Mover to move the Third Reading?

Hon. Kajwang': Hon. Temporary Deputy Speaker---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): It is the Mover of the Bill who moves the Third Reading.

Hon. Kajwang': I beg your pardon.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. The Chairperson has done a very good job.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the Business Registration Service Bill (National Assembly Bill No.13 of 2015) be now read

the Third Time. I also request the Chairperson of the Public Accounts Committee (PAC), Hon. Gumbo to second.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Hon. Chair to second.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. I wish to thank my good friend, the Leader of the Majority Party for the opportunity to second the Third Reading of this Bill.

As I second, it is the policy of the Government to reduce the number of state corporations. In this Bill, we have added another state corporation. I second the Third Reading but it makes us look like for every three steps we make forward, we take four steps backwards, which is not good for progress.

I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Because of time, I will just grant one request. From my request list, that is Hon. Jakoyo Midiwo. Is he here? Jakoyo Midiwo, Member for Gem. He is a very powerful Member and has contributed a lot this afternoon. Hon. Chepkong'a.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Speaker. I must take this opportunity to thank the Leader of the Majority Party for the good work that he has done in terms of sponsoring this Business Registration Service Bill. I want to thank the Members of the Departmental Committee on Justice and Legal Affairs who spent time scrutinizing this Bill. This is a very good Bill. The parastatal that is being created is to ensure that we move up the scale in terms of providing a conducive environment for doing business in this country. It is important that a parastatal be installed to manage the Insolvency Bill, the Companies Bill and the consequential amendments Bill that this House has passed.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The last one is Millie Odhiambo. Just a comment on this. We are on the Business Registration Service Bill.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. I congratulate the Departmental Committee on Justice and Legal Affairs for this Bill. Now that we are on the path of extending time for constitutional deadlines, I urge the Leader of the Majority Party together with the Liaison Committee and the House Business Committee (HBC) to ensure that we have the Bills brought in good time. On the Business Registration Service Bill, I had wanted to bring amendments but because of the speed within which we are moving, it is close to impossible to do comprehensive or meaningful legislative work because we have to balance between legislative work and our work in the constituencies.

Hon. Members, now that we have extended the time, can we, please, have the Bills brought in good time? We need to keep the timelines provided by the Standing Orders and law for Bills, so that we can give meaningful input to them.

I would like to thank the Departmental Committee on Justice and Legal Affairs.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Leader of the Majority Party, would you like to comment on this matter?

Hon. A.B. Duale: No, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I confirm that we do not have a quorum for purposes of making a decision. I, therefore, direct that the Question be put during the next sitting.

Hon. Members, as you are aware, we have dealt with two Bills. I, therefore, call upon the Chairperson of the Committee of the whole House to report to the House on the Special Economic Zones Bill.

REPORT AND THIRD READING

THE SPECIAL ECONOMIC ZONES BILL

Hon. Kajwang’: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Special Economic Zones Bill (National Assembly Bill No. 6 of 2015) and approved the same with amendments.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report and request Hon. Chepkong’a to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Chepkong’a: Hon. Temporary Deputy Speaker, I second.

(Question proposed)

(Question put and agreed to)

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move that the Special Economic Zones Bill (National Assembly Bill No. 6 of 2015) be now read the Third Time. I request Hon. Chepkong’a to second because the Chair of the Public Accounts Committee (PAC), Hon. (Eng.) Gumbo, has misbehaved.

(Laughter)

Hon. Chepkong’a: Hon. Temporary Deputy Speaker, I rise to second. I am seconding the Motion because Hon. (Eng.) Gumbo thought that this is an oversight role and yet, we are enacting laws.

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): What is it, Hon. Kajwang’?

Hon. Kajwang’: Did you hear the Member for Garissa Township say that the Member for Rarieda has misbehaved? Could he explain to us the type of misbehavior?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Garissa Township, you are on HANSARD. As requested by the Member for Ruaraka, can you substantiate the misbehavior by the Public Accounts Chair?

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, the word “misbehave” can mean so many things. The one I meant – and this must go into the HANSARD – is that as an old colleague of mine in the last Parliament, he should know when you give a friend an

opportunity to second your Motion, he must agree with you. But Hon. (Eng.) Gumbo has disagreed with me. Therefore, I have decided that he will never second any of my Motions.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): It is taken that it was on a light touch.

(Question proposed)

Hon. Members, I will accept a few comments, starting with Hon. Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. I would like to congratulate the Departmental Committee of Justice and Legal Affairs and the Mover, Hon. Duale, for the steps we have taken to pass this Bill. I know that we do not have sufficient numbers to take the Bill through the Third Reading but, as we establish the Special Economic Zones with the intention of enhancing our economy, let us not disregard the welfare of our people and favour those who come to invest in our country. I am sure that all of us followed what was going on at *Owino Uhuru* slums in Mombasa – how those little children were affected by that factory. That is not what we want. We want our economy to grow, but we do not want to be seen to be trampling on our people as we grow our economy.

Hon. Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. (Ms.) Sunjeev!

Hon. (Ms.) Sunjeev: Thank you, Hon. Temporary Deputy Speaker. Clearly, this is a graveyard shift. This is because in many occasions, it is observed that this time is not good time for many people. I salute the important people of this House, who make important decisions, resolutions and laws for this country.

Finally, I would like to support this Bill. If I were in the shoes of Hon. Duale, our Leader of the Majority Party, I would find it difficult to fit in them. He is doing a good job. The few Opposition Members of Parliament seated here right now are doing a good job. At least, they are here.

Thank you, Hon. Temporary Deputy Speaker.

Hon. Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, we are on the Third Reading. So, just make brief comments. Hon. Makali Mulu!

Hon. Mulu: Thank you, Hon. Temporary Deputy Speaker. I would like to also join my colleagues in appreciating the good work which has gone into this Bill. The Special Economic Zones Bill is important. Even as we allow foreigners to come and take advantage of these facilities, we should also allow Kenyans to do the same so that more people can be employed in those areas and create wealth for our country.

Hon. Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Millie Odhiambo!

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. I can see Hon. Chepkong'a purporting to be Hon. Millie Odhiambo. I do not know why. Maybe, it is because he is positive towards the womenfolk. Even though he has said one or two things, he is a good guy who supports us.

I would like to thank the Committee and the Leader of the Majority Party for this Bill, which seeks to enhance the economic potential of this country. As I congratulate them, I would like to inform my sister, Hon. Sunjeev; that right now, the Opposition side has eight Members seated in the House, while the Government side has only five Members. We will

be encouraging them to take the business of the House more seriously, like the Opposition is doing.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, as I support the Bill, I would like to thank my colleagues. The four of us on this side of the House are equivalent to 100 Jubilee Members of Parliament because we are part of the leadership of this House. Each of the four Committee Chairpersons represents 29 Members of Parliament. Apart from the Chairs and Hon. Kajwang', the three are subjects. Apart from the three, the rest three are subjects. They are Members.

(Laughter)

Hon. Chepkong'a cannot receive her. It is on a light touch.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, Hon Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is a point of order, an intervention by Hon. Millie Odhiambo. What is your point of order, Hon Millie Odhiambo?

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. Is Hon. Duale in order to discriminate against women? The Constitution says that you shall not discriminate directly or indirectly. What he has done is to discriminate indirectly by only pointing out and praising men when I, Hon. Millie Odhiambo, is equal to 30 Duales. We can take a judicial notice of that in this country. Everybody knows I can deal with Hon. Duale perpendicularly. You need 30 Duales to deal with me. So, let him be warned.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Millie, we may not warn him. Let him clarify the discrimination.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, you know, we have come a long way with Hon. Millie Odhiambo. She knows my position in as far as women are concerned; both during the day and at night.

(Laughter)

But, from where I sit, it is only the men. Hon. Jakoyo Midiwo is not a female Member of Parliament and neither are Hon. T. J. Kajwang' or the Chairman of the Public Accounts Committee. She knows I am the only one who has signed the two-third gender rule. Everywhere she invites me, I go. I am very sure there is no one Member who is equivalent to five Millies.

Today we are lucky to be 11. We were four on Thursday. In fact, I was saying that this Fisheries Bill is what is keeping many of us here because fisheries and livestock are neighbours. They are one of the few groups which have been marginalized in this country. I wanted to participate in the fisheries legislation but, I think the Special Economic Zones Bill is the first law in our country. We expect those zones to be established next to infrastructure; next to where there is power like in Ol Karia where power does not need to be transported for long periods. These zones must be where there is infrastructure; where there is power, water and access to financial institutions. Among

the laws we have passed this afternoon and last week - like the Companies Bill, the Insolvency Bill, the Business Registration Bill and the Special Economic Zones Bill - are hallmark of this Government and of the leadership. They show that we are so much minded about the business and the economy of our country.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The last comment from the Member of Ainabkoi.

Hon. Chepkong'a: I thank you, Hon. Temporary Deputy Speaker for being gracious to me. First and foremost, I would like to also register my appreciation and gratitude to the indomitable Leader of the Majority Party. This leader has worked very hard in spite and despite of difficult circumstances of at times staying late into midnight to ensure that these Bills get into this House. I will like to thank him. I also want to state that the passage of the Special Economic Zones Bill marks a paradigm shift in terms of the manner in which we are going to do business in this country.

Secondly, it also marks a shift in terms of attracting foreign direct investment into this country. As you know, Kenya is no longer living in an island. We are a country in the global village. We are in a global village where distance no longer matters. Money can be moved or transacted in few seconds because of the Information, Communication and Technology progress.

So, the passage of this legislation will ensure that we are in sync with the entire world and we can attract investments. Investors can come to this country and get out without any inhibitions.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is a request by the Member for Tetu. Just a comment on the Third Reading.

Hon. Gethenji: Hon. Temporary Deputy Speaker, I also rise to support. I join my brother, Hon. Chepkong'a, in congratulating the hardworking tireless phenomenal Leader of the Majority Party. Have I used enough adjectives?

Kenya is now moving fast in the global agenda post the Global Economic Summit that we had the other day, where global leaders in entrepreneurship and business came to Kenya. This Bill will only speak to Kenyans readiness to transact business and perform at the highest levels. I would wish to see more pieces of legislation which are geared to empowering the economy of this country. The people of this country should do better economically and attract foreign direct investment. This will also allow for investment in sectors which are supportive of this economy like tourism.

Indeed, I wanted to speak to my sister, Hon. Millie, but she started hiding the minute I took the microphone. If she could pay attention for one minute, I could speak to her. I understand she will not.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There was another request. Hon. Members, we are in the Third Reading. We must also appreciate and thank the Members who have been here. We are eleven, as the Leader of the Majority Party said, but the public should know the good work that we do in this Parliament, not forgetting the Chairperson of the Committee, the Member for Ruaraka, who has done a very good job, the Leader of the Majority Party and all the Members who participated.

Hon. Members, we are not in a position to put the Question on the Special Economic Zones Bill, National Assembly Bill, No.6 of 2015. I direct and order that the Question be put in the next sitting at the most appropriate time.

ADJOURNMENT

Hon. Members, the time now is 6.22 p.m. and for the convenience of the House, the House stands adjourned until Wednesday, 26th August 2015 at 9.30 a.m.

The House rose at 6.22 p.m.