

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 9th February, 2017

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: We do not have quorum. Ring the Quorum Bell.

(The Quorum Bell was rung)

We now have quorum. We can commence.

COMMUNICATION FROM THE CHAIR

(Hon. (Ms.) R.K. Nyamai stood up in her place)

Hon. Speaker: Hon. (Ms.) Nyamai, Order No. 2 is not about you. Please, refer to the Order Paper. Hon. Members, I have two Communications to make after confirming that we have quorum.

WITHDRAWAL OF AMENDMENTS TO STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILLS

Hon. Members, the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 45 of 2016), and the Statute Law (Miscellaneous Amendments)(No. 2) Bill (National Assembly Bill No. 48 of 2016) were published on 11th November 2016 as per *Kenya Gazette Supplement* Nos. 185 and 188, respectively. The Bills were aimed at effecting minor amendments which do not warrant the publication of separate Bills to various legislations. The Bills were sponsored by the Leader of the Majority Party.

Hon. Members, I wish to inform the House that I have since received a letter from the Leader of the Majority Party requesting to withdraw proposed amendments contained in the two Bills as follows:

The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 45 of 2016) proposed amendments to:

- (i) The Sexual Offences Act, 2006;
- (ii) The Proceeds of Crime and Anti-Money Laundering Act, 2009;
- (iii) The Treaty Making and Ratification Act, 2012; and,
- (iv) The Independent Policing Oversight Authority (IPOA) Act, 2011.

The Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No. 45 of 2016) proposed amendments to the Copyright Act, 2001 (No.12 of 2001).

In this regard, Members, the consideration of the two Bills during Committee of the whole House for the Statute Law (Miscellaneous Amendments) Bill, 2016 and at the Second Reading for the Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2016 will proceed as though the withdrawn sections were not part of the Bills.

The House is accordingly guided.

THE SEVENTH LEADERSHIP RETREAT OF THE NATIONAL ASSEMBLY

Hon. Members, I wish to notify the House that the National Assembly has planned a two-day retreat for the leadership of the House, under the theme: “The Homestretch: Fostering Synergy, Identifying Priorities and Improving Legislative Efficacy.” The retreat will be held tomorrow, Friday, 10th and Saturday, 11th February 2017 at the Serena Beach Hotel in Mombasa. Participants in the retreat will be the Presidium of the House, the Leadership of the Majority and Minority Parties, Members of the House Business Committee (HBC), Chairpersons of Committees and Commissioners of the Parliamentary Service Commission.

Hon. Members, the retreat, which is convened at a time when the 11th Parliament is approaching the sunset of its term, presents a unique opportunity for participants to review the progress made in realizing the National Assembly’s constitutional mandate. As part of the National Assembly’s legacy report to be bequeathed to the successive Parliaments, participants will also engage in a candid assessment of the National Assembly’s present legislative business processes. The retreat will also present an opportunity for participants to engage with the Hon. Chief Justice of the Republic of Kenya and President of the Judiciary on a discourse on areas for synergy with the Judiciary, whilst upholding the respective institutional independence of the Legislature and the Judiciary

Hon. Members, appreciating that the August 2017 General Election is fast approaching, participants will be apprised by the Independent Electoral and Boundaries Commission (IEBC) on the state of preparedness for the elections and share insights on election-related matters. At the end of the retreat, the leadership will identify possible areas of the National Assembly’s legislative processes that require re-engineering for increased efficacy in succeeding Houses and agree on priority business for the remainder of the term of the National Assembly. As is the practice, the resolutions of the retreat will be presented to the House soonest thereafter.

Finally, it is my sincere hope that the leadership of the House will find time to attend this important retreat of the National Assembly.

Thank you.

Before we proceed to the next Business, allow me to recognize the presence of students from the following institutions:

Ikuu Boys High School, Chuka/Igambang’ombe Constituency, Tharaka Nithi County and Kiriti Girls’ Secondary School, Mathioya Constituency, Murang’a County. They are all welcome to observe the proceedings of the National Assembly.

PETITIONS

WELFARE OF MILITARY VETERANS

Hon. Members, pursuant to the provisions of Standing Order No.225, I wish to report to the House that I am in receipt of a Petition by military veterans, praying that the National Assembly formulates a legal framework for the welfare of military veterans and their dependents.

The Petitioners are concerned that in spite of personnel who serve in the Kenya Defence Forces being the backbone of Kenya's stability and security, the retired military veterans and their families are living in poor economic conditions. They are troubled that even after their zealous service, including having to put their lives on the line in the defence of the country, their welfare has not been given due attention and, thereby, forcing them to live in abject poverty.

Hon. Members, the Petitioners are also stating that unlike mainstream civil servants who retire at the age of 60 years, many military personnel retire as early as at the age of 39 years, unless they are promoted to higher ranks. As a result, valuable expertise held by such soldiers trained by Government resources goes to waste while at the same time, affected officers who cannot access post-retirement employment cannot afford decent lives.

Hon. Members, among other prayers, the Petitioners are praying that the National Assembly intervenes with a view to formulating a separate retirement framework for the members of the Kenya Defence Forces to provide for:

- (a) An appropriate pension scheme for military personnel;
- (b) Provision of medical cover and entry to the medical scheme by retired military veterans who exited service before becoming beneficiaries of the scheme;
- (c) Guidelines on enhanced compassionate and resettlement scheme for widows and dependents of military personnel who die in the line of duty;
- (d) Enhanced disability pension or ex-gratia to all military personnel who get maimed and invalidated in the course of duty, irrespective of their length of service;
- (e) Making provisions for re-employment of military personnel who retire at productive age of between 30 to 55 years of age;
- (f) Initiating re-introduction of the Military Veterans Bill, 2013 that lapsed at the end of the Fourth Session.

Hon. Members, the Petition stands committed to the Departmental Committee on Defence and Foreign Relations for consideration. The Committee is required to consider the Petition and report its findings to the House in accordance with the provisions of Standing Order 227(2).

Hon. Speaker: Hon. Rachel Nyamai.

INVESTIGATION INTO MURDER OF MR. COSMAS MUTUNGA AT
KENYATTA NATIONAL HOSPITAL

Hon. (Ms.) R.K. Nyamai: I hereby present a brief on a Petition by Hon. John Mati MP, on the alleged brutal murder of the late Mr. Cosmas Mutunga at Kenyatta National Hospital (KNH).

Hon. Speaker, this Petition was tabled before the House pursuant to Standing Order No. 225(2)(a) on behalf of the family of the late Mr. Cosmas Mutunga and the residents of Mwingi North Constituency on 10th August 2016. In considering this Petition, the Committee invited and held meetings with Hon. John M. Munuve, MP - representing the Petitioners - the Chief Executive Officer of KNH and the Board of Management of KNH.

The Ministry of Health submitted its written comments on the Petition on 19th October 2016. The Committee had also invited the Inspector-General of Police (IG) to make his submissions, but he did not honour the invitation. The Committee also undertook an inspection visit to KNH on 6th October, 2016. The Petitioner had prayed that the National Assembly, through the Parliamentary Committee on Health:

- (a) Causes an immediate probe into the death of the late Mr. Cosmas Mutunga;
- (b) Ensures the establishment of a mechanism to guarantee security and safety of patients admitted and those visiting public hospitals, especially those that are under the national Government;
- (c) Considers compensation to the family of the late Mr. Cosmas Mutunga and other affected persons as a result of gross violation of human rights of patients under the care and custody of KNH; and,
- (d) Ensures that the Petitioner's plight is addressed.

In response to the prayers by the Petitioner, the Committee made the following recommendations:

- (i) The CID Department and the Director of Public Prosecutions (DPP) should expedite the investigations on the murder;
- (ii) The Ministry of Health adequately funds KNH as the country's largest referral facility to enable it offer the highest attainable level of health and care in line with Article 43(1)(a) of the Constitution; and,
- (iii) The award of compensation as prayed by the Petitioners is a matter to be determined by the courts.

Therefore, the Committee cannot pronounce itself on the said matter. The Petitioner is, however, at liberty to proceed to seek compensation through the courts and due process should be followed to determine this matter.

Thank you, Hon. Speaker. I would like to thank the members of the Departmental Committee on the commitment they showed in investigating this matter.

Thank you.

Hon. Speaker: Hon. Members, I may wish to advise the House that I may not wish to open any debate on the recommendations of the Committee on that Petition because that can only happen--- If you look at your Standing Order, it is only in special circumstances. However, I will allow comments on both Petitions but not to debate. I can see the Member for Mwingi North. Why are you walking? You are like a person seeking equitable relieve and the principle is, he who seeks equity must come with very clean hands. I do not think those ones look very clean. Hon. Mwiru, do you have a card? Just go where you were seated. You will be given an opportunity to say what you wish to say.

Hon. Mati: Thank you, Hon. Speaker, for your indulgence in this matter. I am sorry I misplaced my card, but I will be making efforts to recover it. I thank Dr. Rachel Nyamai and the Committee on Health for doing a very good job on this matter.

The family of Cosmas Mutunga, the people of Mwingi North Constituency and, indeed, myself, are gratified by the deep investigations that the Committee carried out. This is a sad case because it could have happened to anybody. However, given the weight of the investigations and the recommendations emanating from the Committee on Health, I am sure something is going to be done so that no other Kenyan or a person from the region, now that Kenyatta National Hospital serves the entire East African region, loses their lives due to gross negligence by its staff or officials. So, on behalf of the family of Cosmas Mutunga and the people of Mwingi

North, I wish to reiterate our gratitude. The family and us will seek justice from the courts of law, which we have already started. We hope that justice will be done so that the children of Cosmas Mutunga will not suffer unduly from the loss of their father.

With those few remarks, I wish to stop there and remind Hon. Wamalwa that I am a founder Member of Jubilee and he should never associate me with parties such as he has done, which are in very serious conflict right now. As a matter of fact, I do not think the Wiper Party exists anymore. That is because a party cannot exist without a Chairperson. However, we will definitely pray for the Wiper Party so that it finds its way because, right now, it does not have a Chairperson. All the nine Members of Parliament from Kitui County, including Hon. Nyiva Mwendwa---

Hon. Speaker: Hon. Member you are---

Hon. Mati: Hon. Speaker, with those few remarks, I thank you.

Hon. Speaker: Hon. Member, if the machines were working, I would have ruled you out of order much earlier because you are now introducing matters which were not intended for the Petition.

Let us have Hon. Ochanda.

Hon. Ogolla: Thank you, Hon. Speaker for this chance. I want to bring two issues. One pertains to a Petition that we had handled before in the year 2015, which you read out to the House. It was pertaining to a request for a recommendation by Petitioners or communities living around the riparian area of River Yala. They were requesting if the Committee could recommend that the inhabitants of the ancestral lands that were held in trust earlier on, be re-allocated to them and the individual land tenure system arrangements be brought out for the individuals.

They were also praying that the Committee recommends that the investing entities in Yala Swamp area, including the current Dominion Farms, be ascertained in terms of the exact lease acreages and land sizes and a determination of the extent of the boundaries to those kind of lands.

Hon. Speaker, you referred this matter to the Departmental Committee on Lands and I believe they have been working on it. It is only that, up to now, we do not have any clear direction. So, at the outset, I am requesting that you allow the Departmental Committee on Lands to update us on what is happening around this matter. Yesterday, one of the directors or the owners of the Dominion Farms brought in a very elaborate statement to the public alleging a number of things. Based on that, I request a second thing. Could the House clearly protect Members? The media release yesterday from one of the directors was insinuating bad things about some of the Members of this House, including myself.

I am not doing a personal statement but, based on the facts that came out in that media statement, it is clear that the directors are doubting and indicating that the Petitioners were fake and that, they were working at the behest of somebody else who is purported to be me. To that extent, they have insinuated a number of things, some of which border on defamation of my character.

Hon. Speaker, I ask if the House can provide a clear indication and direction in terms of the protection of Members, particularly Members who represent areas where petitioners come from, and if at all there could be instructions to subject petitions to scrutiny so that they do not cause this House into disrepute.

What I am talking about was in yesterday's media. That fellow brought in a lot of allegations indicating that he is not going to appear before the Departmental Committee on

Lands. So, we need direction in terms of how we need to go about this, such that we are not subjected, as Members, to some of these third party allegations.

Hon. Speaker: Well, some of those things ought to have been raised before the Committee. Also, I have not heard any complaint from the Committee that anybody invited to appear before it in regard to that Petition has refused and or has failed to appear. So, I do not think the House can give any direction at this point. However, the Petition is before the Departmental Committee on Lands. I can see the Chairman of the Committee here present. Maybe, he could shed some light on that Petition.

Hon. Mwiru: Thank you, Hon. Speaker. This is a matter that has been before the Departmental Committee on Lands of this House. It is a matter that the Committee has interrogated for quite some time now. The Committee has visited the area, but it has been having several twists here and there in the process of our investigations. As we talk today, the Committee received another letter from owners of the Dominion Farms. It was written to us via their lawyers Kaplan and Stratton Advocates. No sooner had we concluded the work on this particular issue, than the issue of *sub-judice* arose. It is after we got that particular letter. The Committee has to dig further to know whether this matter could be in court or not. For that purpose, we cannot conclude this Petition. We need to know whether the matter is in court or not. Unfortunately, the directors of Dominion Farms have been summoned to appear before my Committee three times. They were supposed to appear before us today, but we just received a letter indicating that the matter is *sub judice*. Therefore, allow the Committee a few more days to interrogate further and conclude this matter. If it is before court, then we will advise the Hon. Member for purposes of disposing of this Petition.

Hon. Speaker: But, of course, we cannot lose sight of the fact that whether or not a matter is before court, if a person has been invited to appear before a committee, he or she must first appear and claim that the matter is *sub judice*. It cannot be the case that this House and its committees invite people and they write letters back through whoever! This is not proper. People must appear before a committee and argue the point of *sub judice*. Article 125 of the Constitution is very clear. Indeed, part of the reason why I think the leadership retreat is important is because the House must express itself on such matters. Article 125(1) says that:

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

What does this mean for the Houses of Parliament? Both Houses of Parliament only sit in plenary. The Constitution is very clear that this House can even summon people to appear here. When people are summoned or called by whatever method, they cannot start writing letters. They should appear and explain themselves. Indeed, we see in courts that if you are summoned, you appear and argue your case. You give reasons why you think it is wrong for you to be summoned. It must be the same case with both Houses and their committees.

Hon. Mwiru, if you get into difficulties with people failing or refusing to appear, then as a Committee, you need to resolve to summon them. We will obviously facilitate your summoning them to come and require them to give evidence on oath. The Chair of the Public Accounts Committee (PAC) does that very effectively. He swears people so that whatever they say they know is under oath and is evidence which can be used against them.

Hon. Midiwo: On a point of order.

Hon. Speaker: Hon. Midiwo, what is your intervention?

Hon. Midiwo: Hon. Speaker, this is a case of somebody who lives in a glass house throwing stones. Hon. Gideon Ochanda has not mentioned that this guy is a foreigner exploiting Kenyans. I have been here for about 15 years. The Dominion Farms were conceived in my first five years in Parliament. I was sitting in the Siaya District Development Committee (DDC) and I vehemently opposed the coming of this American guy to Yala Swamp. That is because he had been chased from Ghana because of corruption. The day I opposed this gentleman who has refused to appear before Parliament, on Tuesday the following week, I was in the headline of one of the dailies as having led Siaya DDC in approving the giant rice project and he dare call Members of Parliament (MPs) and the people of Siaya corrupt!

The same day in the afternoon, I saw the guy on television in State House. How he made his way there, only God knows. I have opposed this guy from day one. He has put my name in the Press. Instead of appearing before the Departmental Committee on Lands, that crook decided to schedule a Press conference at the 680 Hotel and made lengthy and long-winded allegations against us. One of the things he has been saying--- I am not accusing the President. I will tell you about him in a minute.

That guy came to grow rice. There is no Kenyan who is benefiting from that project. Siaya County has 1.7 million people. So, an investor cannot take 22,000 acres of land and then claim and brag that he has employed 500 people. In that region, there is a complaint of premature births. You cannot rear any animal. All the birds in Lake Kanyaboli are gone. Somebody gave him a licence to construct a sugar factory in a swamp. The chemicals coming out of that land is what I am opposing. Stop discharging them into our lakes and rivers.

The guy came with a small document like this and said he was going to give us schools, hospitals and roads. I was there the other day, to hold a *Harambee* for a school which is a mud house next to the swamp, 15 years later. In the second term of President Kibaki, he was invited to see that project. He was flown there and when he got out of the plane, the first question he asked was: Where is the interest of the locals? I used to be alone but when he asked that question, all the MPs who used to support him came to my side.

The President said he cannot do that project in Kenya without having out-grower plans for the locals. That guy who is a racist is still in Siaya. When we opposed him, he went and bribed the former councillors of Siaya and Bondo county councils to get approval. Beyond that, he got an approval to extend acreage of his land. That guy was chased away from Ghana because of corruption. If we want sovereignty, we cannot use foreign money to keep our people poor.

I was there the other day and if you look at the faces of our people there, you will cry. That guy produces 400 bags of maize per year even now when there is drought and exports them to Sudan. Our maize is exported to Sudan and our people import maize. Why are we crying of hunger when 22,000 acres of land are under rice production? Where is that rice so that Kenyans can eat it? He keeps doing this from place to place and he must go and we oppose him. I asked the current Governor of Siaya, Rasanga, to help his people by sitting down with the *mzungu*, and negotiating their interests. He has never done that because he does not know his job. This is a problem for Kenya because that is a proper food basket for our people.

As you have said, that billionaire must appear before the Departmental Committee on Lands so that they can interrogate him. We want them to ask him about the schools, hospitals and roads on the 22,000 acres of land and why he is mechanizing the farm and spraying chemicals on our people. If this Parliament cannot help the people of Siaya, there is nowhere else for them to turn to.

Hon. Speaker: I can see Hon. Mwiru wants to respond.

Hon. Mwiru: Hon. Speaker, I want to thank my senior, Hon. Midiwo, on his interrogation of that issue. I also want to inform him, if he so allows me because he is my friend, that in terms of the new Constitution, any approval by the previous municipal councils or the councillors for that matter from 2010, is null and void. That is because the Constitution does not allow that. I am not pre-empting my report, but it is good that I give you that information. That matter cannot be taken back to when approvals were done by the councils. This is community land.

Hon. Speaker: Hon. Members, comments on matters to do with petitions are only limited to 30 minutes. I can see the Member for Igembe North desires to make a contribution.

Hon. M'uthari: Thank you, Hon. Speaker. Some of the things we are hearing here are very sad. We need to be Kenyans and protect our country. Foreigners come here and misuse our people and our property. They take advantage of us. Even if we may be considered poor, we need our dignity. The role of this House is to restore the dignity of the Kenyan people. We cannot allow an individual like that to occupy 22,000 acres of land. We have Kenyans who are facing starvation and have no food and then a foreigner comes here and just meanders around. He even insults the leadership who are people who have been elected by the electorate.

We also have the bulk of governors who do not know what they are doing. They have been given money, but they do not do what they are supposed to do. They cannot protect the people. The money that is devolved at that level cannot be used for irrigation so that people can enjoy life in dignity.

With regard to the Petition, it is better for this country to take care of our aged; the gallant sons and daughters of Kenya who have fought in the military and, thereafter, languish in poverty. Even some of the Members who have been in this House go out there and are so helpless after spending their entire lives serving the citizens. They need to be considered. It is a very sad state of affairs if our country cannot protect the aged and the people who have served this country.

Hon. Speaker: Hon. Members, let us not make it a long debate. Obviously, it would be unfair for me not to give the Member for Rarieda an opportunity to--- Hon. Ochanda, there is no debate.

Hon. (Eng.) Gumbo: Hon. Speaker, I wish to thank you for giving me the opportunity to also comment on this issue of the Dominion Farms.

The point that you have raised with regard to Article 125 of the Constitution is fundamental. That is an express provision of the Constitution. I have said it in this House before that many foreigners who come to Kenya do not come with the interests of our people at heart, but with very devious and selfish interests which are meant to oppress our people. Just to echo what Hon. Midiwo has said, I come from Siaya County, although my constituency does not directly border the Dominion Farms. Some of the poorest people in Siaya actually come from around that Farm. It would be a failure on our part when we see our people being exploited. What Hon. Midiwo did not say is that the workers at Dominion Farms are very few. They have not been paid from November up to now. This is a perpetuation of that exploitation. Our people are suffering. All the birds and animals in those areas have been killed because of the chemicals that are used. I would think that this is also a demonstration of recklessness.

I have been a Member of Parliament for 10 years. I have never had an occasion to meet the managers of Dominion Farms. For someone to say that all the leaders of Siaya County are corrupt is a statement of an attitude that he knows what is right for our people and all of us who are leaders from that area know nothing and his interests supersede those of our people. I urge the Committee, just like you have said, to enforce the appearance of that man, irrespective of

what he may claim. I urge my good friend, the Member for Tharaka and the Chair of the Departmental Committee on Lands, to invoke the powers that we have and summon that man so that he can appear and make those reckless statements before the representatives of the people of Kenya.

Hon. Speaker: Let us have the Member for Laikipia East.

Hon. Kimaru: Thank you, Hon. Speaker. I would like to speak in support of what my colleagues have said and to reiterate that this country, first and foremost, belongs to Kenyans. We cannot give preferential treatment to foreigners in as far as land matters are concerned. We have a situation where in Siaya, as I have heard, 22,000 acres of land have been given to a foreigner. After being given those 22,000 acres of land, as is characteristic of some of those investors, they abuse the locals, pay them little and delay their salaries. When you come to a place like Laikipia where currently, over 1 million acres of land are in the hands of a few foreigners, many of those foreigners come in and start conservancies. That is why even, today, in Laikipia, we have a war and invasion by people who are branded bandits. Every time those people come over with their animals, there is a lot of grass in the *mzungu* ranch while the African has nothing to graze his animals. The African's cows are dying. When those animals are put in the *mzungu's* farm, the Government is fast to remove them and direct them to small farms belonging to the common *mwananchi*.

We have drought in Laikipia and Samburu. I am amazed at times by our own people when they say that the *mzungu* is good to us because he gives us grass. Has he come with the grass from wherever he came from to give us that grass here? When we have that situation, where we say that they manage the farms well, why can the Africans themselves not be allowed to farm that rice and rear those animals? Are we incapable, 50 years after Independence, of running our farms?

Those conservancies have lodges but they do not pay taxes to the Government. The guests who come from outside do not pay any money in Kenya. They pay all their monies abroad. Most of the profits from those ventures go untaxed because that money is not seen anywhere locally. I have a situation where there is a foreign company giving support services to the British Army; services that can be given by a local company. All the senior staff who are employed by Saab Group are not paid their salaries in Kenya. Those salaries are paid in Britain and elsewhere and they are not taxed. I have raised the matter with the relevant Government institutions, but nothing seems to be moving. I will bring a petition here to investigate those particular companies and, in particular, the Saab Group which gives support services to the British Army.

Hon. Speaker, with your permission, the Departmental Committee on Lands of this House also needs to review those leases. If somebody was given a lease to do a conservancy and is not doing a conservancy then there is every reason to review that lease.

Hon. Speaker: I have to do some other business. If I allow you to continue endlessly, I will not be able to do so. Finally, on Petitions, the Member for Murang'a had raised an issue. Hon. Sabina Chege.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Speaker. I had raised an issue about Nanga Kihoto land buying company. We engaged further with the Chair and he promised this House that he is going to bring a report.

Hon. Speaker, I just want to bring to your attention once again that the Nanga Kihoto shareholders have gone through injustices from 1978. We went with them to Naivasha and they met the Committee. It is very sad because the same foreigners are the ones opposing those

shareholders. There is a meeting planned for 17th of this month where some of the directors have colluded with one liable company that has been on that land for some time. They do not pay a dime to the shareholders and, right now, they are planning to sell that land to the *mzungu*. It is very sad when we see the people who fought for Independence--- Those people bought land using coffee proceeds back in 1978. Till now, the land has never been subdivided and the directors use tricks. The shareholders are from Gatanga in Murang'a County.

Hon. Speaker: What is your plea? Hon. Members, let me let you know what we have to go through. I have certain businesses that when I transact them, they require that there must not be less than 50 of you. So, when you get a chance and speak endlessly, you deny the House the opportunity to transact that business. When I stop you, you should know that I also have a duty to ensure that the other business is done. So, please make you point briefly.

Hon. (Ms.) S.W. Chege: My point is that I have not received any response. The report has not been tabled in this House from the Departmental Committee on Lands. There is a---

Hon. Speaker: Hon. Mwiru, she is complaining about a report from your Committee.

Hon. Mwiru: Indeed, Hon. Speaker, today, the foreigners invaded my Committee. Indeed, this is a matter you directed that I was supposed to present a report to the House but, unfortunately, we could not raise quorum for adopting the Report very quickly. But, I have also taken some steps to make sure that the request by the Hon. Member for Murang'a is not in vain. Up to and including the time I was entering this House this afternoon, I was talking to the Deputy County Commissioner, Naivasha, to make sure that the actions that those rogue foreigners want to take should be stopped until such a time when we will give a report to this House. So, their idea of selling the land on 17th of this month has now been put on hold to make sure that, as a Committee, we are able to give a report to this House.

So, I assure the Hon. Member that the land will not be sold. The Deputy County Commissioner has promised me that it will not be done. Soonest, maybe, within the next seven days, we shall be giving the report. But, for now, that land shall not be sold.

Hon. Speaker: Hon. Members, I will not allow debate on Petitions. Can I get the next Order? It is really important that I do my job also.

PAPER LAID

Hon. Speaker: Hon. Nyamai, are you laying a Paper? You appear to be silent.

Hon. (Ms.) R.K. Nyamai: Hon. Speaker, I beg to lay the following Paper on the Table of the House, today Thursday, 9th February 2017:

The Report of the Departmental Committee on Health on its consideration of a Petition regarding alleged brutal murder of the late Cosmas Mutunga at Kenyatta National Hospital.

Thank you, Hon. Speaker.

STATEMENT

BUSINESS FOR THE WEEK COMMENCING 14TH TO 16TH FEBRUARY 2017

Hon. Speaker: The Leader of the Majority Party, you have a Statement.

Hon. A.B. Duale: Hon. Speaker, pursuant to the provisions of Standing Order No.44 (2) (a), on behalf of the House Business Committee (HBC), I rise to give Statement regarding the business appearing before the House for the week beginning Tuesday, 14th February 2017.

The HBC met on Tuesday this week at the rise of this House to prioritise business for consideration. On Tuesday next week, we shall consider the following Bills at the Committee of the whole House:

The Public Finance Management (Amendment) Bill of 2015, the Public Appointments (County Assembly Approval) Bill, Senate Bill No.2 of 2014 and the County Early Childhood Education Bill, Senate Bill No.23 of 2014.

In the same week, the HBC has scheduled several Committee Reports for consideration namely:

The Report of the Public Investments Committee on the procurement and financing of the NSSF Tassia II Project, if not concluded today; the Report of the Departmental Committee on Lands on the inquiry of degazettement of Government land belonging to the Chorlim Co-operative Society; the Report of the Public Investments Committee regarding the inquiry into the allegation on the procurement irregularities in the award of the Kenya Bureau of Standards tender KEBS/T057/2014 for the provision of pre-export inspection services for used motor vehicles; the Report of the Departmental Committee on Administration and National Security on investigation into the Garissa University College terrorist attack; the Report of the Departmental Committee on Transport, Public Works and Housing regarding the inquiry into the procurement of the apron buses by Kenya Airports Authority and the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the inquiry into the importation of a consignment of fertilizer by the Ministry of Agriculture, Livestock and Fisheries, through the National Cereals and Produce Board.

On Wednesday next week, we shall consider the Hydrologist Bill, 2016, the Public Private Partnership (Amendment) Bill, 2016 and Committee of the whole House of the previous Bills.

I urge all Committees and, more so, the Departmental Committee on Environment and Natural Resources, to conclude public participation on the Hydrologist Bill, 2016 and table their Report.

Finally, the HBC will reconvene on Tuesday, 14th February 2017 at the rise of the House to consider business for the coming week.

I now wish to lay this Statement on the Table of the House. Thank you.

(Hon. A.B. Duale laid the Statement on the Table)

Hon. Speaker: Next Order.

BILL

Second Reading

THE PREVENTION OF TORTURE BILL

(Hon. A.B. Duale on 8.2.2017- Afternoon Session)

(Debate concluded on 8.2.2017)

(Several Hon. Members walked into the Chamber)

Hon. Speaker: The Hon. Members making your way into the House giggling, take your seats. I have to confirm that we have quorum for me to transact the next two Orders. It has been confirmed that we have it.

Therefore, I draw the attention of the House to the fact that debate on this Bill was concluded and what remains is for me to put the Question, which I hereby do.

(Question put and agreed to)

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

Next Order!

MOTION

ADOPTION OF REPORT ON RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF KENYA AND USA

THAT, this House adopts the Report of the Departmental Committee on Health on the Ratification of the Agreement between the Government of the Republic of Kenya and the Government of the United States of America concerning Cooperation in Threat Reduction Biological Engagement Programmes, laid on the Table of the House on Tuesday, 22nd November, 2016, and pursuant to the provisions of Section 8 of the Treaty Making and Ratification Act, 2012, approves the ratification of the Agreement between the Government of the Republic of Kenya and the Government of the United States of America concerning Co-operation in Threat Reduction Biological Engagement Programmes.

(Hon. (Dr.) Pukose on 8.2. 2017)

(Debate concluded on 8. 2. 2017- Afternoon Sitting)

Hon. Speaker: Again, hon. Members, debate on this Motion was concluded. What remains is for me to put the Question, which I hereby do.

(Question put and agreed to)

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

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

IN THE COMMITTEE

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

THE DIVISION OF REVENUE BILL

The Temporary Deputy Chairman (Hon. Omulele): Hon. Members, we are now in the Committee of whole House to consider business listed as Order No. 10. The first one is the Division of Revenue Bill (National Assembly Bill No. 2 of 2017).

(Clauses 3, 4 and 5 agreed to)

(Schedule agreed to)

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

I now call upon the Mover to move reporting. Hon. Mutava!

Hon. Musyimi: Thank you, Hon. Temporary Deputy Chairman. I beg to move that the Committee doth report to the House its consideration of the Division of Revenue Bill (National Assembly Bill No. 2 of 2017) and its approval thereof without amendments.

(Question put and agreed to)

THE PRIVATISATION (AMENDMENT) BILL

Clause 2

Hon. A.B. Duale: I am doing it on behalf of the Chairman. Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 2 be amended by inserting the following new paragraph immediately after paragraph (b)—

“(c) in the definition of the word “privatization”, by inserting the words “but excludes sale of new shares to existing shareholders through a rights issue or any balance sheet reorganization which may lead to dilution of the percentage of shares held by a public entity” immediately after the words “ a state corporation”. It is just about definitions.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): Is there any interesting debate on this? Hon. Oyoo, Member for Muhoroni.

Hon. Oyoo: I support it. I am waiting for an amendment tied to this.

The Temporary Deputy Chairman (Hon. Omulele): Do I see interest from Hon. Makali Mulu, Member for Kitui Central?

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairman. I support. This is just a matter of definition, which is not really controversial.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Richard Tong’i, Member for Nyaribari Chache.

Hon. Tong’i: Hon. Temporary Deputy Chairman, I am interested with the subsequent amendment, but I support this.

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

(Clause 2 as amended agreed to)

Clause 3

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

THAT, the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

Amendment of section 5 of No.2 of 2005 of “3. The Privatization Act is amended in section 5(1)(d) by inserting the words “through a competitive process” immediately after the word “Minister”

The import of this amendment is to ensure that the best is realised. First, that the process is competitive. That, those to be appointed are identified competitively so that you realise the best out of what you have.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): Nicholas Gumbo, Member for Rarieda.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Chairman. This amendment by Hon. Wamunyinyi is very good. Competitive appointment is a spirit that is running our new Constitution. Therefore, his proposal that the appointment of members be done through a competitive process is in keeping with the spirit of the Constitution. It also helps us to identify those who are best suited for the job. Therefore, I support.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Dawood, Member for North Imenti.

Hon. Dawood: Hon. Temporary Deputy Chairman, I want to speak on the next amendment.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Ken Okoth, Member for Kibra.

Hon. Okoth: Hon. Temporary Deputy Chairman, we debated this very strongly in the Second Reading and I rise to support the amendment that such appointments must be done through a competitive manner.

The Temporary Deputy Chairman (Hon. Omulele): I do not see anybody who looks like he wants to oppose.

*(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)

Clause 5

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

THAT, Clause 5 of the Bill be amended by inserting the following new subsection immediately after the proposed new subsection (2) —

“(3) The Cabinet Secretary shall submit a report in form of a Sessional Paper on a privatization proposal approved by the Cabinet to the National Assembly for consideration”.

“(4) Upon laying before the National Assembly, a report under subsection (3) it shall stand referred to the relevant committee”.

The idea behind this amendment is to ensure that the public participates in the process so that if the matter is not brought before Parliament as previously envisaged--- In the past, it was clearly provided that Parliament must approve the appointment of commissioners, but this amendment as introduced, suggests that this process be left to the Executive alone. The principle of governance under Article 10 of the Constitution includes democracy, participation of the people, transparency and accountability. The proposal seeks to remove the participation of the people. The role of Parliament is clear. Whatever we do here is on behalf of the people. It, therefore, seeks to reinstate the requirement for approval by Parliament.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): I can see interest from Hon. Khatib Mwashetani, Member for Lungalunga.

Hon. Mwashetani: Thank you, Hon. Temporary Deputy Chairman. I would like to support the amendment because for privatization of any institution that is held by the Government and the public to succeed, it is better for the process to have public participation. With this amendment, we will be involving the public and the National Assembly. It is easier to reason out properly if you keep many minds together.

The Temporary Deputy Chairman (Hon. Omulele): I can also see interest from Hon. Marcus Muluvi, Member for Kitui East.

Hon. Muluvi: Thank you, Hon. Temporary Deputy Chairman. I stand to support the amendment as proposed because our Constitution is people-centred. Therefore, it is important to undertake public participation.

The Temporary Deputy Chairman (Hon. Omulele): I also see interest from Hon. Tom Kajwang', Member for Ruaraka.

Hon. Kajwang': Thank you, Hon. Temporary Deputy Chairman. Before we consider this amendment, I would wish to plead to the owner of this amendment to include two words which are very important.

In Sub-section (3), the Cabinet Secretary shall submit a report in form of a Sessional Paper on a privatization proposal approved by the Cabinet to the National Assembly for consideration and approval. Without those words "and approval", the National Assembly is only just going to consider and when we consider, it will only be noted.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Kajwang', why would you not want to move the amendment?

Hon. Kajwang': Because the owner of the amendment could have done a further amendment. The owner of the amendment can do a further amendment so that we deal with the further amendment first.

The Temporary Deputy Chairman (Hon. Omulele): I see Hon. Wamunyinyi on his feet. I think he has heard you. Give me one second, Hon. Wamunyinyi. I can see the Leader of the Majority Party is on his feet.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I have nothing. This is a very good amendment, but I really want you to guide us. In the Standing Orders and parliamentary language, "the House to consider" means approval. So, you either use the word "consider" or "approval". Hon. Kajwang', I am not talking to you. I am talking on the HANSARD. I want us to be guided. I have no problem. We can move a further amendment and say "consider and approve" but let us first also--- We are making legislation.

I want to give an example. When we were dealing with the Truth, Justice and Reconciliation Commission (TJRC) Report, it was just tabled, but the Justice and Legal Affairs Committee brought an amendment saying "the House to consider." To consider is not to note. I need the Clerk to guide us. I have no problem.

The Temporary Deputy Chairman (Hon. Omulele): The Leader of the Majority Party and Hon. Kajwang', in my opinion and I think this is correct; when you consider, then you must make yourself clear. You either approve or disapprove. Therefore, when you consider, you go one way or the other. So, it includes both. If you can consult with the Leader of the Majority Party so that we can have a language that is agreeable to the whole House, then it is okay. But to consider includes both.

Let us have Hon. Wamunyinyi.

Hon. Wamunyinyi: Thank you very much, Hon. Temporary Deputy Chairman. I think the intention that we have is good and Members are also in agreement. But I also do agree that we make it a little clearer. I would like to propose that we add the two words "and approval" after the word "consideration." I wish to propose that amendment.

I would like to call on Hon. Gumbo to second the amendment.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Wamunyinyi, you know you have to move it in an amended form before we consider it.

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

THAT Clause 5 of the Bill be amended by inserting the following new subsection immediately after the proposed new subsection (2) —

“(3) The Cabinet Secretary shall submit a report in form of a Sessional Paper on a privatization proposal approved by the Cabinet to the National Assembly for consideration and approval”.

I said earlier that this further amendment just seeks to make it clearer. I think it has no harm because the spirit is agreed. It does not harm anything.

The Temporary Deputy Chairman (Hon. Omulele): I hear a point of order from Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I said I have no problem. If you say “consider and approve” that means you are going to approve either way. When you say “consider” it can either be approval or no approval.

(Question of the further amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): I want to make a ruling on this.

Hon. A.B. Duale: When you say “consider and approve” you are tying yourself that if the report comes to the House, you must approve it.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Members, before I make my decision on this, I will listen to the Member for Mbita.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Chairman. Sorry. I am raising my hand because I do not have my card. For once and which is very rare, I agree with the Leader of the Majority Party. When you are talking about consideration, and when the House makes a consideration, it can be either way. It can either approve or disapprove. But when you say the House considers and approves, it means the House can only go one direction. This is the case and yet this House is not obliged to go one direction. We can either approve or disapprove. The amendment, as it is, is good.

The Temporary Deputy Chairman (Hon. Omulele): I will listen to the Deputy Leader of the Minority Party.

Hon. Midiwo: Hon. Temporary Deputy Chairman, I want to go the route of Hon. Millie and the Leader of the Majority Party. I come from Gem. Most of these people begin learning English in school, but in Gem we speak English at birth.

(Laughter)

To consider, you will go either way. You can approve or disapprove. I want to plead with my intelligent lawyer, Hon. Kajwang’, to relax. If you reject at consideration, then it cannot go any further. This amendment is so important to me because as you know, I am in court over this matter and the way you understand it, is the way I understand it and being my neighbour I think we have rubbed on to you. I want to plead with my friends Hon. Wamunyinyi, Hon. Gumbo and Hon. Kajwang’ to follow the good sense of English which is just standing before them.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Members I need to make a ruling on this. Yes, Hon. Kajwang’.

Hon. Kajwang’: On a point of order, even as we are talking about English, we must talk about Standing Orders. There has been a proposal by the Member for Kanduyi for further amendment. That can only be disposed after it has been seconded.

(Loud consultations)

Hon. Temporary Deputy Chairman, just allow me to finish this. It was being seconded by the Member for Rarieda and then we discuss it. It is this discussion which then can dispose of this amendment on the other side. Otherwise, what we have is an amendment which has been proposed by the Member for Kanduyi and is being disposed of by way of a point of order. What all these Members were discussing were points of order arising out of an amendment that was proposed.

If we come back to consider and approve, we are together. All we are trying to do is to make clarity of law. If one thinks that “consider and approve” means taking us in one direction, we then can have the National Assembly for approval. You can consider, leave it there and note. You can also consider and approve. You can also consider and disapprove. You can do three things. We have passed many Motions here which we have noted and we have left them in the shelves. What one would like to do is the National Assembly for approval---

The Temporary Deputy Chairman (Hon. Omulele): Hon. Kajwang’, you rose on a point of order and your contention was that we had a proposal from the Mover to further amend. That proposal was not made. So there is no proposal that is before us. I need to make a ruling on this so that we can move. It is the considered position of the Chair that when the House considers, it is not going to act in vain. This is not a House that acts in vain. The House will either approve or disapprove. We need to make progress.

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

(Clause 5 as amended agreed to)

Clause 6

The Temporary Deputy Chairman (Hon. Omulele): Mover, it is your opportunity now.

(Hon. A. B. Duale consulted Members)

Hon. Wamunyinyi: Hon. Temporary Deputy Chairman, ask the Leader of the Majority Party to take his seat and remain calm so that we can proceed.

The Temporary Deputy Chairman (Hon. Omulele): The Leader of the Majority Party--

Hon. Wamunyinyi: I want this clarified. The proposed amendment, as I originally presented, is what has been approved. That is to consider. Parliament will consider and approve. It is a serious matter, Hon. Temporary Deputy Chairman.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 6 of the Bill be deleted.

I am proposing this because we want to retain the high quorum – a quorum that is enough, representative and will ensure that whatever would have taken place--- The quorum is eight. What is proposed is reducing the quorum to seven. I do not wish to see the quorum being reduced to 7.5. Let us retain the quorum at 8. Two-thirds is 7.5 but in the original Act it is 8. We, therefore, wish to propose that this amendment is deleted so as to maintain the *status quo*.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Omulele): Hon. Members, as you consider this I would like you to take note that if you pass the amendment as proposed by Hon. Wamunyinyi to delete Clause 6, then the proposed amendment by the Committee will fail. You have it on your Order Paper. As you consider this, I see interest from Hon. Nyikal.

Hon. (Dr.) Nyikal: Hon. Temporary Deputy Chairman, I just want a clarification in terms of process. As you say, if we consider this first, the other one fails. In that context, it would have been better to have this one first. If it passes the other one is not necessary. My fear is, if you remove that, then I would have preferred the two-thirds one. Which one do we start with? That is the guidance I am seeking.

The Temporary Deputy Chairman (Hon. Omulele): The procedure requires that the one for deletion is the one that commences. We shall debate this first.

We shall have Hon. Onyango K'Oyoo, Member for Muhoroni.

Hon. Oyoo: Thank you very much, Hon. Temporary Deputy Chairman. I have been very apprehensive because most of these amendments made me to believe that if they passed the way they were envisaged, they were going to interfere with the expected privatisation of sugar industries in my constituency. I believe that the amendments that have been floated by my good friend Hon. Wamunyinyi are in very good taste. All of them were meant for making sure that the privatisation exercise is made properly and transparently so that the public whose interests we represent can get the best deal for their money. This was not covered in the initial amendment that was brought by the Committee.

I support and say that these amendments were in good faith. I also take the opportunity to thank the Leader of the Majority Party for seeing sense and making sure that the amendments go through without debate. You have given us very good support that we did not expect. We must thank you for that. You have seen sense we did not expect. So, we must take this opportunity to thank you. Even Satan scares people sometimes and makes them go to church.

The Temporary Deputy Chairman (Hon. Omulele): Very well, Hon. Member for Muhoroni.

We shall now have Hon. Zuleikha Juma, the nominated Member. Hon. Members, let us listen to Hon. Zuleikha.

Hon. (Ms.) Juma: Asante Mhe. Naibu Mwenyekiti wa Muda kwa kunipa nafasi hii. Nataka kuunga mkono haya mabadiliko katika huu Mswada. Hii ni kwa sababu katika jambo muhimu kama hili ambapo vyombo vya Serikali vinabadilishwa viwe vya kibinafsi, kunatakikana watu wa kutosha. Kwa hivyo, nakubaliana na mabadiliko anayotaka Mhe. Wamunyinyi kwa hii sheria.

The Temporary Deputy Chairman (Hon. Omulele): *Asante*. Members, for us to move, I will put the Question.

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

put and agreed to)

(Clause 6 deleted)

The Leader of the Majority Party, your proposed amendment to Clause 6 falls.

(Proposed amendmenet by Hon. A.B. Duale dropped)

New Clause 5A

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Speaker. You know I am only helping them. I do not know where the Chairman and the members of the Departmental Committee on Finance, Planning and Trade are. But he wants to become a governor.

I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 5—

Amendment of section 37 of No. 2 of 2005. 5A. The Privatization Act, 2005, is amended in section 37 by inserting the words “and any other objections and appeals relating to implementation of the privatization programme” immediately after the words “under section 36”.

I think what the Committee is intending is that there must be appeals.

(Question of the new clause proposed)

(New clause read the First Time)

The Temporary Deputy Chairman (Hon. Omulele): The Leader of the Majority Party, you need to move for Second Reading.

Hon. A.B. Duale: I beg to move that New Clause 5A be read a Second Time. Basically, it is giving an avenue to those who want to appeal, even after a decision has been taken either by the House or by the Executive. That is just about the implementation matrix.

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 6—

- Amendment of Second Schedule to No.2 of 2005.
7. The Second Schedule to the Privatization Act, 2005, is amended in paragraph 2 by—
- (a) inserting the words “or any other objection relating to implementation of the privatization programme” in subparagraph (1) at the end thereof;
 - (b) deleting subparagraph (2) and substituting therefor the following subparagraph—
 - “(2) An objection to what has been determined and published under section 36 may not be filed later than five working days after the publication”.
 - (c) deleting subparagraph (3) and substituting therefor the following subparagraph—
 - “(3) The Commission shall make a decision with respect to the objection to what has been determined and published under section 36 or any other objection relating to implementation of the privatization programme and give a copy of its decision to the objector within five working days after receiving that objection”.

All this is to give timelines so that nobody sits on this implementation matrix. Somebody can just say I will sit on it for one or two years. I think that is the input of the Departmental Committee on Finance, Planning and Trade. I am just a messenger.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

Hon. Wamunyinyi: Thank you, Hon. Temporary Deputy Chairman.

I wish to support this proposed amendment. I must also thank the Committee. The Committee did a very good job because if you look at the Report, you will find that the amendment that the Committee has brought, and even the amendments I brought were noted in the Committee’s Report. Members of the Committee were of the view that these amendments were necessary to ensure that Kenyans are happy with the law that we are passing; that the law we are passing is good and is not intended to flout the Constitution.

I, therefore, support this proposed amendment.

The Temporary Deputy Chairman (Hon. Omulele): Hon. Richard Makenga, the Member for Kaiti, you have the Floor.

Hon. Makenga: Thank you, Hon. Temporary Deputy Chairman. I also wish to support this amendment as proposed by the Leader of the Majority Party. This will fast track the approval and ensure that there are no delays in case of any objections which have been filed.

I, therefore, support.

The Temporary Deputy Chairman (Hon. Omulele): Do I see any interest from the Member for Imenti North?

Hon. Dawood: Thank you, Hon. Temporary Deputy Chairman. I support this amendment by the Departmental Committee on Finance, Planning and Trade because I am part of the Committee. I believe this will give clarity.

Thank you, Hon. Temporary Deputy Chairman.

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

(The new clause was read a Second Time)

*(Question, that the new clause be added to the Bill,
put and agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Omulele): I call upon the Mover to move report.

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Privatization (Amendment) Bill (National Assembly Bill No.27 of 2016) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

The Temporary Deputy Speaker (Hon. Omulele): We shall start with the Division of Revenue Bill. Let us have the Chairperson of the Committee.

REPORTS AND THIRD READINGS

THE DIVISION OF REVENUE BILL

Hon. Washiali: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Division of Revenue Bill (National Assembly Bill No.2 of 2017) and approved the same without amendment.

The Temporary Deputy Speaker (Hon. Omulele): Mover, you have the Floor.

Hon. Musyimi: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request the Rt. Hon. Aden Duale to second.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, you have heard the “Rt. Hon. Aden Duale”. That means my job is equivalent to the former Prime Minister’s job.
I beg to second.

(Laughter)

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. Omulele): Let us hear from the Mover.

Hon. Musyimi: Hon. Temporary Deputy Speaker, I beg to move that the Division of Revenue Bill (National Assembly Bill No.2 of 2017) be now read a Third Time. I request the Rt. Hon. Aden Duale to second.

Hon. A.B. Duale: That is a man of God speaking. I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, for obvious reasons I note that we do not have the requisite numbers. So, we shall do it when we have the numbers.

We shall now move to the next Bill, which is the Privatization (Amendment) Bill. Let us have the Chairperson.

THE PRIVATIZATION (AMENDMENT) BILL

Hon. Washiali: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Privatization (Amendment) Bill (National Assembly Bill No.27 of 2016) 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. I request the Chair of the Departmental Committee on Finance, Planning and Trade, who decided to abdicate his duties this afternoon without any reason to second.

Hon. Langat seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. Omulele): I was distracted by the Member for Othaya. Everything is in order. We shall proceed. The Mover, you have the Floor.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker that is why I decided we must deal with the Sexual Offences (Amendment) Bill. If it can distract the Speaker on the Chair, what about when you go out there? I think this is a very good indication that we have to deal with that Bill and bring some amendments.

I beg to move that the Privatization (Amendment) Bill (National Assembly Bill No.27 of 2016) be now read a Third Time.

I request Hon. Benjamin Lagat to second.
Hon. Lagat seconded.

(Question proposed)

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, for obvious reasons, I will not put the Question. We shall move to the next business.

BILL

Second Reading

THE MOVABLE PROPERTY SECURITY RIGHTS BILL

(Hon. A.B. Duale on 8.2.2017)

(Resumption of Debate interrupted on 8.2.2017)

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, this business was interrupted on Wednesday, 8th February, 2017. So, we are continuing from where we left it. Do I see interest from the Member for Kibra?

Hon. Okoth: On the next one, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Omulele): I can see interest from Hon. Ababu Namwamba.

Hon. Ababu: Which one, Hon. Temporary Deputy Speaker?

The Temporary Deputy Speaker (Hon. Omulele): We are on Order No.11, Hon. Ababu.

Hon. Ababu: Hon. Temporary Deputy Speaker, you know I just walked into the Chamber and took my space on the queue. So, I will catch my breath for a moment.

Thank you, Hon. Temporary Deputy Speaker.

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

The Temporary Deputy Speaker (Hon. Omulele): What is out of order, the Member for Gem, my neighbour?

Hon. Midiwo: Hon. Temporary Deputy Speaker, sometimes we pass laws in this House which we do not understand. This is a very strange Bill. Could somebody who understands it explain what we are trying to do here? The Bill was moved, seconded, but nobody wanted to talk about it. I have been here for a long time and I do not know what this Bill is about. Could the Leader of the Majority Party explain to us so that we can debate in an informed way?

The Temporary Deputy Speaker (Hon. Omulele): The Member for Gem, the Bill was moved and seconded. I think you can exchange notes with the Leader of the Majority Party. I am sure you will get the nitty gritty of what the Bill is about.

Moving on swiftly, do I see interest from Hon. Wafula Wamunyinyi, the Member for Kanduyi?

Hon. Wamunyinyi: Thank you, Hon. Temporary Deputy Speaker. I have been trying to look at this Bill. I want to thank you for “catching my eye”.

(Laughter)

Hon. Temporary Deputy Speaker, I want to thank you that I caught your eye.

The Temporary Deputy Speaker (Hon. Omulele): Thank you.

Hon. Wamunyinyi: The purpose of the Bill is to provide for the use of movable property as collateral for credit facilities, to establish the office of registrar of security rights, to promote consistency and certainty in secured financing relating to movable assets, to enhance the ability of individuals and entities to access credit using movable assets and to establish registry to facilitate registration of notices relating to security rights in movable assets.

Hon. Temporary Deputy Speaker, my understanding of the explanation given by the Mover is that it does attempt to put in place a framework for administration of the processes that I have just mentioned. Just like in any other Bill, in the various clauses that follow, this Bill deals with the preliminary issues. These are the clauses that provide for security rights, recognition and securing the agreement in writing. It seeks to put in place order by creating a framework for the processes related to finance and securities for movable assets.

I agree with the Deputy Leader of the Minority Party, Hon. Jakoyo Midiwo. If you look at it, you will appreciate that this is a very important law. Unless it is understood well, it will go the same way that Hon. Jakoyo alluded to. As he said, there are very many laws. For example, it is only last week that we approved the Privatization (Amendment) Bill without any opposition. Not even a single Member said “no” to it even though the proposed amendments were undesirable. Nobody would like to see them go through.

In the same way, this Bill carries very important laws that affect our livelihoods in terms of financial institutions, and so on. These are our financial securities and assets. It is about what we offer when we seek for some financing from banks and so on. Since this law will affect us, it is important that we are given time to understand it so that when we pass it, we understand what we have passed. Some clauses talk about serious issues like the rights and obligations of the parties involved, and third party obligors.

When we talk about obligations of a person in possession to exercise reasonable care, how much care are we referring to in this Bill? The obligation of a secured creditor is to return the collateral or register an amendment or prepare a cancelation notice. But to what extent? These are issues that must be given careful analysis. Hon. Members need to be advised. If such an important law is passed by an empty House like this one, one will wonder whether this law actually went through this House or not.

An hon. Member: (*Off record*)

Hon. Wamunyinyi: I am addressing the Temporary Deputy Speaker, not you.

(Laughter)

The Temporary Deputy Speaker (Hon. Omulele): The Member for Mbita, what is out of order? Hon. Wamunyinyi, let us hear what the Hon. Member has to say.

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Speaker, is Hon. Wamunyinyi in order to assume that the House is empty when the Member for Mbita is equivalent to 50 Members? How can he assume that the House is empty? It is not empty. We are here, as Members. I represent about 50 Members. He should withdraw and apologise.

The Temporary Deputy Speaker (Hon. Omulele): He knows the rules of the House. Hon. Wamunyinyi, the Speaker is in the Chair. Therefore, the House cannot be empty. The House is conducting business.

Hon. Wamunyinyi: Hon. Temporary Deputy Speaker, without prejudice, I honestly also agree that you are in the Chair and Hon. Millie Odhiambo is here. However, I do not agree with the assertion that she is equivalent to 50 Members.

Hon. (Ms.) Odhiambo-Mabona: Yes, I am. In fact, I represent about 100 Members.

Hon. Wamunyinyi: Hon. Temporary Deputy Speaker, I will not accept that, unless we start counting. I propose that we count the Members in Hon. Milly Odhiambo---

Hon. (Ms.) Odhiambo-Mabona: I am a tsunami. I am equivalent to 100 Members.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Wamunyinyi, I am sure you understood the context in which Hon. Millie made that assertion. She was more or less just letting you know that the House is properly constituted.

Kindly, proceed.

Hon. Wamunyinyi: Hon. Temporary Deputy Speaker, I agree that the House is properly constituted. Even Hon. Ababu Namwamba, who is a leader of one of the parties, came in and sought to speak. When you gave him a chance, he said he was catching his breath. He has now disappeared. He must be hovering around the House because he is a party leader.

Anyway, the point I am trying to make is that on the rights and obligations of the parties involved and third party obligors; the Bill makes special reference to various clauses, including protection of data of receivables. This is a very important clause seeking to ensure that data is protected. It makes reference to protection and even qualifies it with “after notification of security rights and payments of receivables.” We need to look at this law carefully and push it through to its logical conclusion, but we must be given time to understand it clearly. It talks about the rights against depositary banks. If we are in business, and indeed we represent the business community out there; we must give this law due attention.

I support this Bill since it seeks to facilitate the use of immovable property as collateral for credit facilities. This is a good idea for business development. Those who aspire to be entrepreneurs know that entrepreneurs who want to grow cannot grow without borrowing. The framework that has been provided by this Bill seeks to even establish the office of registrar of security rights and provide for registration of security rights in movable property and for related purposes. This will facilitate people who do not have fixed assets like land, but who have movable assets. Such persons can use the assets that they have if those assets are registered as security for purposes of securing financing.

This Bill also has clauses for preliminary issues, including definitions. The definitions are given in Part I, as is normal with all Bills, and the details are given in the subsequent clauses, like the scope of applications of the proposed law, which is in Clause 4. It also provides for application of the Act. It includes every transaction that secures payments or performance of an obligation without limiting the generality of paragraphs, the chattel mortgage, credit purchase transactions, credit sale agreement, floating and fixed charges. With the exceptions that are given, this law should clarify the ambiguities that exist in financing and securities.

Therefore, I support this Bill and seek to enlist support from other Members so that we can open up more avenues for business transactions in order to enable many people who would otherwise not be able to raise capital, have an opportunity to engage in business.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Omulele): Very well. We shall now hear Hon. Jakoyo.

Hon. Midiwo: Hon. Temporary Deputy Speaker, Hon. Gumbo was acting as if he was trying to corrupt you. It is like he was next in line. He does not know that I came here before him this afternoon.

The Temporary Deputy Speaker (Hon. Omulele): Let me also remind him that you are his leader and as such, you take precedence over him.

Hon. Midiwo: He never realises that but it is okay. Just tell him.

Hon. Temporary Deputy Speaker, I want to thank Hon. Wamunyinyi for raising the salient issues on this Bill. This is one of the important things that this House can do for our country. This country needs a lot of re-organisation, especially in the financial sector. The financial sector is in a mess. Parliament and the Executive must work together to re-organise the way our people do business.

Hon. Temporary Deputy Speaker, I want to tell Hon. Wamunyinyi that there is a saying in my language which goes: "Many rats can never dig a hole." So the fewer we are the better.

In the last Parliament we were half this House and the debate was better. Do not worry about Hon. Millie. She is probably worth 100 Members of Parliament. If you know how she got here---There is a story which I was told, but I do not know how true it is. It is said that on the day of nomination, she had men opposing her. When she realized that a man was being favoured by the process, she peed on the ballot boxes. I do not know how true it is but that is the story down there. That is why people think she is a very tough lady.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Midiwo, you have to withdraw that one.

Hon. Midiwo: She passed urine on the ballot papers.

(Laughter)

Hon. Temporary Deputy Speaker, I withdraw. Let me support this Bill by saying that only shylocks now accept logbooks. I was in this House when we were fighting interest rates. We have a system where banks are now giving reasonable rates but are not accepting our collaterals. They are not even lending.

Let us put something in law to remind them that very soon we will go after them again because we still think 14 per cent is too high. Let me also warn the SACCOs which have refused to adhere to a law signed by the President capping the interest rates. SACCOs must know that very soon, using Article 46 of the Constitution, we shall institute a class action suit for everybody and every business which overcharges interest away from the law of the land. So, we want our traders to consider--- That is their savings. The court will agree with us.

We still have SACCOs which are licensed by the State and yet they charge people between 25 per cent and 30 per cent against the law of the land. We must do something about who can offer banking services in this country. How is it that the State and Parliament are quiet when Safaricom is accepting deposits from Kenyans?

Safaricom is a telecommunications company. How is it that the State cannot suggest that we separate the business of telecommunications from that of banking? *Mpesa* is not telecommunications; it is a banking activity.

In the last eight months of 2016 our economy lost 135,000 jobs in the formal sector and half of those were from banks. What does Safaricom expect our banks to do? Our banks are

collapsing and this House must act. Safaricom has had a free ride for far too long. I have an amendment coming in the Miscellaneous Bill, which we wish to prioritise next week to make sure – it is not to suggest but to make it a must - that the State must move in and divide Safaricom into several companies.

Safaricom is a foreign company and Kenyans must know that. The new companies must be owned by locals. If it is 70 per cent owned by Vodacom, what is the benefit to Kenyans? All the pride we have that Safaricom is making money--- It is looting money from our economy.

I know the Jubilee Government does not have capacity but in six months there will be a good government that must not let economy go south. I know my friend Hon. Ichung'wah does not want to hear that, but we are talking about an economy that lost 135,000 jobs in the formal sector not to mention the jobs which were supported by the 135,000 in the informal sector.

One of the biggest things that we saw as Members in January, 2017 is people who have lost their jobs and they are now asking us for school fees. It is that sad. That is why we in CORD are very comfortable. It is because Kenyans are seeing. I know my friend Hon. Peris does not want to hear---

Hon. Ichung'wah: On a point of Order.

The Temporary Deputy Speaker (Hon. Omulele): Let us have the Member for Kikuyu.

Hon. Ichung'wah: Thank you, Hon. Temporary Deputy Speaker. I am rising on a point of order on the question of relevance.

As much as Hon. Jakoyo is raising pertinent issues relating to the economy and the banking sector, is he in order to be raising some of these issues on the pretext of a Bill that has nothing to do with the issues that he is talking about? He has said nothing to do with the Bill. He is one of the Members who said, as I was watching from outside before I walked in, that he does not understand what this Bill is about.

Therefore, I wanted to ask that Hon. Jakoyo be found out of order on the point of irrelevance. He does not understand what the Bill is all about. He needs to allow those of us who understand what the Bill is about to transact business on the basis of the Bill. Of course, the issues he is raising are quite weighty but in the wrong forum and at the wrong point.

The Temporary Deputy Speaker (Hon. Omulele): Very well, Hon. Ichung'wah. Hon. Midiwo, you will limit yourself to the Bill.

Hon. Midiwo: Hon. Temporary Deputy Speaker, he has raised the issue of relevance. I am surprised he has been in the House this long because it is nearly 5.00 p.m. He normally makes technical appearance. I am very relevant. This is a Bill about how we do our businesses. We must talk about the financial sector.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Midiwo, you are relevant.

Hon. Midiwo: Yes, I am very relevant. You know he cannot know. The only place he is consistent is on televisions and radios. That is also good but this is beyond capacity. I have asked for explanation---

The Temporary Deputy Speaker (Hon. Omulele): Order! We shall prosecute the business of the House in an orderly way. We shall not have exchanges across the Floor. The Member for Kikuyu, we shall have order in the House.

Hon. Midiwo: Yes. I will limit myself to relevancy. The point I am raising is important. When banks charge people high interest rates, we deal with them. When shylocks charge people high interest rates and they are not even licensed, we must also deal with them. This country has a duty. No country develops without affordable credit. I was just discussing with my Governor

here, Hon. Gumbo, that our fishermen need to mortgage their boats and nets to further their businesses. *Mama Mboga* needs to mortgage their *pangas* and hoes to get credit to buy *mbegu*.

I support.

The Temporary Deputy Speaker (Hon. Omulele): Very well and relevant. We shall hear the Member for Kikuyu.

Hon. Ichung'wah: Thank you, Hon. Temporary Deputy Speaker. I am laughing because Hon. Jakoyo, in the last bit of his very articulate debate, has been relevant to the debate at hand.

The Bill is creating very good provisions in law that will help the people of Kenya. I want to agree with Hon. Jakoyo Midiwo that, indeed, if there is a country where people are suffering because of inaccessibility of credit, then it is this country. It is perturbing because when this House moved, in the best interest of the people of Kenya, to legislate on the question of capping interest rates--- At that time, you remember banks threatening Kenyans that they would strangle credits from the private sector and the ordinary *mwanachi*. They preferred lending to the Government. It is unfortunate that this threat is becoming a reality today and Kenyans are completely unable to access credit from banks.

Just as Hon. Jakoyo has said, I am consistent in television and radio debates, because I articulate issues which relate to Kenyans. I also take a lot of interest in what others say both in this House and even on television.

Last night, I heard the Chief Executive Officer (CEO) of Equity Bank, James Mwangi, buttressing a threat to Kenyans that they will not continue to access credit from commercial banks because they prefer lending to Government which is risk free lending.

We cannot have a situation whereby Kenyans are unable to access credit. Hon. Jakoyo has addressed issues concerning loss of jobs and inaccessibility of credit. Members of Parliament (MPs) who have been to their constituencies will tell you that everywhere Kenyans are complaining that there is no money in their pockets. That is why some MPs are getting it rough back in the villages. Money circulates in the economy because people are able to access credit to put it into investments which create jobs and wealth.

Therefore, if there is sector in this country which is sabotaging the growth of the economy it is the financial sector. This Bill comes at a very appropriate time to allow many of these financial institutions to take alternative securities other than just the fixed assets. Many of our youth and women do not have land which they can use as collateral to access credit facilities. But with this Bill they will be able to use those other moveable securities which they have. Think about the *boda boda* riders who are all over the country. They cannot use their motorbikes which are moveable assets as collateral to access bank loans.

More importantly, is the issue which has been raised on accessibility to credit. I also want to submit that we will never bring down the cost of lending if the Government does not reduce its level of borrowing from the domestic market which is surprising. I will be bringing legislative proposals which I confirm are already going through due process in this House to check on the level of borrowing which the Government does from the domestic market.

This morning in one of the engagements of my committee, the Public Investments Committee (PIC), we had a conversation with a parastatal CEO who confirmed that they are holding about Kshs600 million in a fixed deposit account, in one of the commercial banks, and are getting an interest of about 6 per cent.

At the same time, the National Treasury is borrowing from the commercial banks at a rate as high as 13 per cent. It is not possible for any commercial bank to get money from Government through parastatals at 6 per cent and lend it back to Government at 13 per cent. There is no bank

anywhere in the world which will opt to lend to the private sector at 14 per cent if they can lend to Government at 13 per cent.

One of the other things we should look at when amending this Bill is capping interest which will be payable by the Government on Treasury bills and bonds. For instance, we should cap anything below 10 per cent on amounts which Government borrows for the 90 days Treasury bills. If we are to use T-bills and bonds to regulate the money market economy, maybe what it borrows for 30 days and below can be up to 13 or 14 per cent. But beyond 90 days if we are able to cap it to less than 10 per cent, then banks will have no alternative but to lend to Kenyans. That is how we will spur our economy to grow.

I support this Bill because it is very timely and will allow many Kenyans to access credit. Also the other issues which have been raised on other financial institutions charging interest much higher than what has been capped by this House is illegal. I want to support Hon. Jakoyo that a class suit was instituted against many of these financial institutions. In fact, I have been looking for people who are willing to go to court and I will support them especially regarding microfinance institutions, banks and SACCOs.

Many of them assume that they are not under the ambit of the Capping Bill which was very particular. They think it was meant for banks alone and not any other financial institutions. Therefore, the Central Bank of Kenya (CBK) has obligation to make sure that every service provider who is in the financial services sector offering money on loan to Kenyans is regulated. Otherwise, Kenyans will continue suffering and we will find a situation whereby banks will move from the core business of banking to form microfinance institutions where they can lend without any regulations.

With those many words, I beg to support.

The Temporary Deputy Speaker (Hon. Omulele): Very profound submissions. I think the Member for Kiambu, Hon. Jude is the one who brought the Bill which brought relieve to many Kenyans. I am sure he was inspired by the submissions you are making here. I can see he has moved closer to you.

Moving on, we shall now have Hon. Ken Okoth, the Member for Kibra.

Hon. Okoth: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill and thank the Leader of the Majority Party for bringing it. It is very timely because many small and medium businesses really need this opportunity. The Bill has a huge title which at first glance seems complicated but when simplified, it is a law which will make sure that in Kenya it will be easier to get loans from banks or other institutions based on the assets which are not permanent and immovable like land, title deeds, buildings and ownership titles.

Looking at Kenya as several Members have said, jobs are being created by small and medium size entrepreneurs who do not have access to those major assets and properties which are the only basis of getting collateral and heavy business loans. This Bill is timely because it will allow us to create an electronic register of all moveable collateral which can be used. This will make things easy for the banks and lenders to know if they can verify a certain property whether it is a vehicle, machine, stock or other equipment that has value as registered by the owner as collateral against which lending can be done. Once lending is done, a new economic activity can be generated, more jobs are created and the Government will benefit because more taxes will be raised.

If you compare Kenya with many countries, you will find that bank loans have been very unfavourable. Kenya is an easy place to do business when you consider our human resource potential. We have many articulate, well educated and skilled people. But when it comes to

access to credit for small and medium sized enterprises, it is a very frustrating and difficult country to do business.

I think this law comes at a good time to allow us to help those small and medium size business owners to say, “Here is the stock in my warehouse and the equipment I have already invested in against which I want to secure more loans to boost my production capacity. Here is a vehicle or something else which is moveable collateral.” This will be registered in an electronic collateral registry which this Bill provides for when it becomes law.

This is a good thing because this Bill gives us the requirements conduct for the people who accept moveable collateral, the care and their obligations for it. For instance, you should take ownership of some equipment. This is because you have lent against it and now you have an interest in it. For instance, if I am a producer of ice in Lake Victoria that is used to pack fish and I say I need some millions of shillings to buy and engage in more business in fish production and export, I tell you, “This is my company and the equipment that I have is specialised equipment and against it, you will give me 50 per cent ownership. This is the value of this equipment. It is registered in the registry and you have a duty to care for it and know how much of it you own based on the amount of the loan you have been given”.

If I hand you the logbook of a vehicle to hold on to or even to a smaller level, something like a *boda boda*, until the point where I have paid you back the loan, you need to take good care of it and not destroy it. If I am a *matatu* driver and I have gone to a bank to ask for money to do something else, we must make sure that whoever is providing that loan, as this law provides, during the time that I am still using that movable property and someone else has an interest in it because they have given me a loan, they must take care of it. I should not devalue or desecrate that asset against which I have been given a loan. I should try to hold on to it in a way that makes sense so that if it comes down to it and the loan has to be recovered from it, they do not find that at the point of securing the loan the vehicle was valued at Kshs5 million, at the time of trying to recover the loan, if it must be recovered against the vehicle, they find that the vehicle has been damaged, is valueless or less than Kshs1 million in value. Those are the things that this law is trying to do.

It is a good Bill and I urge Members to support it. I am happy to support it. It will make life easier for small business people, including many young people in Kibra who are trying to start businesses and often what they have is very small. If the banks do not recognise and accept them, they are left at the mercy of ruthless shylocks who charge very high interest rates and expect to be paid back before the business has taken off. The young people cannot pay back the loan and get returns.

With those few remarks, I hope that we will pass this Bill soon and bring it into the sector and make Kenya a country where the ease of doing business ranking and evaluation is very high when we think about access to credit.

I support the Bill.

The Temporary Deputy Speaker (Hon. Omulele): We shall have Hon. Tobiko, Member for Kajiado South, and then the Nominated Member, Zuleikha Juma, in that order.

Hon. (Ms.) Tobiko: Thank you, Hon. Temporary Deputy Speaker. One correction is that my constituency is Kajiado East. The IT people need to correct that because it has been going on for quite some time that I am the Member for Kajiado South. My constituency is Kajiado East.

The Temporary Deputy Speaker (Hon. Omulele): We shall look into that.

Hon. (Ms.) Tobiko: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. The economy in this country particularly for the common *mwananchi* has been run by

SACCOs. Many Kenyans save in SACCOs and are acquiring credit in fair terms from SACCOs. I know this Bill will positively affect a number of Kenyans. This includes those in regular employment, those in the business sector and those who are low-income earners, including the *Jua Kali* people and *mama mboga*.

I know that when movable assets are used as collateral, possibly the greatest beneficiaries will be the women in this country. Not many women have collateral like title deeds. Many women have no access to such collateral. I remember one time I walked to the African Finance Corporation (AFC) office to access some credit. It was difficult because they needed title deeds which are not in the possession of many women. I know those regulations. Having movable property as collateral will really benefit women. Women are very faithful borrowers. They run a bit of this economy, albeit at a lower scale but the magnitude of the transactions in the usual merry-go-rounds is high. Many Kenyans go to shylocks to access fast money.

This Bill is timely. It will definitely assist to regulate the market. It will enable more Kenyans access credit using movable assets. This is very good. Women have been running merry-go-rounds in this country.

Hon. Temporary Deputy Speaker, there is a lot of noise---

(Hon. Njomo consulted loudly with Hon. (Eng.) Gumbo)

The Temporary Deputy Speaker (Hon. Omulele): The Member for Kiambu, you will allow the Member for Kajiado East to contribute.

Hon. (Ms.) Tobiko: Hon. Temporary Deputy Speaker, yes, because nowadays it is very rare to be in this House. The ground is becoming hot. Getting such moments is good. We should take this time.

The Temporary Deputy Speaker (Hon. Omulele): You are protected.

Hon. (Ms.) Tobiko: Hon. Temporary Deputy Speaker, I support this Bill. It is timely. It will assist many Kenyans, particularly those low-income earners and the women of this country. This is because many women are yet to get access to other forms of collateral like title deeds. This is very timely and the regulation is welcome.

The Temporary Deputy Speaker (Hon. Omulele): Let us have Hon. Zuleikha.

Hon. (Ms.) Juma: Asante sana, Naibu Spika wa Muda kwa kunipa nafasi hii ya kuchangia Mswada huu. Nataka kuunga sana mkono Mswada huu mwanzo kama mwakilishi wa vijana katika Bunge kwa sababu Mswada huu utawasaidia wale ambao ni wanyonge zaidi katika jamii kama wanawake, vijana na walemavu.

Mswada huu unaruhusu wananchi kuomba mikopo kutoka kwa benki za kawaida kwa njia ambayo ni rahisi. Kawaida wananchi wakiwa wanataka senti ama mikopo, inabidi waende kwenye vyama vidogo vidogo vinavyoitwa *microfinance* katika lugha ya Kiingereza ambavyo wakati mwingine vinalipisha faida kubwa sana ama *interest*.

Kitu kingine ni kuwa, kwa sababu katika Serikali, hivi sasa hatuna mambo ya elimu bure mpaka shule za upili na kadhalika na kwa sababu pia mambo ya afya yamekuwa ghali sana, unapata inawabidi wananchi waende kwa watu wa rehani kuweka mali yao ili waweze kupata mikopo. Watu wa rehani huwa wanalipisha faida nyingi sana na badala ya kumsaidia mwananchi, inamweka kwenye umaskini zaidi.

Mswada huu unaruhusu watu wapate mikopo kwa benki na si lazima watumie ardhi na nyumba kama tunavyojua. Tunajua kuwa katika nchi yetu ya Kenya, kupata cheti cha ardhi au

title deed huchukua muda mrefu na mara nyingi huwa ni pesa nyingi kwa mwananchi wa kawaida kutafuta kwa sababu ya kufanya mambo ya usoroveya na kadhalika.

Wakati mwingine kuna wafanyikazi wa Serikali wenye kulipisha hongo kubwa. Kwa hivyo, sheria hii itaruhusu mwananchi wa kawaida kutoa vyombo vyake vyovyote vidogovidogo viwe kama garantii ya mkopo. Hivi ni vitu kama piki piki na mitambo. Uzuri wa sheria kama hii hususan kwa Kaunti ya Kwale inaruhusu mifugo watumike kama garantii ya wananchi kuweza kupata mikopo.

Naunga mkono sheria hii. Kwa kweli itasaidia wananchi walala hoi, ijapokuwa si ruhusa kwa Serikali kuaacha mamlaka yake ya kuhakikisha kuwa wananchi wanaendelea na maisha yao na wanagharamikiwa kwa mambo ya kawaida kama elimu na afya.

Kwa hayo machache, asante.

The Temporary Deputy Speaker (Hon. Omulele): Hon. (Eng.) Gumbo, the Member for Rarieda, you have the Floor.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. Before I make my contribution to this Bill, it is a pity that we are debating it when the House is virtually empty. In my view, this is one of the most landmark Bills of the 11th Parliament.

This Bill reminds me of an incident in 2008 when Equity Bank was opening their Bondo Branch. The Rt. Hon. Raila Odinga had just become the second Prime Minister of Kenya and we were there as Members of what was then the larger Siaya District to receive the leadership of Equity Bank to open that branch.

One of the things that we decried as people who come from the lake region, was why with so much property in the form of moveable assets, some of the poorest people in this country still remain our fishermen. We put it to Equity Bank at the time why, for instance, it was not possible for our fishermen to use their boats, nets, hooks and all the fishing gear as collateral to access credit on the assessment of their value. When looked at in totality, the values of those moveable assets are in a tune of millions of shillings yet accessing credit has become a major problem. So, this is really a landmark Bill.

I laud the originator for coming up with a Bill that is truly innovative and that is going to make credit easily accessible to many. It is not just the fisherfolk but even the farmers. Many farmers in our country have so much moveable assets in the form of equipment but they cannot use to access credit.

Part VI of this Bill provides for the establishment of a register in which notices relating to security rights will be registered. Again this reminds me the day after Equity Bank was opened, we were again opening the CFC Stanbic Bank in Kisumu. I asked that bank a fundamental question. The bank we were opening had been designed by an architect, with the input from a quantity surveyor, a civil engineer and more particularly the input of a professional like me, an electrical engineer, to make the bank to serve the people of Kenya.

I put a question to the management of the bank why we do not consider intelligence which is an intangible asset as collateral for accessing loans. This is not just gainsaying. I was here and, indeed, very privileged when the refurbished Chamber of this Parliament was being opened by Hon. Mwai Kibaki on 7th August, 2012. When I was making those remarks, I said that many people may not know that the person who designed the interior of this building, who gave form and substance to this building is none other than a Kenyan by the name architect James Kimathi. Before he did that, he had even created a bigger edifice in the name of the new Tanzanian Parliament in Dodoma.

Those of us who have a background in the building environment will tell you that one of the most difficult things to achieve is to design monuments such as parliaments and museums in your lifetime. But James Kimathi has designed such two edifices. I asked why a man like that would not be recognised as a national hero. In fact, I was seated where Hon. Benjamin Langat is as the Chairman of the House Broadcasting Committee. I made an impassionate plea to Hon. Mwai Kibaki to confer a national award to Mr. James Kimathi who was seated in the gallery. That is not even all.

Many times when people look at Thika Road and the marvellous designs that have gone into it, they attribute that to the Chinese. That is far from the truth. The person who designed Thika Road, who gave it form and substance that it is now is none other than my friend, Eng. Matu. Not many people have heard of him. If from the depth of your head you can create a landmark such as Thika Road, why would we not recognise the depth of that intelligence as an intangible asset which should earn you credit? How many banks today know Eng. Matu. Unfortunately, Eng. Matu is a very small man. He is hardly five feet tall. If he walked into a bank no one would even associate him with a miracle the edifice that is Thika Road. James Kimathi is a slender weary man who you would not even recognise. But look at what he has done. Why would we not recognise that depth of intelligence as an asset you can use as collateral?

I will be proposing an amendment to Part VI of this Bill so that we also recognise intangible assets such as intelligence which you can use to get credit based on records such as what we can see. This is creativity. This is the closest you get to doing the work of God when you create something which can survive generations merely by taking a pen and paper, draw and give it to somebody and guide the builder to give it a form that is useable like we have done in this Chamber.

That is not even all.

The Temporary Deputy Speaker (Hon. Omulele): Hon. (Eng.) Gumbo, my mind is really enthralled by your line of argument on intellectual capacity of people. But how do we make this into a form that can be assessed for purposes of quantifiable financing? Intellectual capacity, of course, and intellectual property are there, but how do we put them together? I would like to pursue that. It is an interesting line of argument.

Hon. (Eng.) Gumbo: That then ought to be the aspect at which we operationalise this Bill but, clearly, it is an asset. If somebody can just sit with a pen and paper and create something like Thika Road or create all these beautiful mixes of colours and patterns that you see in this House, I am defeated to see how that intangible asset cannot be used as collateral. Perhaps, that is something we need to think about when we go to the regulations that will operationalise this Bill. I would be bold proposing that we find a place for intelligence among the moveable assets.

Having said that, we are doing all these things to spur the economy of our country. Something is terribly wrong with the drivers of our economy today. On paper, locally and even within the International Monetary Fund (IMF), it is agreed that the Kenyan economy is growing. But, we have this paradox or contradiction of a growing economy which instead of churning out jobs is churning out joblessness.

There is so much hopelessness in our country today. The economy, on paper, is growing at around 5 per cent, which is very commendable. Where is the disconnect? Our growing economy, somehow, cannot create jobs. Instead, it is leading to joblessness. As Hon. Jakoyo Midiwo has just said, we are all representatives of the people. Some of the biggest problems that we have in the countryside are people who have lost their jobs and cannot take their children to

school. What is wrong with our economic model? We could be clutching at some of the biggest economic lies ever told. I agree entirely with Hon. Jakoyo Midiwo that we have to look at, for example, entities like Safaricom.

Hon. Temporary Deputy Speaker, kindly add me one-and-a-half minutes, so that I can wind up. Every year, Safaricom is telling us that it is churning out billions of shillings.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Gumbo, you will have another three minutes.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. I really appreciate. We are being told that Safaricom is churning out hundreds of billions of shillings in profit, but for doing what? It has been argued in some quarters that perhaps some of the work Safaricom is doing is leading to reduction in economic activity. As young people, we used to engage in tangible economic activities. Today, people in their twenties would rather be looking at how to get additional bundles to be on the internet. In fact, it has been said that the social media, of which Safaricom is a major part, has become a forest of mediocrity. Creativity is almost non-existent. People are looking for the easy way out.

More importantly, if we cannot bring a class action suit against Safaricom--- Is Safaricom a bank? Is it a telecommunication company? Is it a construction company? It is doing almost everything and anything. I agree entirely. Safaricom gets these big profits and it is now time to do a cost-benefit analysis. Yes, you made these hundreds of billions of shillings, but how did it impact the people of Kenya directly? We cannot be told that hundreds of billions of shillings have been made. The profit that Safaricom makes, in fact, I think, is bigger than the economies of Burundi and Rwanda put together.

Why is it not making a difference? Why is there so much hopelessness with this much profit being made in our country? Something is completely wrong. We are turning a blind eye to this. I am encouraged to note that there was a CS who had proposed, I think it must have been Fred Matiang'i, to break down Safaricom into an infrastructure company, a banking company doing the *Mpesa* business and a telecommunications company. Why would we be having *Mpesa*, which is essentially a bank? Billions of shillings of Kenyans' money is being held in *Mpesa* accounts yet this company is not being regulated as a bank.

Before Safaricom becomes the biggest economic lie ever told, let us get in. If our Executive and the Judiciary cannot do it, let this House lead from the forefront to break this big economic lie into entities that would make sense and entities that would truly drive the Kenyan economy. We do not want an economy which is apparently moving forward and the people's standard of living is moving in the opposite direction.

I support, but I will be proposing amendments, so that we can find a place for intelligence as a movable intangible asset which can be used to get collateral. I wish you a nice weekend.

The Temporary Deputy Speaker (Hon. Omulele): Very good argument. We shall now have Hon. Jude Njomo, Member for Kiambu.

Hon. Njomo: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill for one simple reason that it is improving the capacity of the middle and the low income person to access loans from financial institutions. As you are aware, after the passing of the Banking (Amendment) Act, banks have sworn to frustrate the law by making it very hard for the low and middle income people to access credit. This Bill comes in handy to provide more collateral and more space for the middle and the low income earners to access credit. You realise that when we pass this Bill, more items may be used as collateral for accessing loans. Our economy will not be grown by a few rich people.

I remember when we were discussing the Banking (Amendment) Bill, I drew a picture of how a moving economy should look like. I drew an anatomy of an animal which has a small head, a big body and a small tail. If the head represents the high income earners, the body represents the middle income earners and the tail represents the low income earners. You will find that our economy is such that it has a very small head, a relatively small body and a very big tail. Our economy will never move with that kind of an anatomy. When we pass these kinds of laws, these are the laws that are going to enable the people to move from the tail to the body, so that our economy can move. This will answer the question that Eng. Gumbo has been asking in terms of what is wrong with our economy. It is because the architecture of our economy is such that we are benefiting only the head. We need to facilitate the tail of our economy to move because it does not matter how many rich people we have. It does not matter how much more riches they get. As long as we have people in the low income bracket and we are not improving their standards of living and we are not facilitating them to access credit, our economy is not going to move. We will only increase the percentage of growth in our economy, but we will not have people access credit.

Two weeks ago, the International Monetary Fund (IMF) gave an advisory to this country. It advised this House to remove the capping of interest rates that were imposed by the Banking (Amendment) Act. If you remember during the Nyayo era, the same IMF---

(Hon. Ichung'wah consulted loudly)

Hon. Njomo: Maybe Hon. Ichung'wah should let me talk and he listens.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Ichung'wah, I am sure he is robustly supporting you, but that is not the way to do it. He is supporting you.

Hon. Njomo: Hon. Temporary Deputy Speaker, the same IMF during the Nyayo era was agitating and pushing so strongly to the Government of Kenya to close the National Bank of Kenya (NBK), which was the only surviving locally-owned bank. At the same time, all the international banks in the country were closing local branches. The branches upcountry were being closed. People could not access banking facilities. I thank the Nyayo Government because they never closed the NBK. It is on this front that other banks have come up and have filled the gap that was left open by the branches that were closed upcountry, which provided banking facilities to our farmers, *Jua Kali* artisans, *matatu* operators and all small-scale business people. They were helping them. That is why I support this Bill. It is targeting the people who cannot access immovable assets and they have small assets that they can use as collateral.

I would like to echo what Hon. Ichung'wah said about our microfinance institutions and SACCOs because they also provide credit facilities to our populace. These organisations have been behaving as if they are not financial institutions and are not governed by the Banking Act. They have been charging interest rates at will. They have told their customers that they are not banks and, therefore, are not affected by the Banking (Amendment) Act. I would like to remind them that the Act that we passed was not only for banks, but also targeted other financial institutions. These two facilities are well defined by the Banking Act which defines a financial institution as any organisation that collects money for purposes of safe keeping or investing on behalf of the depositor. That is exactly what SACCOs and microfinance institutions do. Therefore, the likes of the Kenya Women Finance Trust and others that have been behaving as if they are above this law should be warned because the Banking (Amendment) Act covers even those institutions. They should not go beyond what the law defines.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Omulele): We shall have the Mover to reply.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Speaker. I am happy that yesterday we did not have Members to contribute to this Bill because they had not read it. There is a very poor culture of people not reading. They are wondering if this is a monster, particularly my friends from the western part of Kenya like Hon. Gumbo and Hon. Jakoyo. They have realised that---

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

The Temporary Deputy Speaker (Hon. Omulele): Hon. Midiwo, what is out of order?

Hon. Midiwo: Hon. Temporary Deputy Speaker, my best school is in the public gallery and it has not been recognised. I am just begging that they be recognised. They cannot come all the way from Gem and not be recognised in Parliament. They were just walking out. They are very brilliant boys from Gem; what do you expect?

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, that is not part of the Movable Property Security Rights Bill. Just because we are on our sunset days, you know we have to look for *bonga points*, including and up to recognising students.

The Temporary Deputy Speaker (Hon. Omulele): The Leader of the Majority Party, kindly allow me to recognise our students from Sawagongo High School. They are from Hon. Midiwo's constituency. Hon. Midiwo is also the Deputy Leader of the Minority Party. So, he is part of the leadership of this House and he is my good neighbour in Luanda. Therefore, the students from Sawagongo High School, kindly feel the warmth of the House. You are welcome to this House.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, they have a very good Member of Parliament, my former colleague and counterpart. I hope as they go back home, because the Jubilee Government has scrapped examination fees for both primary and secondary school candidates, that is a good reason to vote for us and not to vote for *Baba*. They should vote for Hon. Uhuru Kenyatta and not for *Baba*.

I thank all Members. This is a very important Bill that deals with access to credit for small and medium enterprises. I am sure when it comes to the Committee of the whole House, our colleagues will have the necessary amendments. You can use your fishing net, the boat and the stock you have in your shop or the camels that I rear as collateral or security. It depends on which wife you want to use as security, but I think that is demeaning the women of this country. Hon. Jakoyo is out of order. He is whispering that across the aisle. Our wives are so important.

The Temporary Deputy Speaker (Hon. Omulele): I did not hear that.

Hon. A.B. Duale: I beg to reply.

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

The Temporary Deputy Speaker (Hon. Omulele): I think everything is in order. Hon. Members, for obvious reasons, we shall not proceed to put the Question.

We shall move to the next Order.

MOTION

REPORT OF THE PUBLIC INVESTMENTS COMMITTEE ON NSSF TASSIA II PROJECT

Hon. Keynan: Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Special Report of the Public Investments Committee on the Procurement and Financing of the National Social Security Fund Tassia II Infrastructure Development Project, laid on the Table of the House on Wednesday, 30 April, 2014.

Once again, I take this opportunity to thank the House Business Committee (HBC) for prioritising this Motion in this House, taking into account that the Public Investments Committee (PIC) is one of the two critical oversight Committees in this House. It is incumbent upon the leadership of this House and in particular Members of the HBC to always fast-track reports generated by the PIC and the Public Accounts Committee (PAC). This is because they always generate reports that give value to the taxpayers' money. This is stale. April 30th 2017 is almost three years down the line. I know our term is coming to an end. We have a number of critical pending reports and I hope and pray that the HBC will fast-track these important reports, so that taxpayers can get value for their money.

The PIC is mandated to examine reports and accounts of public investments in State corporations and parastatals. Secondly, it is mandated to examine reports, if any, as generated by the Auditor-General. Finally, and most importantly, to examine, in the context of autonomy and efficiency of public investments, whether affairs of public investments are being managed in accordance with sound financial or business principles and prudent commercial practices. It is in pursuant to this third function that the PIC was seized with this important issue of Tassia development project and it decided to carry out a thorough inquiry and do a report.

The National Social Security Fund (NSSF) was established in 1965 by an Act of Parliament; Cap. 258 of the Laws of Kenya, in order to administer a provident fund scheme for all workers. Initially, the fund was operated as a department in the Ministry of Labour until 1987 when the NSSF Act was amended transforming the Fund into a State corporation under the management of trustees. The Fund has since been operating under a Board of Trustees. I think the Act was amended again in 2012.

The NSSF should be a very important *quasi* Government institution like in other parts of the world like Malaysia and Tanzania. The Malaysian National Social Security Fund in terms of performance, mandate and national obligation, is equated to what the other Government Ministries do. Let me give an example of our neighbours here in Tanzania. The Tanzania National Social Security Fund undertakes some of the most critical infrastructural projects like roads and housing and it remains a vibrant and well managed institution in Tanzania.

In Kenya, I am not sure whether the way NSSF is run meets the objectives of the framers of that particular Act. Over the years and in particular since 1990, NSSF has been reduced to a cash cow and a facility for the politically correct and not a facility for the aging population. We have so many Kenyans who have invested heavily in their retirement facility and yet that special kitty, which is supposed to manage their welfare as they grow old or retire, has been mismanaged over the years.

The Tassia Project was part of NSSF investment for titles of Blocks 97/21189 and 21190 respectively in the expansive Tassia Estate in Embakasi region along the Outering Road measuring about 350 acres. Shockingly, you know since the advent of multipartyism in 1990, the management of the NSSF has been on the loot. They have literally invested in useless projects that do not add value to the taxpayers' welfare. I am using the word 'useless' and I am not trying to use the privilege of Parliament. That was meant to satisfy the egos and the unending greed of the politically correct since 1990. Today, the NSSF is a liability. It is high time the Government, through the Ministry of Labour, restructures the NSSF.

For two consecutive years, the NSSF has remained without a properly appointed managing trustee. NSSF has been without a Chair for about a year, simply because there is competition. The competition is not to run it efficiently, but to take away what belongs to the taxpayers, particularly the elderly. This is why as a Committee, and for those who had an opportunity to go through the Press, we had serious issues with the way the audit of the NSSF is done.

For the first time, the hunter became the hunted. We had to question some of the provisions made by the Auditor-General's Office because they were not consistent with what we all know about the NSSF. As the leadership and as one of the three arms of the Government, as truly the people's representative, we must stand up for the rights of the pensioners and protect their investments because all of us will grow old. By the end of our term here, quite a number of Members will be trekking towards the offices of the NSSF to find out how they will fair in their old age. Because of this, we must think out of the box and expand our horizon of thinking and protect the pensioner's Fund. Which of these mega projects initiated by the NSSF since 1990 has added value to the taxpayers? We have the Hazina Towers and so many useless towers. I am using the word "useless" because they do not generate meaningful value driven to the NSSF and by extension the taxpayers and the pensioners.

Immediately the NSSF bought this, and because it was associated with the politically correct, the high and the mighty, squatters moved into that piece of land. Therefore, in September 2001, just some few months before the 2002 General Election, and you can calculate, illegal squatters came all over and with the assistance of land grabbers and land speculators, the blocks of 97/ 21198 and 21190 were divided into 5,500 plots claiming to have been sold by these fraudsters covering for the interests of the politically correct. Therefore, the NSSF bought this piece of land sometimes in 1995 at a cost of Kshs2.2 billion. It must be about Kshs30 billion taking into account inflation and today's value of the shilling. The land was immediately occupied by the squatters. What is missing is who owned that piece of land initially. Who were the original owners of that piece of land? The details are missing and if they are there, they are scanty.

After 1995, six years down the line, squatters were incited in court. Squatters in Nairobi are not real squatters. They are people who are brought in and occupy land. They divided it among themselves and, therefore, the NSSF remained landless. Instead of utilising and developing that huge infrastructure for the benefit of pensioners, it became an idle land for gossipers, land grabbers, wheeler dealers and the politically correct. Therefore, the NSSF lost that piece of land. Using the creative imagination of those individuals, the NSSF went to court in 2004. The court took so long.

Hon. Temporary Deputy Speaker, you are a lawyer. The NSSF went to court under a certificate of urgency in order to have the squatters evicted. That took so long. Even getting the ruling took long. That tells you the extent of the manipulations of the politically correct. Eventually, this issue was sorted out after the intervention of the Ministry and the Office of the President. Why would the Office of the President and the Ministry of Labour get involved in the management of an autonomous institution? That in itself sends a wrong message. The trustees and the management should have been left to run this organisation.

In 2004, the negotiations led to something that was called out-of-court-settlement. The NSSF was told to develop the plot. Look at the trend. First, you buy this piece of land from speculators or politically correct individuals who are most likely politicians or associates. They incite their followers and occupy the piece of land. They divide the same into plots. When you

go to court, they instigate the system and it comes around and you are forced to negotiate. When you negotiate, you are asked to develop it on their behalf. This is the scenario with that piece of land.

Eventually, when we learned this, we said that this is a matter of immense public interest and, therefore, it is our obligation as the PIC to inquire into this issue and ensure that the taxpayers get value for their money. It is as a result of this that my Committee, one of the most active Committees with some of the best brains - the kinds of reports this Committee has generated have saved the taxpayers billions of shillings - intervened. Had it not been for our intervention, maybe the state of the Tassia Project would have been completely different. I will talk about the recommendation and observations.

If this Report would have been debated about 30th April, 2014 or thereabout, the circumstances would have been different today. This is why I am pleading with the leadership of the HBC, through you, to fast-track and prioritise reports generated by these two critical oversight Committees, namely, the PIC and the PAC. This is consistent with the history of these two Committees dating back to 1880s. As a member of the Commonwealth, this practice and tradition must be jealously guarded because it is the only way we can have a vibrant parliamentary driven oversight. In the absence of this, these two Committees will be reduced to any other Committee, therefore, waning the critical function of their oversight roles.

In preparation of this Report, we met the former Chief Executive Officer (CEO) and the Managing Trustee, Mr. Langat. We also met Mr. Francis Atwoli, the Secretary General of the Central Organisation of Trade Unions (COTU) and the CEO of the Federation of Kenya Employers (FKE), Ms. Jackline Mugo. We also met the former Minister and Permanent Secretary. We met the former Chairman and the Board of Trustees and the Auditor-General.

The Committee came up with the following observations: This land was purchased in 1995 at the cost of Kshs2.2 billion from Tassia Coffee Estate Limited and Nikon Investment Limited with an objective of developing them into a residential/commercial property as part of the NSSF investment portfolio. However, as alluded to, in 2011, just before the general elections, squatters in court were incited and they had the courage and guts to occupy the land. Kenya is not just an ordinary nation. This is why sometimes I am pained when I see individuals trying to project Kenya as a banana republic. Where on earth do individuals move to private property? They occupied it and that is the state of things today until they forced the management of the NSSF to develop the piece of land on their terms. That piece of land today is not developed, simply because of the challenges. This has been the trend and the history of the NSSF. This issue was taken to court in 2004 and even after the court made a ruling in favour of the NSSF, the Government security agencies were tasked with providing security and maintenance of law and order in the name of our good governance, they did not provide the requisite security. Was it a conspiracy between the trustees and the security apparatus or was it because of the influence of the high and mighty who are involved in this? To date, the squatters I have alluded to have remained on that piece of land. The Board of Trustees realised that given the level of unplanned subdivision, encroachment and development of the land, executing the court order on eviction and demolition will present a logistical and security challenge.

They, therefore, had to negotiate with the land grabbers, invaders and squatters in court on their own terms. Following consultation between the NSSF, the Office of the President and the Ministry of Labour, Social Security and Services in the year 2005, agreed to sell the 5,500 acres. It is like the NSSF's piece of land is subdivided on their own terms and then they are told that the occupiers want to buy it. You can speculate who determined the purchasing price. It

must be the vey individuals. Eventually, even there, the NSSF did not get its way. Therefore, all the plots were sold as unserviced plots subject to the approval of the physical development plan by the Nairobi City Council. Due to the unplanned manner in which this piece of land was subdivided, it was surveyed, planned and the NSSF engaged the services of one company called Geo-Info Surveys Limited, which submitted the development plans of the Nairobi City Council and obtained conditional approval on behalf of the Fund in 2008.

The NSSF also engaged the services of a land surveyor, Ms Supplants Limited in September 2010. Sadly, a key person who was a director in that company died and things changed again. They got another company called the Multiscope Consulting. In all this, the common denominator is that there was no value for money. If you look at the contractual details between the NSSF and all these other players, everything was tailor-made to meet certain interests. Those certain interests were just to meet the greed of the politically correct individuals who have milked and destroyed the image and the investment of the NSSF.

Again, tenders were opened. Eventually, after the technical evaluation, a company by the name China Jiangxi International Kenya Limited was given the contract at a cost of Kshs500,053,000. This is the gist of the matter. After the tender was awarded, we made a report. We instructed the management of the NSSF that we will never allow the use of a single penny belonging to the taxpayer. We told them, "If you want to develop this, you have given him a legal avenue. You have given him an organised platform. Let the individual plot owners pay for the development of their projects." This is one thing that tied the hands of the NSSF. We told them not to spend a penny belonging to the taxpayer. If they wanted to develop the plots on the other party's behalf, they should get money from the plot owners. Let them contribute through the NSSF and once they had the money, the contractor should develop. That is one thing that has tied their hand. It is not moving.

Initially, the issue was to use the taxpayer's money, the pensioner's money, develop it and then give them at a throw away price. Look at the history. This is because of the decision that we made. This is one thing that really made me proud of the group that I head. We made an instant decision and told them not to do it. We told them that if they did it, it would be abuse of office.

To date, that project is not moving. The alternative would have been we keep quiet, they use the taxpayers' money and that eventually it becomes a ghost project. I can say that, today, because of that development and the Report we made---

(Hon. Ichung'wah consulted loudly)

The Temporary Deputy Speaker (Hon. Omulele): Member for Kikuyu, you are the Vice-Chairman of the Public Investments Committee (PIC). Kindly exhibit decorum.

Hon. Keynan: He is a very intelligent Member.

When we realised, again, there was a tug of war on the issue of procurement, the Cabinet Secretary (CS) purportedly tried to cancel the contract. Where does a CS come in, in the management of an independent, autonomous and quasi Government agency? When Mr. Kazungu purportedly decided to cancel the contract again, we came and told him: "What you are doing borders on trivialising the mandate of the NSSF as enshrined in the NSSF Act." Therefore, when we brought that to his attention again, you know what you expect. He had to run away. Because of the history, this project has not taken off as expected simply because I am told they have collected almost half the amount expected. I hope, maybe in the next few years, something will

happen. Again, that will bring another challenge. The contractor is likely to bring in the issue of variation, cost escalation and inflationary cost implication simply because what happened in 2013 or what ought to have happened is not the same as what is likely to happen in 2017.

Before I state our recommendations, we have also realised, because of the challenges and interference by CSs and the politically correct in the management of the NSSF, it has had the highest turnover of Managing Trustees in the history of any public entity. You can just read to understand this. Every year, a new Managing Trustee is appointed. When they fail to meet the objective of whoever brought them there, they are chased away. This has been the history. Therefore, we are wondering whether we should not even give some sort of tenure of office to the Managing Trustee. This is because of the cash flow, the prominence and the unique nature of the NSSF. We are considering amending the NSSF Act to create or have tenure of office and security of tenure for the Managing Trustee. Otherwise, as long as they remain vulnerable to the vultures out there, I am afraid, they will not be prepared to meet the very essence of having this very important institution.

Therefore, we have recommended the following and I will take a very short time. The Tassia Project is important since the plot owners will get their title deeds.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Keynan, you have laid a very good basis for what you are coming to recommend, but I would like you to withdraw the words “vultures out there.”

Hon. Keynan: Well. Hon. Temporary Deputy Speaker, I am sure you will also appreciate that--- I withdraw.

The Temporary Deputy Speaker (Hon. Omulele): I appreciate, but it is for purposes of our record.

Hon. Keynan: It would have been only inappropriate if it was applied in the context of any individual. I just used “vulture”. Because of the respect I have for your office, I withdraw.

The Temporary Deputy Speaker (Hon. Omulele): Thank you.

Hon. Keynan: I withdraw.

The Temporary Deputy Speaker (Hon. Omulele): Maybe you could use the word “manipulators”.

Hon. Keynan: Yes, manipulators. Because of this, the Committee recommends the following:

The Tassia II Project is important since the plot owners will get their title deeds. Over 20,000 persons living in Tassia area will benefit from access to efficient road network, water supply, street lighting, individual plot access and healthy living environment. Therefore, the project will benefit them. The caveat we have put in place is “properly implemented”. These land grabbers, squatters or whatever you want to call them who have turned out to be the owners of this will eventually benefit.

Two, we talked of comprehensive infrastructural development. Therefore, the project should proceed on the following conditions:

That the project does not utilise any resource or funds from the Fund since there was no budgetary allocation. This is the bit I was alluding to. It should be necessary. For the NSSF to utilise the resources in the project, it must be able to get the resources on behalf of these people, collect from them and utilise. This has worked. At least, I am proud to say that whatever their minds were leading them into, no penny of the NSSF will be used to develop these plots.

Three, the NSSF collects all the money owed by the plot owners arising from the sale of the plots. All outstanding money from the sale of this must be collected by the NSSF.

Four, the NSSF collects funds from the plot owners to cater for the infrastructural development. The NSSF does not donate water, roads and so on, but the owners of the plots must also pay for the provision of those services. We also said that the EACC must investigate the circumstances under which the NSSF first bought the plots. It must bring to the fore all the players who were involved in the acquisition, purchase and development of this to the public. We also said that the Ministry of Labour, Social Security and Services should not interfere with the procurement. As far as the Public Procurement and Disposal Act, 2005 is concerned, an independent or *quasi* Government agency does not require the guidance or direction of the CS or PS. They should be left to run their own affairs.

We also said that Section 49 of the NSSF Act be amended to allow for the approval of investments of the Fund by the Board of Trustees. There is something very interesting that we realised. We looked at the *modus operandi* of the trustees and we noted that one of the ways the trustees communicate to each other is via emails. There was a problem because there was an email generated during this process and later on the content of that email was contested by one of the trustees. Eventually, it became known that, that was the way they wanted to run the affairs of that important agency.

In conclusion, this is about our country Kenya, our image and development. This is about our time as the leadership of this House and by extension our generation. Therefore, some of the missed opportunities of the 1960s, 70s, 80s and 90s must not be taken to the next generation. I say this because the other day, as the PIC was interrogating the accounts of the Kenya Meat Commission (KMC) and the Kenya Oil Refineries (KOR) that is the only thing that came to my mind. Most of my Committee Members last week proudly decided to move by road from here to Mombasa just to look at how certain important projects are done.

We hear that oil discoveries are being made in the Rift Valley, parts of western Kenya and parts of North Eastern, but the very infrastructure that ought to have been prepared for this has been looted. The KOR is closed and yet we are saying in the next two years Kenya will join the league of oil-exporting nations. Why are we lying to the taxpayers? Why are we lying to our neighbours? Why are we lying to the international community? The KOR is at its worst state in its history, simply because of wheeler-dealers. It is high time the leadership of this country apprehended these economic plunders. That is the only way we can develop.

Look at the KMC. I am a product of a pastoralist parent. When we got our Independence, we used to have holding grounds. We used to have rangelands. Do you know what happened? The land where the KMC is purportedly located belongs to individual land grabbers. How will we develop? Today, my parents, constituents and the area where I come from export animals through Somalia, Ethiopia, Djibouti and other countries simply because the very institution that is supposed to take care of the welfare of the pastoralists has been completely destroyed.

In 1968, the Republic of Botswana sent some of the best brains, livestock professionals, to come and learn from the KMC. Forty years down the line, ours is closed, but the Botswana Meat Commission is the best meat processing facility in Africa. It exports meat to European Union, America and China. Forty years down the line, because we are in the process of reviving the KMC, we are now sending new graduates to go and learn from Botswana. What are we telling the world yet on the face of it, we are very proud and aggressive? We are destroying the fabric of this country. If truly this country must develop, we must protect some of these critical national institutions regardless of who is in power or who is managing them. That is our heritage. Those are the institutions that bring about improved socio-economic welfare of the people of

Kenya. Therefore, the plunder, wastages and the mismanagement that is going on must be brought to an end.

The important document called *Mwongozo*, which I would not want to call the infamous, generated by the Jubilee Government, was a good document. What happened to it? It was meant to reform the parastatal sector. What happened to the *Mwongozo* document? It was a beautiful document. It was meant to reform the parastatal sector. The document was launched, but it remains on the shelves. It remains in the archives. It is not being implemented. Therefore, it joins the list of the many documents that have been generated.

It reminds me of something. In 1998 when I was newly elected and I was a Member of the Departmental Committee on Finance, Planning and Trade, with a number of other Members, we decided to do a benchmark visit to Malaysia. We were trying to come up with a document we would like to use as the basis of coming up with an investments promotion council. One of the senior deputy clerks in that Parliament went to the archives, got a document and gave us a photocopy of something that they borrowed from Kenya in 1974. Is that not painful? Is it not shameful? What has happened to those organisations?

The onus of managing taxpayers' money and public resources rests with the elected representatives of the people of Kenya. That is why the framers of the current Constitution, in Article 1, equated representation to our sovereignty. Representation is equal to sovereignty. What is representation under Article 95 as read together with Article 96 of the Constitution? What is sovereignty? Sovereignty is the very essence of the nationhood of the Republic of Kenya. If representation is equated to sovereignty, are you discharging your function as a Member of Parliament, as the duly elected representative of the people of Kenya? We must wake up.

I beg to move and call on the Vice-Chair, Hon. Kimani Ichung'wah, to second.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Kimani.

Hon. Ichung'wah: Sorry, Hon. Temporary Deputy Speaker, I changed position.

The Temporary Deputy Speaker (Hon. Omulele): You moved your positions.

Hon. Ichung'wah: I moved my positions.

The Temporary Deputy Speaker (Hon. Omulele): I hope you did not move, but proceeded. Chair, that is one of the very good arguments and presentations that I have heard in this House. I am encouraged.

Hon. Ichung'wah: Thank you, Hon. Temporary Deputy Speaker. I moved to consult with a number of Members of the Committee who are seated on the other side.

I rise to second the Motion. Since the Chair has gone to great lengths to point out the sticking issues of the recommendations that we made as a Committee, I will be very brief, so that I can allow other Members of the Committee to have a few minutes to say a thing or two before the House adjourns.

Most important, other than what the Chair has said, is the issue of land ownership, especially land owned by the NSSF. Tassia is just one of the examples of land that originally belonged to the Fund. It was then occupied by squatters and the Fund was left in problems. In other circumstances, the Fund was forced to even buy back part of that land.

The issue before the House now is Tassia II Project. It is worrying and I want to share the sentiments of the Chair. This Report has taken almost two-and-a-half years to be debated on the Floor of this House. Many of the issues that were pointed out by the Committee and the issues that came out during our deliberations were pertinent at that time as they are today.

The most important is the issue of pensioners' funds being used to offer services to private land owners since the land in Tassia has already changed hands. The new owners are benefiting unfairly in terms of having the facilities within the land they have occupied being improved at the expense of the pensioners. It worries me that two years down the line, the NSSF has not fully recovered the cost of the infrastructural development at Tassia II despite the promise they had made to the Committee. The NSSF is yet to collect all the funds from the people who purport to have bought the plots in Tassia.

Therefore, it is important that when people commit Government funds to projects, they are sure of how they will recover the money from the beneficiaries of the project. It is a fact that the contractors who implemented the project have already been paid using pensioners' money with the hope that the money would be recovered. There is the value of money in time. Therefore, having spent taxpayers' money, the NSSF had the obligation of making sure that they collected all the debts due from individual plot owners. Many of them are not squatters as pointed out. These are very rich squatters. It is a fact that there are even sitting and former Members of Parliament who purported to have been squatters on the land in Tassia. On the said land, there are very expensive high rise buildings. Therefore, the occupants of that land are capable of paying. I would, therefore, urge the NSSF and other Government parastatals to make sure that when they spend public money, they fully recover it if it was intended for the benefit of either pensioners or the public.

The issue of people occupying Government land is not unique to the NSSF. Last week, the Committee had a tour of the Kenya Pipeline and we were shocked to find out that some squatters had occupied over four acres of land belonging to the company just next to the Kipevu Pump Station. That area is of vital national security because it has fuel lines from the storage tanks running right to the port. It is actually Pump Station Number One. We found squatters just next to the pump and the fuel tanks. I am even afraid of speaking about our fears in public. However, the issue of squatters occupying public land is very worrying.

This problem does not just affect land belonging to parastatals. It is an issue that affects forest reserves across the country as well. About two weeks ago, I had a huge fight with people who purported to be squatters in my constituency. They are wealthy people who tried to occupy Thogoto Forest land, which belongs to the Kenya Forest Service (KFS). This afternoon, I saw land grabbers fighting in a Thika court. I am sure that members of one of the groups have been incarcerated in Milimani by police officers from the Directorate of Criminal Investigation. This was a case involving two groups of land grabbers who were fighting over public land that belonged to the people of Kiamburi Village in Kikuyu. The land was once part of Thogoto Forest. The KFS had been watching as all these things unfolded.

With those remarks, I second the Motion. I urge all the parastatal managements in the country to make sure that public assets bestowed on them are safeguarded from wealthy people who purport to be squatters.

Thank you.

(Question proposed)

The Temporary Deputy Speaker: (Hon. Omulele): Let us have Hon. Korei ole Lemein, Member for Narok South.

Hon. ole Lemein: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Motion. I echo the sentiments of the able Chairman of the

Committee that the Report was tabled on 30th April 2014. This is worrying. Perhaps a number of its recommendations might have been overtaken by events. Since the NSSF is a very important Fund, I hope the recommendations from the Committee will be taken seriously for the benefit of the people of Kenya.

The NSSF is as old as independent Kenya. Therefore, this is a Fund that Kenyans expect to be performing very well for the benefit of pensioners. A number of such Funds, globally, such as Malaysia and our neighbour Tanzania, are doing very well to the extent that they are competing with private companies as far as doing bigger infrastructural development in their respective countries is concerned. If this Fund was managed well and its vision, mission and objectives followed, I believe it could be the best in this region, Africa and even globally.

However, perhaps, there are a number of challenges as it has been enumerated by the Chairman and his able Vice-Chairman. I do not want to repeat what has been said, but a major problem that is facing most Government institutions is the land issue. This afternoon, we had interaction with the Kenya Railways officials and the challenge they are experiencing is land. There is a tendency of people grabbing Government land, which is a bad precedent. The Government is advocating for institutions such as schools to get title deeds for security purposes. I hope all Government institutions will benefit from that. I believe that will be a solution to some of the problems that are facing these organisations.

Without wasting time and for the sake of my colleagues, I beg to support.

The Temporary Deputy Speaker (Hon. Omulele): Very well. Let us have Hon. Savula, Member for Lugari.

Hon. Angatia: Thank you, Hon. Temporary Deputy Speaker for the opportunity. I thank the Committee for having done a thorough job to investigate matters related to the Tassia II Project. The genesis of the fight at the NSSF is the tendering process for the development and purchase of the Tassia II Project to the tune of Kshs2.2billion which was later escalated to Kshs5billion.

The war at the NSSF with regard to this project was whether the tendering process was done according to the law or fictitiously. I remember a member of the Board of Trustee, the COTU Secretary-General, Mr. Francis Atwoli, went public opposing this project because of the manner in which the minutes of the Board were approved. They were done through emails circulation and some Board members did not access them. That was the genesis of the problems at the NSSF, which led to the resignation of the immediate former CEO, Mr. Langat.

I thank the Committee Members because they have delved into this matter and exposed the weaknesses of the tendering process. In this Report, they pinpoint one company securing all the major projects at the NSSF. How come other companies with similar capacities in this country did not secure those contracts? We want to know the network of the China Jiangxi International Kenya Limited. In this Report, the Committee Members have concluded that contrary to Section 42 of the Public Procurement and Disposal Act, every major tender worth billions of shillings at the NSSF was given to the same company. There must be inside collusion that led to this war at the NSSF.

I want to thank the Committee again for having recommended that this matter be investigated further by the EACC and individuals involved should face the law. The Committee has done a wonderful job. The NSSF has been used for a long time as a cash cow. I remember several Cabinet Ministers used to grab Government land, access the NSSF Board, negotiate and sell the same land to the NSSF, so that they could enrich themselves.

This is what happened with the Tassia II Project. There was no approval in the Report for a Public Private Partnership (PPP) as should have been done according to the law. An approval must come from the CS, the National Treasury. A section of the NSSF Board was engaged in illegal and unethical behaviour when they awarded the tender because this fell under the PPP. There was no approval.

Finally, I would like to commend the Committee for proposing that Section 49 of the NSSF Act be amended to allow for approval of any investment of the Fund by the Board of Trustees via closed email circulation or any other electronic media. This will save the workers' funds.

We want to tell the CS in charge of the NSSF matters to respect the law in the tendering system. In this Report, they indicate that an immediate former CS allegedly cancelled the tender. Under what powers? We must follow the law in doing our work. We should adhere to the law in executing tendering processes in this major parastatal to save the workers' money.

The Committee has also recommended that no single cent from the workers' Fund should be utilised on the development of the Tassia II Project. It falls under the PPP projects and the owners must develop it. The only mandate of the NSSF is to collect funds from the plot owners and develop infrastructure like roads and water for the benefit of the community living in Tassia.

I support.

The Temporary Deputy Speaker (Hon. Omulele): Let us have Hon. Sammy Mwaita, Member for Baringo Central.

Hon. Mwaita: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this. I am a Member of the PIC and I wish to applaud my Chairman for the able manner in which he moved the Report.

First, I support the adoption of the Report. The Tassia II Project had become a cash cow, particularly for those who were in the NSSF and the Ministry of Labour. They allowed squatters to move into what used to be known in the 1990s as the Mwenje Scheme, the then Member of Parliament for Embakasi who used to have *miradis* where he organised squatters to move into private property. Fortunately in this particular case, the court ruled in favour of the NSSF. When they were told to move in and talk to the Ministry, they agreed to resettle the same squatters at a fee.

The gist of the problem which we observed as a Committee is that the issue of infrastructural development such as roads and water, so that the plots are serviced, should have been done earlier. They moved in, subdivided plots which were not properly planned without subject approval from the local planning authority, in this case, the former City Council of Nairobi. That was the problem. Nonetheless, consultants were brokered and services were procured to plan and construct the infrastructure at a whopping cost of Kshs4.5 billion. As my able Chairman said, how they were procured was suspect. Most of the decisions and the minutes were handled through the so-called closed email circulation. Minutes of the board were approved through emails. I support what the Chairman said and the recommendation that maybe for Kenyans to get value for money, this issue of using emails without proper hard copies should be looked into. I support the amendment of the Chair.

The other aspect that I wanted to talk about is the issue of the turnover of CEOs. As my able Chair said, the NSSF is a career killer because of the turnover. CEOs come and go. The workers' money is at risk. Maybe something should be done. As the Chair said, we should provide security of tenure for the top managers of the NSSF. Year in, year out, the NSSF has two

or three CEOs annually. This Fund, which is the workers' money, has become a cash cow for many people.

The Committee has made a recommendation on the issue of who should meet the cost of the infrastructural development, now that all the plots were sold as serviced plots. It is true, as the Member said, that this is like a private public partnership. The purchasers of the plots must meet the cost of putting up roads, water and other services like shops. No money from the workers should be put into this. I am not sure this has been implemented since 2014 when the Report was submitted and tabled in this House. That is neither here nor there. If this House can approve and adopt this Report, it should be forwarded to the Committee on Implementation to ensure that no other workers' money is put into this project. A lot has been lost.

As I conclude, I would like to talk about how those plots were sold. We were told that a number of the plots were sold on cash basis. We were not told how the cash was received. Was it just across the counter? Was it by way of banker's cheques? This needs to be investigated further as the Committee recommended. Some of that cash may not have reached the coffers of the NSSF and the value for money for the workers may be in jeopardy.

With those few remarks, I beg to support the Report.

The Temporary Deputy Speaker (Hon. Omulele): We shall have Hon. Michael Kiso, Member for Mbooni.

Hon. Kiso: Thank you, Hon. Temporary Deputy Speaker. I rise to support the adoption of this Report. Foremost, I want to thank the Committee for the kind of work they have done. It is quite exhaustive. They have submitted to this House very factual details pertaining to transactions of the Tassia II Project. But quite fundamentally, procurement process issues have been raised and there seems to be no integrity at all. The process was seemingly flawed, illegal, unprocedural and no prudent management practices were adhered to when this full exercise was done.

This raises the issue that we have certain officers in this country who execute their mandate with a lot of impunity, that they do not follow the laid down procedures and the legal processes that are required in law. That is how the public or Kenya bleeds through corruption. There are people who think that they have the capacity to do what they want and get away with it. I thank the Committee for recommending that certain stern measures be taken against the officers who undertook this exercise with a lot of impunity without the due process of the law.

It is quite interesting to know that there was quite a lot of insider trading in terms of what was happening in this project. Someone wonders how such a transaction could be conducted through emails that were circulated in the manner they were executed, signed and transferred from one person to another. This raises concerns into the seriousness of the actions the Bboard took to safeguard workers' money.

As my colleague has pointed out, the issue of cash transactions raises a lot of serious concerns. Did Kenyans get value for what they wanted to achieve? The recommendation that the EACC should move in and properly investigate this matter should not be taken for granted. It must be followed to the letter to ensure that the culprits are brought to book. The huge transactions and the manner in which this project was undertaken raise serious concerns. If this country is serious with undertaking projects that have value for money, that will have benefits for Kenyans and there will be return on the investments, the law must be followed.

I thank the Committee. When you look at the kind of issues that came up, one would really ask why they did not involve the CS for the National Treasury. The law elaborately

provides for that. It means that from the outset, the project was crafted by individuals to siphon money from Kenyans. Therefore, legal action should be taken against these officers.

I also note with a lot of interest that the China Jiangxi International Kenya has been winning tenders for all the large projects at the NSSF. In this country, people get away with any illegal actions. How does this come in? Are proper audit procedures followed to ensure that management practices in our big corporations are monitored on a day to day basis? This will prevent a situation where one company wins all the projects like there are no other companies in Kenya. This raises quite fundamental issues that this project was purely crafted to swindle Kenyans their money. Therefore, action must be taken.

I want to thank the Members of the Committee for doing a very good job. They have given a very good summary which is factual. In fact, they have given us a solution on how we should undertake actions against certain culprits.

I support the adoption.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, the time being 6.30 p.m., this House stands adjourned until Tuesday, 14th February 2017 at 2.30 p.m.

The House rose at 6.30 p.m.